

INQUIRY UNDER SECTION 438U OF THE LOCAL GOVERNMENT ACT

CENTRAL COAST CITY COUNCIL

Public Hearing

Conducted via Zoom videoconference

On Wednesday, 6 October 2021 at 9.00am  
(Day 4)

Before Ms Roslyn McCulloch, Commissioner

1 THE COMMISSIONER: Good morning. We will recommence the  
2 public hearings into Central Coast Council. This morning  
3 we have Jane Smith continuing her evidence. Ms Smith,  
4 would you be able to come on camera, please. Thank you.  
5 You are on your former oath.

6  
7 <JANE SMITH, on former affirmation: [9.00am]

8  
9 THE COMMISSIONER: I think we were talking about the  
10 appointment of the general manager and you were provided  
11 the supplementary submission in relation to the appointment  
12 and recruitment of the general manager. Thank you for  
13 that. I don't have any further questions about that, but I  
14 do have just a question about the impact of the fall-out on  
15 you, both during your time at the council and at the end of  
16 the council's term. I heard from Councillor Matthews she  
17 had been targeted and she mentioned your name. What did  
18 you experience?

19 A. Commissioner, I think there was a lot of commentary in  
20 the community that was fed by councillors. I think a lot  
21 of the issues and a lot of the conduct in the chamber was  
22 weaponised. There was a lot of misinformation spread both  
23 in the chamber, outside the chamber by the community, by  
24 state MPs. Personally, I tried not to engage in that. I  
25 think from my point of view I had enough to do without  
26 trying to chase every bit of misinformation and correct it.  
27 It just seemed to be a futile exercise. I think  
28 unfortunately that does allow it to continue, and so my  
29 strategy may not be the right strategy, but it was the one  
30 that I had to do to be able to do my job.

31  
32 Q. I understand. Now, I had been given notice that there  
33 would be a request to cross-examine you by Mr Eaton, who is  
34 the solicitor for Mr Best, but I can't see that he's joined  
35 us this morning. In the event that that's due to any  
36 technical difficulties on his part, I may need to recall  
37 you, but at this stage, unless you have any further comment  
38 to make, you may go.

39 A. No, I have no further comment, Commissioner.

40  
41 THE COMMISSIONER: We will have to wait for Mr Eaton and  
42 Mr Best to join us in order to continue the hearing. We  
43 will go off camera now and my staff will make contact with  
44 them to see when we can recommence. Until then, the  
45 hearing will be in recess. Thank you.

46  
47 SHORT ADJOURNMENT

1  
2 THE COMMISSIONER: The hearing will resume. I see  
3 Mr Eaton has joined us. Mr Eaton, could you come on  
4 camera, please?  
5  
6 MR EATON: Yes, Commissioner.  
7  
8 THE COMMISSIONER: Thank you. Mr Eaton, I didn't know  
9 whether you were intending to join us this morning, so  
10 Ms Smith concluded her evidence but I can see that she's  
11 still on the call.  
12  
13 So, Ms Smith, could you just confirm that you are  
14 still there and available to be cross-examined, if  
15 necessary?  
16  
17 MS SMITH: Yes, Commissioner.  
18  
19 THE COMMISSIONER: Thank you. You can go off camera now,  
20 Mr Eaton, did you have an application to make?  
21  
22 MR EATON: Yes, Commissioner. I would make an application  
23 for leave to cross-examine Ms Smith. I would submit that  
24 as the mayor for the first two years of the council, and  
25 that period was the recruitment and most of the tenure of  
26 the council, particularly recruitment of the general  
27 manager, that she is uniquely qualified to give information  
28 about the recruitment and his initial performance for the  
29 first year and a half or so of his contract, which nobody  
30 else, I don't think, is in a position to give.  
31  
32 I think she's uniquely qualified to give information  
33 to the Commission that I think the Commission would find  
34 quite valuable in terms of the recruitment and performance  
35 of the general manager and on that basis I would seek leave  
36 that I be allowed to cross-examine her solely on those  
37 aspects.  
38  
39 THE COMMISSIONER: Mr Eaton, we might need to narrow down  
40 the problem in your office there. There's an echo when you  
41 speak.  
42  
43 MR EATON: I think it's gone now, has it? No. Bear with  
44 me, Commissioner. That should be fine now, I think.  
45  
46 THE COMMISSIONER: It does seem a little better, thank  
47 you. Mr Eaton, can you just let me understand what you

1 want to cross-examine on, because you would have seen that  
2 Ms Smith has provided a statement and she agreed for that  
3 to be released. You've seen that.

4  
5 MR EATON: Yes.

6  
7 THE COMMISSIONER: What aspect of the recruitment or the  
8 management of the performance of the general manager did  
9 you want to cross-examine about?

10  
11 MR EATON: I think there are two main aspects. One is how  
12 the council came to end up with Mr Murphy as the preferred  
13 candidate. What's not clear is what the qualifications of  
14 the other short-listed candidates were, and yet we know  
15 what Mr Murphy's qualifications were.

16  
17 Also, there is very limited information in her  
18 material about the actual performance monitoring of the  
19 general manager. She says she met with him weekly, but  
20 didn't really say what they discussed, whether there would  
21 have been an agenda, for instance, which one would have  
22 thought there was and there would have been notes, how were  
23 the performance KPIs set? And there is some comment in her  
24 material about the accounts didn't match up with his  
25 performance dates and, therefore, somehow that financial  
26 aspects didn't appear to be taken into account in his  
27 performance. That, to me, seems to need a little further  
28 explanation.

29  
30 THE COMMISSIONER: You want to cross-examine on two  
31 aspects: one is the recruitment of the general manager.  
32 There's no purpose in me going behind the council's  
33 decision there. There appears to have been an appropriate  
34 procedure followed. You don't suggest otherwise, do you?

35  
36 MR EATON: Yes, I do, in that what I'm most interested in  
37 is how the council, declared by Ms Smith, could have come  
38 to a decision to employ Mr Murphy, from a small country  
39 council, to lead what is arguably the biggest council in  
40 New South Wales, the biggest certainly Local Government job  
41 in New South Wales in the council, rather than if he was  
42 the best candidate. I accept that that's what the council  
43 decided, going out again to readvertise the position. It  
44 just seems incredible to me that the decision was made to  
45 press forward with him rather than to readvertise.

46  
47 THE COMMISSIONER: Could you tell me how that would be

1 relevant to any of the terms of reference that I have to  
2 consider?

3  
4 MR EATON: Well, Madam Commissioner, you have set - or,  
5 sorry, your staff have set out a number of dot points which  
6 you say are relevant to your inquiry, and two of those are  
7 the recruitment of the general manager and the ongoing  
8 performance of the general manager.

9  
10 THE COMMISSIONER: I think that's mischaracterising the  
11 purpose of giving you some topics that might be discussed,  
12 and they arose in large part from the submissions that I  
13 received, and those dot points came from your client's  
14 submission. So it's not to suggest that I consider them  
15 relevant to the terms of reference but, rather, that they  
16 were topics that came up during my reading of the  
17 submissions, so --

18  
19 MR EATON: I apologise, Madam Commissioner. In terms of  
20 the terms of reference, I think it clearly comes in under  
21 the first one:

22  
23 Whether the governing body acted in a  
24 manner that maximised the success of  
25 gaining efficiencies and financial  
26 savings ...

27  
28 The employment --

29  
30 THE COMMISSIONER: From the merger process?

31  
32 MR EATON: From the merger process, yes, because this is  
33 about the success of the council and the financial success  
34 of the council. The employment of the general manager at  
35 that time was a critical step, and particularly related to  
36 the ongoing merger, the efficiencies and the financial  
37 success or otherwise, of the council, which obviously  
38 failed.

39  
40 In my opinion, and on what I can discern, arguably,  
41 Mr Murphy was not a good appointment. He was terminated  
42 basically as soon as the administrator came on board, so  
43 that seems to me to be a critical problem with the success  
44 of the council and its ability to get financial  
45 efficiencies and to deliver the benefits of the merger.

46  
47 I come back to that I don't understand how a council

1 or a mayor would appoint somebody from a very small  
2 regional council to what was and what is the biggest  
3 general manager job in New South Wales for a council.  
4

5 If you don't get the level of qualifications and  
6 expertise that you're looking for, the logical thing was to  
7 readvertise, given that they had what appeared to be a  
8 capable acting general manager in place at the time.  
9

10 THE COMMISSIONER: Those are your submissions?  
11

12 MR EATON: That's in relation to that point, yes, Madam  
13 Commissioner. Do you wish to go on about the monitoring?  
14 Although I think I have already mentioned the issue with  
15 the monitoring.  
16

17 THE COMMISSIONER: I'm actually persuaded in relation to  
18 the monitoring, Mr Eaton, but I'm not persuaded in relation  
19 to the recruitment and appointment of the general manager.  
20

21 Mr Williams, did you want to be heard?  
22

23 MR WILLIAMS: I do want to be heard on that application,  
24 Commissioner.  
25

26 THE COMMISSIONER: Thank you.  
27

28 MR WILLIAMS: I take it from what has just fallen from  
29 you, Commissioner, really it's just the point about the  
30 monitoring that's now presently in consideration?  
31

32 THE COMMISSIONER: Yes.  
33

34 MR WILLIAMS: I accept, Commissioner, that the performance  
35 management of the general manager falls within the broad  
36 ambit of the Commission's term of reference. Ms Smith has  
37 supplied a comprehensive submission to this Commission  
38 dealing with this issue, and investigation into what  
39 occurred in a series of individual meetings, or where notes  
40 of those meetings may be, is unlikely to take this  
41 Commission any further.  
42

43 With respect, Commissioner, there needs to be some  
44 caution in circumstances in allowing cross-examination on  
45 behalf of a particular councillor in circumstances in which  
46 we have not heard anything from my friend as to why Mr Best  
47 would need to particularly cross-examine Ms Smith about

1 this issue, why he has any personal interest in that  
2 himself over and above the general public interest in that  
3 question, and why it is that it is Mr Eaton's  
4 understanding, or lack of understanding about these issues,  
5 that is relevant. The relevant understanding would be  
6 Mr Best's, and anything that Mr Best had in terms of a  
7 particular personal interest in those issues.

8  
9 Otherwise, Commissioner, this process runs the risk of  
10 potentially laying itself open to the very kind of  
11 political machinations which have been discussed in the  
12 submissions before this inquiry already and by the  
13 administrator, and it lays itself open to the possibility  
14 for any of the councillors, or persons who have made a  
15 submission to this inquiry, saying that they ought to be  
16 given a right to cross-examine a particular witness,  
17 because they have a particularly strong interest in one  
18 issue that may arise. In those circumstances, we say,  
19 Commissioner, that leave to cross-examine should be refused  
20 even on that limited point.

21  
22 THE COMMISSIONER: Mr Simone, I'm sorry, I didn't give you  
23 the opportunity to speak either.

24  
25 MR SIMONE: Not at all, thank you, Commissioner. I appear  
26 for Ms Murphy. Ms Bulut is not available this morning.

27  
28 THE COMMISSIONER: Yes, I understand that, thank you.

29  
30 MR SIMONE: I'm grateful to my learned friend's comments  
31 and I adopt what Mr Williams says. The only point I would  
32 add to that is that Mr Eaton has submitted in his personal  
33 capacity a submission to this inquiry, and that as part of  
34 that submission, he is critical of Mr Murphy and the  
35 recruitment of Mr Murphy. It appears that he now makes an  
36 application to cross-examine, yet it is unclear whether he  
37 wishes to cross-examine in his personal capacity and  
38 relating to those interests, or whether the application is  
39 brought via his representation of Mr Best. I consider that  
40 that might be a relevant matter for your decision,  
41 Commissioner, and it might be a matter that Mr Eaton can  
42 clarify.

43  
44 THE COMMISSIONER: Thank you. Mr Eaton, do you have a  
45 response to those matters?

46  
47 MR EATON: Well, in terms of - sorry, the last gentleman,

1 I didn't catch his name, but obviously representing  
2 Mr Murphy --

3  
4 THE COMMISSIONER: Mr Simone.

5  
6 MR EATON: Mr Simone, thank you, Commissioner. As you are  
7 aware, both in my written and verbal requests, I have  
8 requested leave on behalf of my client Mr Best, and that's  
9 been made clear at all times.

10  
11 In terms of Mr Williams' comments, my understanding of  
12 this inquiry was it was an inquiry to determine facts and  
13 obviously to make recommendations about the future conduct  
14 of council, this council and many other councils, to avoid  
15 the scenario that has happened to the Central Coast  
16 Council.

17  
18 My client, given he is the longest-serving councillor,  
19 I think, on the Central Coast, is taking a public view as  
20 to what the Commission would want to inquire into and make  
21 some decisions about, and possibly some recommendations  
22 about. In that respect, the ongoing performance monitoring  
23 of the general manager, of any general manager, in a  
24 council is clearly a matter that I would have thought the  
25 Commission wants to hear about and to possibly make  
26 recommendations about whether the process could be  
27 enhanced. I will leave it at that, Commissioner.

28  
29 THE COMMISSIONER: Mr Eaton, could you comment on your  
30 personal capacity as a submitter to this inquiry, and  
31 whether that has any impact on whether you ought to be  
32 cross-examining a witness in this inquiry?

33  
34 MR EATON: I don't think it has any relevance whatsoever,  
35 Madam Commissioner. As obviously a person who also had a  
36 significant interest in the Wyong council, I thought it was  
37 important that I do make my own personal submission, but in  
38 this respect I am appearing on behalf of Mr Best.

39  
40 THE COMMISSIONER: In your submissions to me, you  
41 repeatedly said, "I can't see". Were you then speaking on  
42 behalf of Mr Best?

43  
44 MR EATON: Yes, Commissioner.

45  
46 THE COMMISSIONER: I'm going to take a short recess to  
47 consider the application to cross-examine Ms Smith. When I



1 come back on camera, I will ask you gentlemen to also come  
2 back on camera then. Thank you. We won't put the banner  
3 up. We'll just have a short recess.

4  
5 SHORT ADJOURNMENT

6  
7 THE COMMISSIONER: Thank you, the hearing will now resume.

8  
9 I have determined that it is not appropriate for  
10 Mr Eaton to cross-examine Ms Smith in relation to the  
11 recruitment of the general manager. There is no evidence  
12 that there was a departure from the guidelines for the  
13 recruitment of the general manager that were published in  
14 2011.

15  
16 The only point of departure appears to be in relation  
17 to the oversight of the general manager in relation to  
18 certain KPIs and I will allow very limited  
19 cross-examination on what aspect, Mr Eaton.

20  
21 I remain concerned about your relationship as a  
22 submitter as well as a solicitor, but that's a matter for  
23 you in these proceedings.

24  
25 I will allow some very limited cross-examination on  
26 the oversight of the general manager and to the extent that  
27 you can establish, or seek to establish, that there was a  
28 departure from the guidelines for the appointment and  
29 oversight of general managers dated July 2011, which the  
30 council ought to have followed in these proceedings.

31  
32 Ms Smith, would you come on camera, please. Ms Smith  
33 you are on your former oath. And, Mr Eaton, you may  
34 cross-examine now.

35  
36 MR EATON: Thank you, Commissioner.

37  
38 <EXAMINATION BY MR EATON:

39  
40 MR EATON: Q. Ms Smith, can you just elaborate on the  
41 issue about the performance, the KPIs of Mr Murphy, and  
42 your comment about, in particular, as I understood it, that  
43 the finances, or the financial statements didn't line up  
44 with his review dates and, therefore, it seemed that there  
45 was suggestion that he wasn't really being adequately  
46 monitored in terms of the financial performance of the  
47 council?

1  
2 THE COMMISSIONER: Mr Eaton --  
3  
4 MR WILLIAMS: I object.  
5  
6 THE COMMISSIONER: -- for my benefit, if you're referring  
7 to a part of Ms Smith's statement, could you tell me where  
8 that is? And, Mr Williams, I noted you objected.  
9  
10 MR WILLIAMS: Simply with respect, Commissioner, I didn't  
11 understand the question. It seems to have five or six  
12 prongs to it. I'm not sure how Ms Smith is meant to answer  
13 it, with respect.  
14  
15 THE COMMISSIONER: I did have some difficulty, too,  
16 Mr Eaton. Perhaps if you can start with the statement, you  
17 can show us where it is and then ask the question again.  
18  
19 MR EATON: It might be a bit difficult, sorry,  
20 Commissioner, because I've got that on my iPad as well.  
21 I'm not sure that I can go backwards and forwards between  
22 the two.  
23  
24 THE COMMISSIONER: It should be okay. You won't be able  
25 to see us, but you should be able to --  
26  
27 MR EATON: Okay, thank you.  
28  
29 THE COMMISSIONER: We are hereby having a demonstration of  
30 the joys of paper as opposed to electronic documents.  
31  
32 MR EATON: Q. The question is that what then did the  
33 council and the mayor do about ensuring that the general  
34 manager was monitored in respect of the financial  
35 performance of the council?  
36  
37 THE COMMISSIONER: Ms Smith?  
38  
39 THE WITNESS: Commissioner, in relation to the KPIs  
40 established in the performance management agreement, as I  
41 indicated in the submission, it recognised that some of  
42 those KPIs could not be determined because the financial  
43 reports were not available at that point in time. I think  
44 in terms of monitoring the financials, that then came down  
45 to when those financial reports were available through the  
46 normal processes of council, such as the quarterly budgets.  
47

1 THE COMMISSIONER: Q. Was Mr Murphy's performance then  
2 reviewed at that point?

3 A. Not through the formal performance review process, no.  
4

5 Q. Was any informal review of his performance undertaken  
6 then?

7 A. Not my - my recollection is not through - I mean, the  
8 only way of formally reviewing the CEO's performance is  
9 through the performance review process. My recollection is  
10 that there was not a subsequent meeting at that time. The  
11 finances were then monitored through the normal processes  
12 of council where all councillors have the opportunity to  
13 raise concerns and raise issues.  
14

15 THE COMMISSIONER: Thank you, Mr Eaton. Sorry, I  
16 interrupted you.  
17

18 MR EATON: That's fine. Thank you, Commissioner, for  
19 exploring that a little further.  
20

21 Q. Can I ask this, Ms Smith: you were having, as would  
22 be appropriate, weekly meetings with the general manager.  
23 Did you discuss the finances of council at those weekly  
24 meetings?

25 A. Commissioner, those weekly meetings were regular  
26 catch-ups, so the format of those meetings is that they  
27 would have included any information that was relevant. So  
28 it was a matter of the CEO and myself basically providing  
29 updates to each other about any issues that were current at  
30 council, looking at forward calendars, diaries, looking at  
31 what had happened in the last week, any matters that had  
32 been raised by councillors or staff that were relevant.  
33

34 Q. Thank you. Did you have agendas and notes of those  
35 meetings?

36 A. No. They were not formal meetings; they were weekly  
37 catch-ups where the CEO and I would each come with a list  
38 of topics that we might want to raise and discuss, and then  
39 we'd review diaries, basically, as to what was coming up.  
40

41 Q. Okay. Did you discuss with Mr Murphy the continuing  
42 growth in payroll and staff numbers?

43 A. I don't have a recollection of discussing that at  
44 those weekly meetings.  
45

46 Q. And what about did you discuss with Mr Murphy the  
47 quite constant turnover of chief financial officers?

1 A. Mr Murphy kept me informed of some of the processes  
2 around recruitment of those positions.

3  
4 Q. And fourth quarter financials never appeared to be  
5 produced by the council. Did that concern you and did you  
6 raise that with Mr Murphy?

7 A. That was included as part of the audit and the  
8 budgetary process, is my recollection.

9  
10 MR EATON: Thank you, Madam Commissioner. I think that's  
11 all the questions I have for Ms Smith.

12  
13 THE COMMISSIONER: Thank you. Mr Williams, is there  
14 anything arising?

15  
16 MR WILLIAMS: No, thank you, Commissioner.

17  
18 THE COMMISSIONER: Mr Simone?

19  
20 MR SIMONE: No, nothing arising.

21  
22 THE COMMISSIONER: Q. Ms Smith, can you just tell me, in  
23 relation to the staff freeze, when did that lift during  
24 your term?

25 A. So that lifted three years after the merger. So it  
26 was May 2019, yes.

27  
28 Q. So it was from that point that changes could be made  
29 to staff levels?

30 A. Yes, that's my understanding.

31  
32 Q. But not before? Well, not without agreement?

33 A. Mmm.

34  
35 THE COMMISSIONER: Thank you. If there is nothing further  
36 from anybody, I will thank Ms Smith for her evidence and  
37 you are excused.

38  
39 THE WITNESS: Thank you, Commissioner.

40  
41 <THE WITNESS WITHDREW

42  
43 THE COMMISSIONER: Our next witness, Mr Eaton, is Mr Best.  
44 I'm happy to commence with Mr Best straightaway, if he is  
45 available.

46  
47 MR EATON: Sorry, Madam Commissioner, we will try to

1 connect the bigger system so that you can have both Mr Best  
2 and myself on the one screen. That will just take us a  
3 minute or two.  
4  
5 THE COMMISSIONER: How about we have a five-minute break  
6 while you do that.  
7  
8 MR EATON: Thank you, Commissioner.  
9  
10 THE COMMISSIONER: Thank you. We will come back on at  
11 9.39.  
12  
13 SHORT ADJOURNMENT  
14  
15 THE COMMISSIONER: Thank you, we will now resume the  
16 hearing.  
17  
18 MR EATON: Can you hear us, Commissioner?  
19  
20 THE COMMISSIONER: Yes, I can, Commissioner. Mr Best?  
21  
22 MR BEST: Commissioner, good morning.  
23  
24 THE COMMISSIONER: Thank you. I'll just ask Ms Annis-Brown  
25 to swear you in as a witness.  
26  
27 <GREG BEST, affirmed: [9.38am]  
28  
29 THE COMMISSIONER: Thank you, Ms Annis-Brown.  
30  
31 Q. Mr Best, I have your written submission. I must  
32 confess, because it's in a narrative form I found it a  
33 little difficult to navigate, so I've had to break it up  
34 myself into subtopics. I will go through those topics with  
35 you. I think I'll start with your written submission.  
36 That should shorten any other examination I have of you.  
37  
38 The document is numbered. So on the first page, the  
39 third-last paragraph, you refer to the 17/18 budget  
40 process, where you attempted to raise the alarming staffing  
41 levels. Now, at that stage, the council was still subject  
42 to a staff freeze; is that right?  
43 A. I believe so.  
44  
45 Q. So the only thing they could do about staffing levels  
46 at that point would be to try to, by agreement, make people  
47 redundant or to accept resignations; is that your

1 understanding of the situation?  
2 A. No. I think it goes a little further than that, and  
3 that was: I think the interpretation of the council is why  
4 we might ultimately be all sitting here today. In May 12,  
5 the infamous day of amalgamation, the council sat at 1,917  
6 staff, but that number travelled up to 2,158 staff - the  
7 increase of 668 FTEs on those figures, and they are figures  
8 from Mr Hart's presentation.

9  
10 The point that you raised is that there is natural  
11 attrition in any council. The council size at the  
12 Central Coast Council has an attrition over the years.  
13 My probably decades on the council has taught me much, but  
14 I have much to learn though. About 7 per cent, possibly  
15 9 per cent, depending on the time - in non-pandemic times  
16 you have different outcomes, of course - so you could have  
17 had an attrition, a natural attrition rate, Madam  
18 Commissioner, of not 1,917, but around 160ish per thousand.  
19 So you could have pulled it back - you could have pulled it  
20 back in two years by at least a few hundred by having a  
21 moratorium on further appointments.

22  
23 Also, more importantly, for the ratepayers not to have  
24 to pay the now some \$40-odd million in redundancies that we  
25 are forced to pay today. Compounding that, the morale and  
26 the hardship on the staff, because redundancies are often  
27 painful. We could have avoided all that, I think, if we  
28 had looked at the natural attrition process and kept our  
29 staff, our unions and everybody, on the same page. That  
30 was my view at the time.

31  
32 Q. Do you think there was any need to employ additional  
33 staff to cover some of the activities that were not usual  
34 council business, that were related more to the merger?

35 A. There were certain specific and specialised areas  
36 that needed to be addressed, and that I also picked up  
37 on in some staff reports where the staff had generated a  
38 \$9 million expenditure on what they call agency hire  
39 agreements.

40  
41 Agency hire agreements are euphemisms for body hire in  
42 the industry vernacular. That was spirited away from the  
43 bottom line of the \$200 million wages bill by putting in a  
44 column that was on page 500 of a 700-page report where  
45 councillors don't often go. And it turns out that it was  
46 agency hire, and the point here is that it was for further  
47 IT people to come into the system.

1  
2 That's something that I have managed to explore with a  
3 number of the witnesses around the IT processes. I signed  
4 off as mayor in 2003 on the IT system that currently - or  
5 back at that time was the current system for Wyong. It was  
6 well dated and well in time for replacement, as was the  
7 Gosford system. So the expenditures on the IT systems was  
8 a natural and fundamental expense of running a business the  
9 size of this, which is the same as the business I run as a  
10 general manager today myself.

11  
12 Q. Now, you say you also raised in that budget process  
13 the use of restricted section 94 contributions.

14 A. Yes, I do raise that. Just let me get to my - what  
15 page are you on of my --

16  
17 Q. Still on page 1, and it's the third-last paragraph.

18 A. Third last?

19

20 Q. I just wondered if you could refer me to a document or  
21 something like that where I can read what was raised. Was  
22 it in a council meeting, or was it in a motion that you had  
23 put forward, or --

24 A. Yes, it was in both, I believe. To the best of my  
25 recollection, on 25 March 2019, there was a financial item  
26 on the business paper around the OLG's - what we call the  
27 OLG's scorecard of council's performance as at that time.  
28 I stand in the chamber on that date, I believe, and I  
29 thought that the actual time and minute date were actually  
30 in the submission, but I can forward that to you.

31

32 Q. I didn't realise it was the same meeting. I think  
33 that it is referred to later when you refer to the OLG  
34 report card.

35 A. I didn't think it was on the first page. What page is  
36 it on?

37

38 Q. It's at the foot of page 3, and over to page 7.

39 A. Thank you for that.

40

41 Q. It's 25 February, not March.

42 A. Yes.

43

44 Q. So that's the meeting that I should look to?

45 A. I think so. You're on the first - I've done this to  
46 help you with the questions which you were asking, and  
47 that's question 13 on your run sheet. 13, "Understanding

1 of actual or future merger costs". I have actually  
2 numbered your questions into my statement to make it flow  
3 better, but you've gone to the statement, and I've not got  
4 to work in reverse. But that's okay, we'll get there.  
5 You're saying the third paragraph:

6  
7 I appeal to the chamber to generate these  
8 quarterly reports and place them on as  
9 standing items on the agenda.

10  
11 That's to do the with amalgamation. That's off the back of  
12 my successful amalgamation motion on 13/8/2018.

13  
14 Q. Sorry, where are you reading from, Mr Best?

15 A. Page 3, third paragraph from the bottom.

16  
17 Q. No, the last paragraph is where you refer to the OLG  
18 report card, and then over the page, you then refer to the  
19 meeting dated 25 February. So if you think it was that  
20 meeting --

21 A. Apologies. There's so much paper in this paperless  
22 office. Yes. Thank you for the guidance. There's a fair  
23 bit here. The OLG report card touched on critical areas of  
24 compliance, expenditure and, all importantly, expenditure  
25 of restricted funds. This was a pivotal point for council  
26 to pick up on the very issue that is central to the  
27 financial collapse of this council.

28  
29 To the best of my recollection, the figures at the  
30 time were around \$13.9 million of questionable expenditure.  
31 I raised this and was told \$10 million of this was  
32 apportioned to the poor reporting of Gosford City Council  
33 prior to the amalgamation. Nevertheless, it left  
34 unanswered the question of how our controls in the Central  
35 Coast Council allowed \$13.9 million of restricted funds to  
36 be spent. This line of questioning was rejected and  
37 virtually ignored. I have attached an excerpt of the  
38 chamber address to provide an unambiguous understanding  
39 that this council needed to fully be aware that it had  
40 serious financial issues around the legal expenditure.  
41 So there is a time and a date there for you, somewhere.

42  
43 Q. Thank you, Mr Best, there's no need to read what you  
44 have already read in your statement to me. So that \$13.9  
45 million, correct me if I am wrong, that was expenditure by  
46 Gosford City Council and there was a repayment of that  
47 money prior to the Central Coast Council being merged,



1 coming into being?  
2 A. \$10 million of it we were advised. You'll see on the  
3 tape myself questioning Mr Murphy, and I am rebutted  
4 quickly that, "No, councillor, that's 10 million from our  
5 legacy of Gosford City Council's performance". And I said,  
6 "Okay, I can accept that. However, the light bulb comes  
7 on, if I'm correct - and I'm not an accountant and I'm not  
8 an auditor, but I'm trying to ask questions on behalf of my  
9 community to get to an understanding better - that leaves  
10 \$13.9 million of public money that was spent by Central  
11 Coast Council out of the \$13.9 million on our watch. What  
12 I wanted to understand from the chamber, and Mr Murphy, was  
13 how did our processes allow this edge of the carpet to be  
14 lifted on restricted funds? Had that been taken seriously  
15 at the time, this may have opened up a lot sooner and cost  
16 our ratepayers a lot less, but it wasn't, predominantly.  
17  
18 Q. So at least I understand there that those section 94  
19 contributions are what you are talking about on the foot of  
20 page 3 over to page 4?  
21 A. Yes, thank you for the qualification.  
22  
23 Q. Thank you. You say there was an escalating deficit,  
24 but, correct me if I am wrong, the 2017/18 budget was  
25 actually a small surplus?  
26 A. The 2017/18 budget was \$64,000 surplus. And I raised  
27 that in chamber, along with my good colleague Councillor  
28 McLachlan, who is a very reputable third-generation  
29 businessman, and we questioned staff quite firmly around  
30 how can you come to a \$64,000 profit in what is around an  
31 \$835 million budget? I mean, it rung alarm bells for me as  
32 a general manager myself. To try and drill down a \$64,000  
33 profit in an \$800 million budget is almost of biblical  
34 proportions to be able to do that. So it questioned the  
35 controls in the back and the accounting processes, to me,  
36 because all day long, with the climate of the council, the  
37 \$64,000 is going to turn into a loss. Blind Freddy could,  
38 I think, come to that conclusion.  
39  
40 Q. So you think the budget had been manipulated to show a  
41 surplus when in fact there wouldn't be a surplus?  
42 A. I don't know that, but it could be one line of thought  
43 or question. But I think, more importantly, it was inept  
44 that you would come to a board, which is the council -  
45 imagine walking into my board and saying, "Well, you have a  
46 wafer-thin paper thickness margin on this budget. You want  
47 to go ahead with that, Greg?" "No. I'd like a little bit

1 of a rainy day in my back pocket, because things happen,  
2 bad things happen". And the council just ignored that.

3  
4 Councillor McLachlan was quite strident in his attempt  
5 to highlight to the council that this wasn't maybe a good  
6 way to take this council forward. It wasn't like they  
7 weren't warned on the budget going pear-shaped and it went  
8 pear-shaped to the tune of \$22 million. That was followed  
9 by a \$5 million loss the next year, \$41 million for the Q3  
10 2020, and we know the history is 115 on that year as we go  
11 forward. You know, these are back-to-back losses.

12  
13 I recognise you raised these questions today, and some  
14 say, "What was wrong with having a few deficits?" But when  
15 this council has run deficits every single year, what were  
16 they thinking that the next council is going to have as a  
17 legacy? Regardless of the collapse in the finances and the  
18 restricted funds, if that hadn't come to pass, we were  
19 going to leave as a legacy for the next council loss after  
20 loss after loss. I've been in five or six councils and  
21 I know what it's like when you're handed a shocking  
22 financial budget by the previous council. It doesn't help.

23  
24 Q. Some of the other councillors that have already spoken  
25 suggested that those deficits were consistent with the  
26 long-term financial plan, so that there would be excess  
27 spending up front followed by some tapering off and coming  
28 back into surplus over the term of the long-term financial  
29 plan.

30 A. They may be better forensic accountants than I am.  
31 I only run a small business with 200 staff in it. These  
32 are the same people, Madam Commissioner, that are telling  
33 us - and it is on the podcast, so it doesn't matter what  
34 comes out of people's mouths. Thank God for the podcast;  
35 there's the truth. They have been calling the amalgamation  
36 a failure. They have been calling to dismantle the  
37 amalgamation --

38  
39 Q. Mr Best, sorry to interrupt you, but I really want  
40 your opinion about whether the deficits were consistent  
41 with the long-term financial plans of the council.

42 A. No, it's ridiculous to run losses back to back like  
43 this, knowing that you've got an elephant in the room of  
44 amalgamation, 100 other issues to deal with. You needed -  
45 as I said in 2018, February 2018, "This council has to stop  
46 spending like drunken sailors. You won't be able to pay  
47 your bills in 12 months time, and you can shoot the

1 messenger". They were my words.

2

3 Q. I notice you have a fondness for metaphors.

4 A. Thank you.

5

6 Q. Mr Best, a number of witnesses have said that the  
7 budget was presented to councillors as a fait accompli,  
8 that the staff developed the budget and decided whether  
9 there would be a surplus or a deficit. What's your view?

10 A. Look, some of the councillors, I think, just didn't  
11 understand their roles and responsibilities and  
12 obligations. They were reminded by myself and other  
13 councillors who did have some experience in that space --

14

15 Q. Mr Best, my question is whether you think the staff  
16 presented the budget with the surplus or deficit, and you  
17 had to deal with it as a fait accompli. Was that your  
18 position or not?

19 A. No.

20

21 Q. So what did you do about altering or attempting to  
22 alter the budget?

23 A. Well, in the 85 resolutions I put up over the term of  
24 the council, many of them were financial and many of them  
25 went to this very point, and every quarter I raised it  
26 personally and called them to the agenda for debate. So  
27 all the way through I tried to encourage the council.  
28 My point I was seeking to make was that the councillors  
29 have the power to gain any knowledge and information from  
30 the bureaucracy they so choose, and the budgeting process  
31 starts, for those that want to participate, usually around  
32 December/January, seriously. You're thinking of big  
33 tranches of project going forward. The staff are not  
34 running off doing it; the council's setting the strategic  
35 direction. The council is saying, "Look, we want this  
36 park, and this building, and that repaired", and the  
37 staff were - I have worked with this staff for a very long  
38 time and the staff will take direction from the council.  
39 If the council says it didn't know, or it wasn't told,  
40 well, they didn't damn well ask.

41

42 Q. If the councillors had asked for a surplus budget to  
43 be devised, would that have been something that could have  
44 happened prior to the budget being presented to them?

45 A. I believe absolutely. Every year that can occur and  
46 the council are stating that as being the majority of  
47 times. If we go to a deficit, there's a real good "Please

1 explain" from your bureaucracy why we're going there.

2  
3 Q. Now, when Central Coast was formed, both of its  
4 predecessor councils had infrastructure backlogs, and  
5 I heard yesterday that every council has infrastructure  
6 backlogs. But it was a bit of a project for Central Coast  
7 to address those issues, was it?

8 A. Whomever said that yesterday is one hundred per cent  
9 correct. Local government, by nature of how we manage the  
10 asset, you know, expenditure, and the rate pegging is where  
11 it really comes back to, which is not on the table here  
12 today, but that's why we can't afford to manage our  
13 infrastructure across every council, because we clearly  
14 don't have the revenues to do it. That's why we are  
15 building homes all over the countryside, but local  
16 government is failing at the coalface, and that's the  
17 reason. But that's another story, as I'm sure you would  
18 agree.

19  
20 Yes, it's always challenging, infrastructure backlog  
21 it's nothing new. It's not like the council didn't know  
22 that there was and is - it's no surprise. These people  
23 come to council and in the argy-bargy of an election  
24 process, all this laundry is put on the table for  
25 everybody, so I defy anyone to come in and say, "Oh,  
26 goodness, I didn't know Gosford had an infrastructure  
27 backlog, or Wyong had some issues, and it has got its SRV  
28 running to try and right-side that". But you have to call  
29 it in terms of the common and garden issues if you don't  
30 understand the asset issues.

31  
32 Q. I'm taking you over to page 2 of your statement. At  
33 the top you refer to the council reneging on the airport  
34 contract and you said it willingly paid millions in  
35 damages. Yesterday I heard from a witness that the damages  
36 were in the order of \$1 million. Do you know what the  
37 correct figure is?

38 A. No, I haven't got the exact figure, Commissioner.  
39 However, the figure that I believe was paid to AAI was  
40 \$1.7 million-ish.

41  
42 My point here is that the cost of the tearing up of  
43 the contract, as it was called, is that we lose the  
44 contract, we have got the costs associated with that, the  
45 legal costs, the development costs, all those costs that  
46 staff have put in over years - no wonder we have staff  
47 morale issues - you have 17 expressions of interest that

1 sat and underpinned that tender, that contract. They were  
2 extinguished as well. Those costs aren't even seen in  
3 that. Then you've got quite clearly the understanding that  
4 the airport was to be the catalyst for our key employment  
5 precinct of the west, the Wyong employment zone. So the  
6 cost --

7  
8 Q. Mr Best, I'm sorry to interrupt you, but I was simply  
9 asking about the millions in damages and you've explained  
10 that it was \$1.7, you think, and then there would have been  
11 other costs to both council and others.

12 A. That's right.

13  
14 Q. Thank you. You discuss on page 2 the appointment of  
15 the general manager, Mr Murphy. Are you suggesting that  
16 there was a departure from the guidelines for the  
17 recruitment and management of the general manager?  
18 Firstly, just the recruitment. Do you think that the  
19 guidelines were followed in the process, the recruitment of  
20 Mr Murphy?

21 A. I think the technical following of the guidelines, one  
22 could argue that they have been met, but the spirit of what  
23 should have happened I think is a completely different  
24 story. That's how I felt as a member of the board at  
25 council making a selection, a critical selection, when  
26 I get one applicant or one interview and that person's  
27 appointed.

28  
29 Q. But there wasn't one applicant.

30 A. Well, that's what I was trying to say. The committee  
31 was formed with a group around the mayor. That committee  
32 interviewed four, I believe, plus one internal,  
33 Mr Glendenning. I have known Mr Glendenning for more than  
34 a decade, a highly professional individual, acting general  
35 manager. We get of those five people that - you see, the  
36 understanding, when the committee was formed, in the  
37 chamber was that we would get at least three applicants of  
38 high-standing referred to the full council for interview.  
39 That's been a standard principle in every general manager  
40 appointment I have been involved in over 20 years. We've  
41 always had three, possibly four candidates, and gender  
42 balanced as well.

43  
44 Q. Mr Best, that's not consistent with the guidelines for  
45 recruitment of general managers, though, is it?

46 A. I understand that the guidelines, as I said, were most  
47 probably met, but in a fairness test for a member of the

1 board to get one applicant to interview and for that person  
2 to be given the job, I just felt that was not really a fair  
3 and reasonable process that one should have gone through.  
4 I felt disenfranchised in my role to deliver to the  
5 community, interviewing one person and giving them the job.  
6 That's what the 15 councillors got to do, in fact, 14  
7 councillors got to do, was interview one person. They may  
8 technically be correct, but it doesn't pass the pub test, I  
9 don't think.

10  
11 Q. You say the guidelines need revision?

12 A. Something's broken.

13  
14 Q. Going to page 3 of your submission now, you raised  
15 the RPAC, the Regional Performing Arts Centre issue. Now,  
16 I heard yesterday that ultimately that didn't proceed, and  
17 you make the point there that it cost many millions in  
18 preliminary administration. Do you have an idea of the  
19 figure that might have been wasted as a result of the  
20 investigations?

21 A. No, but it's in the millions.

22  
23 Q. Okay. The next paragraph you deal with something  
24 about land deals. Now, I don't want you to break any  
25 in-confidence, but the matter didn't proceed; is that  
26 correct?

27 A. Yes, the matter didn't proceed, thank goodness.

28  
29 Q. So it wasn't an actual waste of money, but you were  
30 more concerned about what the potential might have been,  
31 are you?

32 A. Well, yes, that's correct, but you can see in my  
33 submission that the council was prepared to pay four or  
34 five times over the valuation of the proposed location for  
35 this facility, and I was arguing why on God's earth would  
36 you not go to compulsory acquisition? Why would you pay -  
37 and we are talking multi-millions, so I won't put the  
38 figures in, Commissioner, but why would you pay  
39 multi-millions of dollars over the registered valuer's  
40 recommendation for a parcel of land? I mean, it just  
41 seemed to go round in circles. This was spoiling to be  
42 another one of those examples and I was petrified of what  
43 was going on behind the scenes.

44  
45 Q. Why didn't it proceed?

46 A. Why didn't the - well, why did it not proceed?

47 I think because it wasn't a sound proposal. It didn't have

1 a sound business case. When it was first brought to  
2 chambers, staff were intimating it was a \$60 million  
3 project.

4  
5 I have experience in this, having built and been part  
6 of the Wyong performing arts centre at 12.5 million, the  
7 500-seat facility. This was a \$60 million building back  
8 then. I said, "Well, we need to just look at this  
9 carefully. It's a huge project". It then came back with  
10 another report to about \$100 million. I said, "Well" --

11  
12 Q. So this was land connected with RPAC, was it?

13 A. No. This was actually the cost of the building to go  
14 on the land for the RPAC. This was the building costs  
15 going up. The first report was 60 million, the second  
16 staff report was 100. I said, "This is going to 150 all  
17 day long. We don't have a business plan, we don't have  
18 geotech. We don't have sound engineering", so all these  
19 are going to cause problems ahead cost wise, and --

20  
21 Q. We might be at cost purposes, though. I was asking  
22 you about the paragraph that deals with the land purchase,  
23 or potential land purchase.

24 A. Yes. I've got it.

25  
26 Q. The council voted it down, did it?

27 A. The whole project, they withdrew from the project.  
28 They didn't withdraw from the land, they were steaming  
29 ahead with the land, with two options, and there's tens of  
30 millions of dollars here over the registered valuation  
31 recommendation, and had the project proceeded - and don't  
32 forget they were going to borrow \$100 million to do this,  
33 so that would have been even better, or seemed to be  
34 better. This land was going to be the foot of the building  
35 and, as I say, they were going to pay four or five times  
36 over the valuation, and not use compulsory acquisition  
37 rights.

38  
39 Q. So the only reason - this is what I was getting to:  
40 it wasn't a vote of the council; it was a decision to not  
41 proceed with the whole project that prevented the  
42 acquisition or the purchase from going ahead?

43 A. Yes, I believe that would be the answer, yes.

44  
45 Q. In the paragraph below you talk about your motion  
46 "Success of amalgamation". There seems to be a couple of  
47 camps within the council - those that wanted the merger to

1 succeed and those that wanted to revert to the former  
2 councils.

3 A. Yes.

4  
5 Q. And I take it you were in the former. To what extent  
6 did you understand or get information from the staff about  
7 how the merger was proceeding? Not whether it was a  
8 success or whether it was a failure, but just what steps  
9 were being taken? Did you have regular updates on what had  
10 been done and what needed to be done?

11 A. No.

12  
13 Q. Was there an explanation why that didn't happen?

14 A. No. That's the very reason why, you know, I  
15 represented my community in chambers on 13/8, and asked  
16 about reports, and I did ask in the chamber could we please  
17 - you know, a bit of Oliver Twist - could we please have  
18 possibly quarterly reports? Even monthly, but quarterly  
19 would have been fine. I asked for quarterlies. Because  
20 this is 12 months into the council, Madam Commissioner, and  
21 we haven't really worked with the staff and sought to glean  
22 how the ship was sailing, so to speak.

23  
24 More importantly, whilst we get little snippets on  
25 internal memos from staff about things, or, worse still, we  
26 go into the dreaded briefing room, the ratepayers are not  
27 in the briefing room, the ratepayers are not on the  
28 internal council system and the only place the ratepayers  
29 can genuinely hear how their council is performing is in  
30 the chamber. That's why I put that motion in there.

31  
32 As I think you are aware now, there are those that go,  
33 you know, "We love the amalgamation". Look, I've come to  
34 tell the truth and nothing but the truth and the facts are  
35 that there was an agenda by certain councillors to not have  
36 the amalgamation succeed for political purposes. I pointed  
37 out to the council in the briefing room that, "Look, you're  
38 not even a year into the new council. If you want do a  
39 referendum it's going to be in three year's time at the  
40 next election, and then if it were to be successful and we  
41 were given permission to do it by the state, it would be  
42 four years after that that you could implement it. So what  
43 you're doing is you're taking this whole thing down a path  
44 for the next seven years, arguably, of indecision and staff  
45 trying to do a job they can't possibly do. What is the  
46 benefit of doing this? You haven't even given this thing a  
47 go for 12 months. You haven't received a report on it yet,



1 a proper report, and you want to go for costs on the  
2 amalgamation". I mean, it was politics 101, and it was for  
3 the council to embarrass the state over their amalgamation,  
4 while the ratepayers pay. And that's the truth and nothing  
5 but the truth as far as I'm concerned.  
6

7 Q. Are you aware of a unit set up within the council,  
8 I think under the first administrator, to manage the  
9 activities that were needed to achieve the merger?

10 A. Yes. Mr Reynolds and Mr Noble set that up. I'm aware  
11 of it and it was disbanded as soon as the council came to  
12 bear.  
13

14 Q. And under whose direction was it disbanded?

15 A. I do not know.  
16

17 Q. But it didn't come to the council?

18 A. I don't believe so.  
19

20 Q. No. Okay.

21 A. But the council didn't ask for any information going  
22 in. I mean, it was everything to us, and it still is, and  
23 the board is asking nothing. Why?  
24

25 Q. You keep referring to the council as the board, and  
26 you make comparisons in your statement of about a council  
27 to a board, but they are quite different creatures, aren't  
28 they?

29 A. Legally and technically, but from an obligation point  
30 of view, I think we understand what I am trying to say.  
31

32 Q. Well, I don't know that I do, because I look at the  
33 material from the state government about upcoming council  
34 elections and it's encouraging diversity, people from all  
35 walks of life and people perhaps who don't have your  
36 business acumen sitting on councils. So is it reasonable  
37 to expect that every councillor will have your skills?

38 A. Answer: clearly we are a rich tapestry and we don't  
39 have all the skills, but the sum total of our skills is  
40 what comes together to make us good and right and deliver  
41 for whom or whatever it is we are trying to represent.  
42 That's the difference. As you talk about skills, and you  
43 mention this to others, were the council skilled, and I  
44 think you are looking down that path. The councillors  
45 could have asked for any training and upgrade of knowledge  
46 that they so chose.  
47

1 I attended the Institute of Company Directors' course  
2 about two years ago. It's a refresher. I still need to  
3 learn. I went to that, took four days annual leave, under  
4 the code of council's expenditure policy it was agreed to  
5 by the chamber. I do the four-day course, and it's very  
6 interesting and very helpful, I found - things you update  
7 with - and I was criticised and ridiculed in the council  
8 chamber for spending council money on a conference. These  
9 were the same people that need the knowledge. I mean, this  
10 is the frustration. It's not that they - they're not silly  
11 people, there is no-one silly in this; they just need to  
12 step up and understand it. There's help everywhere.

13  
14 The staff are good people. They will help us. I  
15 don't always agree with the staff, you can see it over the  
16 podcast. They are good professional people. They live in  
17 our community. They own their jobs. They own this  
18 council. They are part of it. They are not the enemy.  
19 But some of the dog eat dog that seemed to come into this  
20 council was palpable and I have never seen it, Madam  
21 Commissioner, in any of the five or six councils I have sat  
22 in, this at the staff. Why have we got to be at the staff?  
23 I mean, they're not the enemy. If you want something, ask  
24 them.

25  
26 I can pick the phone up to any of the directors and  
27 they would help me. They would send me reports, they would  
28 always call me back. They were always available at my  
29 request if I needed things genuinely. The podcast shows a  
30 very different situation coming into this council - the  
31 predetermined views and grassy knolls, and deals that  
32 they're going to expose, and, "We're going to do this, and  
33 we're going to do that". You're not attacking the  
34 councillors of the past; you are attacking the staff. Who  
35 set these arrangements up, who put together the business  
36 plans?

37  
38 Q. Mr Best, I'll have to stop you there.

39 A. I appreciate that but --

40  
41 Q. It's not the council chamber, it's an inquiry.

42 A. -- thank you. It's knowledge, the truth.

43  
44 Q. I'm taking you now to the OLG report card. I'm sorry,  
45 I don't know what that is. It might be a document that you  
46 have. Or it might be a name given for a different  
47 document?

1 A. That's a term, a colloquial term that we use in our  
2 council circles here. I don't know what it's - it's the  
3 auditor's report from the OLG. In a fashion, it is the  
4 report card and that report card, and it's in the chamber  
5 on 25 February, shows that --  
6

7 Q. Could it be the audit office financial management  
8 letter, the final one? No, I don't think so, because that  
9 postdated that.

10 A. No, Commissioner.

11

12 Q. You would have seen - I don't know.

13

14 MR EATON: Madam Commissioner, can I assist?

15

16 THE COMMISSIONER: Yes, thank you, Mr Eaton.

17

18 MR EATON: It was part of the annual audit report of the  
19 council, and in there it lists, as it does for all  
20 councillors, lined bar charts with KPIs against each one,  
21 so that things like infrastructure backlogs, percentage of  
22 rates outstanding - sorry, I can't think - amount of cash  
23 available --  
24

25 THE COMMISSIONER: I understand, yes, the criteria that  
26 are listed. I'm sorry, I missed what you said at the very  
27 beginning. What document is it in?  
28

29 MR EATON: It's in the audit report.

30

31 THE COMMISSIONER: Audit report, okay.

32

33 Q. Mr Best, if I can take you over to page 4, the fourth  
34 paragraph there, your motion "Council seeks to avoid  
35 dismissal". What is the project or what was the \$5 million  
36 cheque that was torn up? What was that about?

37 A. That was for a public walkway on a reserve at Wind  
38 Bay, south of the Central Coast.

39

40 Q. Did it have any co-payment requirements? Was the  
41 council required to contribute?

42 A. I believe there was some initial funding we put up in  
43 terms of the concepting and what have you. But I think  
44 clearly the lion's share of the \$4.9 million-ish came from  
45 the state government by way of a grant.

46

47 Q. Okay. What was the total cost of the project?

1 A. I believe it was in that realm of \$5 million.  
2  
3 Q. Why was the walkway controversial, or why was it not  
4 proceeded with?  
5 A. Well, I put this motion to the chamber, as you have  
6 indicated. Why it didn't proceed, there were varying views  
7 in the chamber. The staff again had done a lot of  
8 preliminary groundwork for the project, and they actually  
9 started work on the project. And a number of councillors  
10 didn't like the engineering on the hill, it wasn't going to  
11 look good and some trees would have to be removed. That's  
12 the key word. They said, "No, this is terrible. We can't  
13 have that on the hill, a suspended viewing platform",  
14 and --  
15  
16 Q. There were environmental concerns which you probably  
17 didn't share. But the council decided not to proceed with  
18 the project, was it?  
19 A. Yes.  
20  
21 Q. Okay. You go on then to talk about different  
22 councillors having different roles with political  
23 affiliations. Do you think there's justification for  
24 preventing those sort of affiliations from occurring at  
25 Local Government level?  
26 A. It's always been a - as an independent councillor for  
27 20 years, it's always been my mantra that, you know,  
28 "Please, make your council for your community and keep  
29 party politics out". Absolutely.  
30  
31 Q. But you make the point there that some people were  
32 employed by state politicians. Is that any different to,  
33 for example, you running your own business and potentially  
34 having a conflict in the chamber on different things?  
35 A. A good question. I think when you understand the  
36 infiltration into the chamber of our state members by their  
37 council colleagues, or subordinates, you cannot be a  
38 councillor for a party unless you get past your leading  
39 state or federal member, and there's lots of examples where  
40 those members seek to advance their views in the chamber  
41 and clearly councillors on the floor are advancing the  
42 views of those people. I would just like to advance the  
43 views of the community and not our state and federal  
44 members in the local - in our rates and rubbish world.  
45 That's been my position.  
46  
47 We had four or five councillors either running for a

1 state seat, running for a federal seat, you know, working  
2 for a state member or federal member, on both sides of the  
3 divide, and that just doesn't really - I mean, it's dog and  
4 cat. It doesn't make it good for the community when there  
5 is this preconceived whole lots of position in the chamber  
6 and here you are as an independent trying to work your way  
7 through this minefield. It's just not good local  
8 government. I mean, I know it's a spirited game. I know  
9 we'll never get it out of local government --

10  
11 Q. It's beyond my control.

12 A. It's beyond my pay grade. But it's just, oh my God,  
13 you know, what do you do?

14  
15 Q. Down at the second-last paragraph on that page, you  
16 raised a resolution about ward equitable expenditure. Just  
17 going to that, were you one of the councillors that wanted  
18 to see how expenditure related to wards?

19 A. I think that - yes, I was. I think it's important.  
20 And, you know, our friends to the south, in the  
21 south-western ward, they were most probably the most  
22 under-spent and the next ward was the northern ward that  
23 I represented, Budgewoi. But I mean, I've always  
24 maintained that you are not a councillor merely of a ward,  
25 you are a councillor for the council and the whole council,  
26 nothing but the council.

27  
28 So this ward equitable expenditure, I put the motion  
29 on so that we could try and work together to understand  
30 that. You know, because there are assets in certain wards  
31 that are obviously going to require expenditure for the  
32 benefit of people in other wards. I mean, it's just the  
33 way the structure works. So I think an obsession with  
34 dollar for dollar expenditure was beginning to hamstring  
35 the council and that's why I put the motion up. But I  
36 noted at the time there was, you know, a \$20 million loss  
37 on the books and we needed to raise that. We needed to  
38 have a serious discussion and, again, I think, a "Please  
39 explain" to our staff why. I put it into the chamber. For  
40 my efforts, and I'm not getting my violin out here, but  
41 I was regularly criticised, roundly condemned and  
42 name-called and a particular - you know, they would brand  
43 you with a particular name, and then the whole chamber  
44 would just dismiss it and laugh it off. "It's \$20 million,  
45 councillors, and it needs an answer", but it was  
46 trivialised. It was quite sad, actually, sitting and  
47 watching this go on. I can just still see it. It was like

1 Romans eating grapes. It was just terrible. I've not seen  
2 that in many other councils in the past. I really haven't.

3  
4 Q. Can I take you now to page 5 of your statement. You  
5 are dealing with the call centre/disaster recovery unit. I  
6 tried to follow what happened with it. The report was  
7 accepted at the meeting of 9 March, but what happened, it  
8 seems that it didn't go ahead, but I couldn't locate the  
9 precise meeting at which that decision was made, unless it  
10 just got swallowed up in the --

11 A. Well, I can tell you what actually exactly happened to  
12 it, and its steps to why it arrived where it did. Council  
13 called for the tender. The staff developed the tender. It  
14 was a very special tender this one, specialised tender,  
15 this one. They went out for tender. The staff were highly  
16 professional --

17  
18 Q. I understand that. What I'm trying to get to,  
19 Mr Best, is how did it end up? I can see certain things,  
20 but I don't understand where it finally finished.

21 A. Where I think it finally finished was that council was  
22 that clearly not able to carry out what council were  
23 demanding - that is, to do it in-house - it was a problem.  
24 And the staff, and I have witnessed this in the past, the  
25 staff let the project go quiet. They parked it.

26  
27 Q. Okay. So it just didn't ever come back to the council  
28 and then --

29 A. I did speak to the director and said "Julie, would you  
30 like me to raise it in a few months?" But she just looked  
31 at me and, "Don't you do that, Greg". They wanted to wait  
32 the council out because probably the council was prepared  
33 to spend another million dollars for the exact same service  
34 they could get for \$300,000.

35  
36 Q. In the meantime, you just kept paying the I think it  
37 was \$350,000 per annum on a rollover basis?

38 A. Julie was facing \$1.3 million or 300,000 and she's  
39 responsible.

40  
41 Q. Was there any ability for councillors to understand  
42 within directorates of the council whether budgets were  
43 being met?

44 A. No. That was not well managed at all, and I did raise  
45 and ask questions around that. No, individual directors  
46 did not give us a siloed budget for their activities, no.

1 Q. You raised earlier that the Q4 reports - there are no  
2 Q4 reports, as I understand it.

3 A. Mmm.

4  
5 Q. Is there a reason for that or is it simply that they  
6 get swallowed up into the final financial statements?

7 A. The latter. They get swallowed up. However, on  
8 29 November 2019, I think it was, I raised the Q4 reports.  
9 These were the reports on the back of the repeated  
10 extension of council's accounts to be audited, as you would  
11 be aware. The accounts were nine months behind, late, or  
12 whatever you want to call it. And I asked them, it's on  
13 the tape, I asked Mr Murphy, "Well, Gary, can't you just  
14 give us the unaudited version? We can read that. We'll  
15 understand it's unaudited, but we can read it".

16  
17 When you see the replies and the waffling and the CFO  
18 explanations, you can see that something's amiss and  
19 they're not going to be telling us. That's my  
20 interpretation of that particular podcast. Fortunately, we  
21 do have the podcasts, so we know what they were saying.  
22 It's all on the podcasts.

23  
24 Q. Yes. It's fortunate, but they are very  
25 time-consuming --

26 A. They are.

27  
28 Q. -- and unless I know exactly where to look --

29 A. I've got lots of times and dates and minutes and I'll  
30 send them off to your wonderful staff.

31  
32 Q. No, I don't want five hours of --

33 A. Once upon a time. No, I won't do that.

34  
35 Q. Yes, you are very welcome to submit clips. Just let  
36 me see where we are up to.

37 A. By the way, I understand that the Q4 issues are  
38 something that are recorded in other councils and is a  
39 fairly standard procedure in other sister councils, but we  
40 rolled everything into the - it just makes it so much  
41 harder to read.

42  
43 Q. Well, you won't get them in a timely fashion either.

44 A. No. And don't forget, when we had that nine-month lag  
45 time before we could actually get our audited accounts, we  
46 were actually in the final throes of developing the next  
47 budget. How can you possibly do that with any accuracy and

1 certainty? The council - I asked this and I asked this,  
2 "Come on, we need to put this on", and I couldn't get  
3 support, Madam Commissioner. They did not understand what  
4 that financial imperative was.

5  
6 Q. I'm going to change completely and go back to your  
7 former life on Wyong council.

8 A. The good old days.

9  
10 Q. I have seen reference to a restructure within Wyong  
11 council and shedding of staff. Did that happen while you  
12 were there?

13 A. Yes.

14  
15 Q. Was there really any ability to shed further staff  
16 when the councils were merged, do you think?

17 A. Well, it could have been negotiated, as you mentioned  
18 before, but, as I come back to it, it was - our idea was a  
19 moratorium on further appointments, most of them, and that  
20 would have saved us a couple of hundred staff every year.  
21 It would have been 402 a year. It would have been down  
22 50 million and you would have right-sided the numbers.  
23 That's how I see it could have played out. It wasn't  
24 really rocket science to look at it like that.

25  
26 I know there are variables to that, there's always  
27 ifs and buts, but in essence that in a nutshell could have  
28 taken us forward without - particularly without that  
29 \$40 million of redundancies we are now staring down the  
30 barrel of.

31  
32 Q. I also read there may have been a difference between  
33 the way Wyong and Gosford accounted for full-time  
34 employees. Can you help me there?

35 A. There was quite a lot of north/south banter around  
36 that. As I recollect, I think Wyong ran about 975 FTEs and  
37 Gosford ran at about 1200 FTEs. They are the two numbers  
38 I can recall from back in the day. How they actually  
39 called on them or how they identified them, I don't  
40 understand a lot of accounting in Gosford City Council.

41  
42 Q. One of the things that has come to light is the way  
43 water, sewer and drainage contributions are accounted for.  
44 In your time at Wyong, how were they treated - as  
45 restricted or unrestricted funds?

46 A. Restricted, I understand.

47



1 Q. I'm sorry, I missed that?  
2 A. Restricted, I understand, along with 94 contributions.  
3  
4 Q. These are not 94 contributions; these are under the  
5 Water Management Act.  
6 A. Yes, but it's not - it's now not known what caused it.  
7 It's equivalent to that. Yes, similar treatment method,  
8 yes.  
9  
10 Q. So when the accounts came forward to be audited from  
11 the previous councils, was that when the change in  
12 treatment for those contributions occurred, do you know?  
13 A. Look, there's a lot of conjecture around this point in  
14 time, and I'm sure you'd get five different answers for the  
15 very question. I don't recollect, nor know, what - I don't  
16 believe it came to any chamber I was in. I don't believe  
17 it was a report from the CEO. I believe it was possibly  
18 done at a sub-senior management level, and it became part  
19 of the norm, because that's now what we do - but the  
20 landing gear wasn't down, one of those cliches. Apologies.  
21  
22 Q. Thank you. I'm just looking at my questions, which  
23 aren't numbered, actually.  
24 A. You've got 1 to 19. I numbered them.  
25  
26 Q. ARIC - what did you understand ARIC's role would be  
27 for the council?  
28 A. In the vernacular, a watchdog - financial and  
29 governance watchdog. We paid for those people to attend  
30 and do that for us, I believe.  
31  
32 Q. Did you understand that they would be like auditors  
33 who get to see the detail of accounts or just a higher  
34 level overview?  
35 A. I think they got to - they got to look at the  
36 accounts, and I - I vividly recall speaking to the chairman  
37 of ARIC, and I rang him because I was so concerned about  
38 the RPAC and what we were going into in debt. And  
39 I outlined down the page where my concerns were and I said,  
40 "Could you take it on board and put it under your wing and  
41 give us some feedback?" The reply was that it needed to go  
42 through the chamber and I couldn't do it that way, and  
43 that's how - that's how concerned I was around that project  
44 and tried to use ARIC and it didn't deliver for me.  
45  
46 Then speaking to Mr Persson, I did talk to him a bit  
47 about it, a very knowledgeable gentleman, and he said,

1 "Well, you know" - I said, "ARIC must be on toast here,  
2 Dick", and he said, "Well, their brief, you know, their  
3 brief doesn't really cover, you know, financial  
4 termination", or something. I don't know what the term  
5 was, but their brief, I mean, their brief is wrong.  
6 They've been able to say, "Well, it wasn't our brief, so  
7 nothing to see here, go on, you know, get a few councillor  
8 heads on plates outside council, it's not our fault".  
9

10 Q. What was the procedure for having anything considered  
11 by ARIC?

12 A. Usually from my standpoint, and you appreciate I was  
13 not in the approving arm of the council, I would try in the  
14 chamber, and I did on a number of occasions, seek to push  
15 things into the chamber and up to ARIC and that was  
16 regularly hosed down, in the vernacular.  
17

18 Q. So it had to be a resolution of the council, did it?

19 A. Well, something as specific as my concerns around the  
20 RPAC, they would try. That's why I tried to go through  
21 back channel and speak to the chairman, who was very  
22 approachable and very helpful, but he said, "Greg, I hear  
23 you buddy, but you know, this really should go that way",  
24 and I'm going, "I've tried that way, it's not working."  
25

26 Q. And the general manager, would the general manager  
27 have the ability to refer matters to ARIC?

28 A. I think he would. I think he would, yes, yes. Like,  
29 I don't - I don't really know. I think - I wasn't - I was  
30 not allowed on any of these committees, and I therefore  
31 really was doing this with, you know, one arm tied behind  
32 my back trying to knowledge myself up while I was, you  
33 know, doing my job.  
34

35 Q. I asked other witnesses about the handover. You were  
36 probably at a slight advantage, having been on the previous  
37 Wyong council, but what did you observe about the way that  
38 was managed, the transition to the new councillors?

39 A. I would have liked Mr Reynolds and Mr Noble to hang  
40 around a bit more than one day or half a day. They both  
41 left the day the council was I think brought in. But if my  
42 recollection's correct, that's Mr Bell, isn't it, at that  
43 time? Yes. We've had a few actings and general managers.  
44

45 Q. I have had to do a whole table.

46 A. Yes, I'm just a bit confused now, I'm not sure. So --  
47

1 Q. I believe it was Mr Bell.

2 A. Yes, Mr Bell. Highly professional. He was Wyong  
3 council's environment officer for many years. I believe he  
4 provided the councillors with - and don't forget, he's come  
5 off the back of his long stint at Lake Macquarie Council,  
6 an exemplary record up there of working with the  
7 councillors. And Brian did bring in, I think, some really  
8 good information packages and knowledge and briefings.

9  
10 Look, at the end of the day, Madam Commissioner, if  
11 the councillor comes to this and says, "I didn't know, I  
12 wasn't told, they didn't give me this", you just had to  
13 ask. If you don't - you know, and I would ask. And if  
14 I didn't know, I went and did a continuing professional  
15 development course, which the council was prepared to cover  
16 off for me to do it. So it was a - I think it was  
17 commensurate with any other induction in any council I'd  
18 been in before.

19  
20 Q. Okay. Did you observe the continuation of the  
21 north/south or the us-and-them culture within the  
22 councillors?

23 A. Yes. I'm on oath, and I have to say yes to that. We  
24 always knew that would be the case. But, really, it wasn't  
25 the big picture and these people were very much of that  
26 view. Look, I would suffer from it, too, I mean, we're all  
27 human, to be honest. I'm no saint here. I mean, like,  
28 we're all running this thing. So, yes, there was that.  
29 And you would expect that and you've seen it in other  
30 amalgamated councils. It takes time for humans to distill,  
31 their predispositions and move forward into the group of  
32 what is now, you know, the new, and --

33  
34 Q. Yes. Just on time, how long did you think it would  
35 take for the council to properly merge?

36 A. I think when you use the word "properly", a decade. A  
37 decade. I was planning a decade in my mind, if it was to  
38 be reelected to another council, because you only have to  
39 look at history around council amalgamations. There was  
40 such, I thought, optimism that we could really get some  
41 economies of sale. I mean, we're talking about so much in  
42 here, Madam Commissioner, about the cost, the cost of this,  
43 the cost of IT. What about the savings? As Mr Persson  
44 said, he put together an amalgamation savings fund on the  
45 Northern Beaches that he ran well, and he said, "I've got  
46 25 million in the account in the first couple of years".  
47 We didn't even get a report on the amalgamation in the

1 first 12 months, let alone a savings fund.  
2  
3 Q. And whose responsibility would that have been, though?  
4 A. The councillors, us.  
5  
6 Q. Before that? Should the process have not started  
7 immediately when the council was merged?  
8 A. You would like to have thought so, but it doesn't kind  
9 of, you know, make us, you know, not need to step up and  
10 call for it. I mean, there were savings to be had. We  
11 knew there were savings. We talked about savings. Why  
12 was it not financially recognised and monitored? You  
13 know, you don't need to keep pumping money into the  
14 amalgamation. You start using your savings. So this  
15 figure of \$100 million or \$150 million, that disregards any  
16 good, well-managed business that's going to have savings,  
17 and those savings would have been substantial, and still  
18 can be.  
19  
20 Q. So what do you think the more realistic costs of the  
21 merger would be, if you don't think it's 100 million or  
22 150 million?  
23 A. I think they're ongoing and --  
24  
25 Q. I'm sorry, I missed that?  
26 A. I think they're - they were just simply ongoing, as  
27 would Wyong and Gosford be ongoing, and those costs should  
28 be sheeted downwards by economies of sale. What's the  
29 actual cost to amalgamate? How long is a piece of string?  
30 I mean, you'll ask 10 people and get 11 questions -  
31 answers.  
32  
33 Q. The investment reports, were you aware of the change  
34 in the description "unrestricted cash positions" in the  
35 investment reports that disappeared in about October 2019?  
36 A. No, I wasn't. They were hidden. They didn't  
37 disappear, I believe. They were the same, if I may, as the  
38 agency agreement, \$9 million of that was hidden as well. I  
39 mean, when you look at agency agreement, get anyone to tell  
40 us what does agency agreement mean? It's a hidden two  
41 words on a line of \$9 million. And this was equally hidden  
42 and I'd like to know who did it. But the buck stops with  
43 Mr Murphy and ultimately it stops with the council.  
44  
45 Q. So you didn't find out about that until 2020?  
46 A. No, no, I had - no. It's a 700-page report. No,  
47 I missed that, apologies.

1  
2 Q. In relation to the external auditors that the council  
3 had engaged, would you have understood them to have looked  
4 into the way previous accounts treated the water and  
5 sewerage drainage contributions?  
6 A. More the internal auditors, but I think the external  
7 auditors, they run at a slightly different level. I think  
8 they could well have. I think a proposition could be  
9 mounted that they may - they could well have identified  
10 that, you know, substantial financial change, a material  
11 change to the accounting processes.

12  
13 I would have thought it would have been seen within  
14 the CFO's world, I thought it would have been reported to  
15 the internal auditor, and I ask a standing question when  
16 the auditors come to chamber, finally at the end, "Are  
17 there any material issues that you wish to raise with us  
18 now?" I asked that question and I used the word  
19 "material", and, as you understand, they'd have to respond  
20 to that. And I'd get no, I'd get no. I asked that very  
21 question - it's on the podcast - "is it material?" This  
22 is material and it wasn't told to me and they - both  
23 auditors should have it in reality.

24  
25 Q. The internal auditor, was that always a position that  
26 was filled at the council?  
27 A. The internal auditor came in about - well, in Wyong  
28 council came in 2002-ish and then this council continued to  
29 have the internal auditor.

30  
31 Q. And what was that person or section's role?  
32 A. As I say, as an internal auditor in a generic sense  
33 was to monitor the more operational ends of the auditing  
34 process for council, and, you know, just make sure that,  
35 you know, arms are not in cookie jars and things are where  
36 they need to be, not so much in a structural sense that the  
37 external auditors tend bring to the table. That's my  
38 understanding. I'm not an auditor.

39  
40 Q. Was it purely financial or did it cover checking off  
41 on projects being completed and things like that?  
42 A. I understood it to be purely the accounts, and the  
43 ombudsman's office would look at that other side that you  
44 just mentioned, and there are some very highly professional  
45 individuals in our ombudsman's team and they bring things  
46 to the table from time to time.

47

1 Q. Mr Best, if it's convenient to you, I might take a  
2 short break now, because we are at a quarter to 11, just to  
3 review the material and make sure I don't have any further  
4 questions for you and then we'll invite questions from  
5 Ms Annis-Brown.

6 A. Thank you.

7

8 THE COMMISSIONER: Okay.

9

10 THE WITNESS: How long?

11

12 THE COMMISSIONER: It's 10.47 now. Let's come back at  
13 11.05.

14

15 SHORT ADJOURNMENT

16

17 THE COMMISSIONER: We will resume the hearing. Mr Best,  
18 if you could come on camera, please.

19

20 MR EATON: We are here, Madam Commissioner.

21

22 THE COMMISSIONER: Thank you, Mr Eaton.

23

24 Mr Best, I have checked and I don't think I have any  
25 more questions for you. Could you just wait there and I'll  
26 see if Ms Annis-Brown has any questions.

27

28 MS ANNIS-BROWN: No questions, Commissioner.

29

30 THE COMMISSIONER: Thank you, Ms Annis-Brown. Mr Simone,  
31 do you have any questions for Mr Best?

32

33 MR SIMONE: No, I don't, thank you, Commissioner.

34

35 THE COMMISSIONER: Thank you, Mr Simone.

36

37 Mr Best, you are finished with your evidence and you  
38 are free to go. Thank you very much for your contribution.

39

40 THE WITNESS: May I have the leniency to raise two further  
41 relevant aspects of this inquiry to put on the public  
42 record, with your indulgence?

43

44 THE COMMISSIONER: Q. Certainly.

45 A. Three, I'd like to take this opportunity --

46

47 Q. I'll keep you to that.

1 A. -- to thank your staff. They have been so helpful  
2 behind the scene. I have been talking with them over the  
3 last week or so and I genuinely mean that.

4  
5 Q. In a very difficult week for them.

6 A. I know, and to see the newspaper clippings, the state  
7 member rubbishing the Commission, was not helpful, but  
8 that's another story.

9  
10 Madam Commissioner, I raise a point of much concern to  
11 myself, and to many others, in a document that is authored  
12 by council, it says:

13  
14 We will keep a close eye on this one to  
15 make sure ABC does not get it.

16  
17 Q. I have that document, Mr Best.

18 A. That's in reference to a multi-million dollar tender,  
19 Madam Commissioner, and obviously I won't put names on this  
20 document now, that's a matter for someone else, but this  
21 document says that after the contract with ABC lapses in  
22 November, the administration component will go out for  
23 tender and "We will keep a close eye on this one to make  
24 sure ABC does not get it". It's authored by a councillor  
25 and sent to other councillors, as you are well aware. I am  
26 most concerned that this - I'm not a lawyer, I'm the first  
27 to admit, but this in my layman's view certainly leads  
28 towards interference with the council's end processes and  
29 goes directly to your point 3, I think, about community  
30 confidence in council's decision-making,  
31 Madam Commissioner.

32  
33 If people in the business community are placing  
34 tenders into the tender box as required, to find out that  
35 potentially councillors allegedly here are seeking to nobble  
36 those tenders in internal emails, time and date stamped, is  
37 very alarming and concerning and I've never seen it in any  
38 council in my 25 years. I just wish to put that on the  
39 record, and you do as you wish with your recommendations,  
40 Commissioner.

41  
42 If I can for my second aspect that I'd like to raise,  
43 and I'm very careful not to speak on behalf of others, and  
44 we understand that, however, I think Councillors McLachlan,  
45 Pilon, Gale and Marquart have championed good governance  
46 and financial probity, et cetera. We have written to the  
47 OLG on 14 September calling for this very inquiry and for

1 performance orders that I think you have referred to as  
2 well that may be forthcoming.

3  
4 I have spoken with the Premier, I have spoken to the  
5 minister personally on the issues around the Central Coast  
6 Council's performance. I have spoken to ARIC. I have put  
7 so many matters on the business paper - not I, but we, the  
8 collective - I will correct myself - we have done this.  
9 But the letter that we have penned to the Office of Local  
10 Government calling this very issue out in frustration not  
11 being able to get our own auditors and people to listen,  
12 and the meetings go to midnight, you are worn out, you are  
13 shut down, you are called a liar, you are called names and  
14 you are basically humiliated for raising on behalf of the  
15 community this very hole we find ourselves in.

16  
17 My point here, Madam Commissioner, is that we are in a  
18 time, a modern time, backed by the "me too" movement, we  
19 are calling for people to call out bad behaviour, we are  
20 calling for people to call out corrupt or inappropriate  
21 behaviour. When we do that, I would like to think that  
22 those that actually genuinely call it out, and don't just  
23 say they call it out, but there it is on the podcast, the  
24 action done, that we, as reputational damage, do not end up  
25 in the same pile of the people that had full control of  
26 this council.

27  
28 For 25 years I have supported my community and they  
29 have supported me. I am privileged to support my community  
30 over the time I have, and to find that I may well be  
31 staring down the barrel of dismissal for actually  
32 whistleblowing - and not just whistleblowing at the last  
33 minute, but doing this in 2018, trying my darnedest,  
34 knowing I drove my wife to distraction, no-one's listening,  
35 I really do wear my heart on my sleeve a bit here, this is  
36 patently unfair in a modern era for the minister to, with  
37 the stroke of a pen, dismiss the whole council, and then  
38 the public have this view that everyone in that council  
39 dropped the ball and everyone in that council trashed the  
40 reputation of the business.

41  
42 Well, not everyone did. Councillor Marquart worked so  
43 hard, as did Councillor McLachlan, and Pilon and Gale. You  
44 have your recommendations to make, Madam Commissioner, I  
45 appeal to you to delineate between those that called it and  
46 those that actually caused it.



1 Thank you for hearing me. I genuinely appreciate  
2 that.

3  
4 THE COMMISSIONER: I think you had three matters. They  
5 were two?

6  
7 THE WITNESS: I thanked your staff, that was the first  
8 matter. I didn't want to take up too much time.

9  
10 MR EATON: Commissioner, on behalf of my client we want to  
11 raise one administrative matter with you. That is, that my  
12 client's submission has been subjected to a GIPA  
13 application. Given that he's given evidence in public, and  
14 basically given his submission effectively in public now  
15 anyhow, there is no objection to that, but it does seem  
16 that there are some double standards involved in that some  
17 submissions are going to be made public and others aren't,  
18 and on behalf of my client I would request that in fact all  
19 submissions be made public.

20  
21 THE COMMISSIONER: Submissions are only made public under  
22 two circumstances: one, if the author of the submission  
23 does not object to them being made public, because you can  
24 make private submissions to this inquiry; two, because I  
25 made a decision not to publish the submissions on our  
26 inquiry website, they can only be obtained pursuant to the  
27 GIPA Act, and that is a process that is not dealt with by  
28 the staff of the inquiry, it is dealt with by the  
29 information officer at the Office of Local Government.

30  
31 We certainly won't be releasing any submissions that  
32 have been made in private. As to the others, they are  
33 governed by the provisions of Act and the decision of the  
34 GIPA officer.

35  
36 MR EATON: Thank you, Madam Commissioner.

37  
38 THE WITNESS: Thank you, Madam Commissioner. Thank you.

39  
40 THE COMMISSIONER: I don't need you gentlemen anymore, but  
41 thank you for your attendance today.

42  
43 <THE WITNESS WITHDREW

44  
45 THE COMMISSIONER: Mr Simone, can I call you to come on  
46 camera, please? I did receive via Ms Annis-Brown an email  
47 this morning suggesting that a statement might be

1 forthcoming from Mr Murphy. Do you know where that is at?

2

3 MR SIMONE: Madam Commissioner, I will take some  
4 instructions. I haven't received any updates about that,  
5 but I was previously informed that it would be ready and  
6 with your staff by midday today. It's now about 11.10. I  
7 understand the purpose of that was to provide you and your  
8 staff some time to be able to read it prior to Mr Murphy  
9 giving evidence, and I understand he's available at 2pm.

10

11 If you were minded to stand the matter down for a few  
12 minutes, I can obtain some instructions and get an update  
13 on where that statement is.

14

15 THE COMMISSIONER: I'm happy to do that. I'll give you  
16 five minutes, so we'll come back at 11.19.

17

18 MR SIMONE: Thank you.

19

20 THE COMMISSIONER: Thank you.

21

22 SHORT ADJOURNMENT

23

24 THE COMMISSIONER: We'll resume the hearing. Mr Simone,  
25 do you have an update?

26

27 MR SIMONE: Yes, I do, Commissioner. 12 o'clock is still  
28 the estimated time for that statement. I understand  
29 Mr Murphy is the next witness. He remains ready at 2pm.

30

31 THE COMMISSIONER: Okay. We will adjourn until 2 o'clock  
32 and I look forward to receiving that at 12, the submission  
33 from Mr Murphy. Thank you. I understand that Ms Bulut  
34 will be appearing this afternoon?

35

36 MR SIMONE: She will, Commissioner.

37

38 THE COMMISSIONER: Thank you for standing in for her.

39

40 MR SIMONE: Thank you.

41

42 THE COMMISSIONER: We will resume at 2pm.

43

44 LUNCHEON ADJOURNMENT

45

46 THE COMMISSIONER: Good afternoon. We'll resume the  
47 hearings of the inquiry into Central Coast Council.

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Ms Bulut, are you there?

MS BULUT: Yes, I am, Commissioner. Can you hear me?

THE COMMISSIONER: Yes, I can. Were you proposing to lead evidence from Mr Murphy?

MS BULUT: No, I wasn't proposing to do so, unless you would like me to do so.

THE COMMISSIONER: No, no. Thank you very much for the outline of evidence. That has been extremely useful and will certainly cut short the time that I need to spend questioning Mr Murphy. So if you're not intending to ask him any questions, then I will ask Mr Murphy to come on camera now.

<GARY MURPHY, sworn: [2.01am]

THE COMMISSIONER: Q. Mr Murphy, as I said to your counsel, thank you very much for the outline of evidence, that's been really useful. Do you have a copy of that with you?

A. Yes, I do, Commissioner.

Q. Starting on page 1, paragraph 1.3, did you have any cause to go back to council records prior to the merger? When you made this request for information about Central Coast Council, did you go any further back than the creation date of the council?

A. No, at that stage I don't recall that I did. It was seeking information about the current state of the Central Coast Council.

Q. Okay. Were you aware that there had been use by Gosford City Council of section 94 funds for general purposes?

A. At that stage, no, I don't believe so. I was certainly aware of some of the financial difficulties with the former Gosford council. That was made known to me, but I don't believe I was aware of the section 94 funds at that stage.

Q. But you became aware of that later, did you?

A. Yes, certainly during the course of the performance audit by the New South Wales auditor-general into the

1 section 94 funds, or as it then became, section 7.11,  
2 7.12, I became aware that the former Gosford council had  
3 used those funds inappropriately, we self-disclosed that  
4 and repaid the money back to the appropriate fund.  
5

6 Q. In paragraph 1.5 you say that the council was without  
7 a permanent chief financial officer since August 2017. I  
8 have been trying to piece together who the different  
9 officers were, largely from the business papers. It looks  
10 to me like Viv Louie was described as the chief financial  
11 officer from August 2017 until about February the following  
12 year. Is that correct?

13 A. That's correct, yes.  
14

15 Q. So was that an unofficial capacity or was she  
16 appointed as the chief financial officer then?

17 A. My understanding was that she was acting as the chief  
18 financial officer. Her substantive role was, at that  
19 stage, unit manager financial performance, as I understand  
20 it.  
21

22 Q. Thank you. So it was an acting role from August 2017?

23 A. Yes.  
24

25 Q. It's just curious, the description changes at some  
26 point in the business papers. Then in paragraph 1.6 you  
27 appointed Craig Norman as the CFO in May 2019. He had a  
28 quite short-term. What was the reason for that?

29 A. As I understand it, he left for personal reasons. I  
30 also have to say that I did put a fair degree of pressure  
31 on him to deliver the PwC report that I commissioned, and  
32 also to address the budgeting process, but he left of his  
33 own volition in April 2020.  
34

35 Q. Then Mr Oldfield stepped in in an acting capacity.

36 What was his reason for leaving - sorry, did he leave in  
37 August 2020 or he just stepped down in August 2020?

38 A. No, he stepped down. So his substantive role was unit  
39 manager financial services, and the reason that he gave me  
40 for stepping down was that he did not feel that he could -  
41 I think his words were "influence the executive leadership  
42 team".  
43

44 Q. What did you understand by that?

45 A. My understanding was that he had quite firm views  
46 about how the finance area should be operated, and there  
47 was certainly, in my impression, a distinct "them and us"

1 between the finance department and the executive in terms  
2 of understanding of roles and responsibilities.

3

4 Q. Was it a north and south them and us or was it a  
5 finance versus other departments them and us?

6 A. I think probably both, but I think predominantly  
7 finance them and us versus, you know, the organisation, and  
8 certainly the underlying current of north and south never  
9 really went away.

10

11 Q. Where was Mr Oldfield in that group - was he north or  
12 south?

13 A. Good question. From memory, I think he hadn't been at  
14 Central Coast Council that long, so I think he was probably  
15 not aligned, if you could put it that way, with one or the  
16 other.

17

18 Q. Right, okay. So when he left, you had to take on the  
19 responsibilities of the chief financial officer?

20 A. Yes. I had a conversation with Ms Louie, who was the  
21 previous acting CFO, as we indicated earlier. For personal  
22 reasons she declined to accept that role, and with a fair  
23 degree of reluctance, I may add, it fell to me that I then  
24 took on the role of responsible accounting officer until we  
25 were able to appoint Ms Cowley to the current position.

26

27 Q. Because you don't yourself hold any accounting  
28 qualifications?

29 A. Correct.

30

31 Q. Okay. So were you then the responsible accounting  
32 officer for the purposes of the Act, or was that somebody  
33 else?

34 A. No, that's correct. As I said, I reluctantly took on  
35 that role because I really had no-one else to transfer that  
36 to.

37

38 Q. At paragraph 1.7, you say that you received, or that  
39 the budget was delivered hours before the workshop. Was  
40 that surprising?

41 A. Yes, and, quite frankly, not acceptable. We had  
42 certainly tried to get the budget out a lot sooner. To go  
43 into a budget workshop with councillors and not know the  
44 final position until only hours before is just, in my  
45 experience, not acceptable.

46

47 Q. Would that have been part of the pressure that Mr - it

1 was Mr Norman, I assume, who was the CFO at that time?

2 A. Yes.

3

4 Q. Then when that budget was delivered, it proposed a  
5 \$32.5 million deficit. So the councillors had not had any  
6 input into this budget prior to that point?

7 A. I don't believe so, no. I think that was the first  
8 budget workshop in February, and it was supposed to be over  
9 two days. Unfortunately, due to a significant weather  
10 event on the second day, that was postponed, and then there  
11 were subsequent workshops later on in the year.

12

13 Q. What was the attitude of the councillors to that  
14 proposed deficit?

15 A. I was quite surprised, because one of the  
16 conversations I had with the chief financial officer was  
17 that I didn't personally think that the councillors would  
18 accept a \$32.5 million deficit, and I said, "What would be  
19 your response if the councillors didn't accept it and what  
20 would be the - what would happen then?" I don't know  
21 whether I got a complete answer to that, but to answer your  
22 question, I was quite surprised that a number of the  
23 councillors seemed quite satisfied with a deficit budget,  
24 given the circumstances that we were in, and I do recall  
25 one councillor I think indicating that something in the  
26 order of about a \$50 million deficit would be acceptable,  
27 which was quite surprising.

28

29 Q. What was your response to the proposed deficit? What  
30 did you think about it?

31 A. Well, I wasn't comfortable with it. I'm never  
32 comfortable with deficit budgets. As I said to the  
33 councillors, you can't run deficit budgets forever. It's  
34 tolerable in the short-term, but we needed to have a  
35 long-term plan to get out of that process, and that was  
36 part of the reason why I commissioned PwC to do that  
37 report, and that was one of the two main objectives or  
38 goals that I gave the chief financial officer, to develop a  
39 robust long-term financial plan for the organisation.

40

41 Q. Did you see that deficit budget, being the third  
42 consecutive deficit budget, as being consistent with the  
43 long-term financial plan of the council?

44 A. I believe at the time it was reasonably consistent.  
45 I don't recall the numbers off the top of my head, but  
46 I think there was a proposal that we would run deficits in  
47 the short-term and then there would be a recovery after

1 that, but, as I say, deficit budgets are not something that  
2 really sits comfortably with me.

3  
4 Q. At about that time there was also the bushfires and  
5 then subsequent floods. Did that have any impact on your  
6 appetite for continuing a deficit budget?

7 A. Yes. I think the impact of the bushfires, floods and  
8 then COVID probably had a twofold effect. One was  
9 obviously a financial impact to the organisation. The  
10 other was the fact that the executive by and large was  
11 I would say consumed with incident management - so just  
12 continuous crisis management relating to the bushfires from  
13 the latter part of 2019, the floods in early February and  
14 then COVID in March. Right up until the council was  
15 suspended, really, we were managing a number of crises.  
16 Then of course in July 2020 we had that significant coastal  
17 erosion event as well. So, in my experience, that tends  
18 to, you know, divert focus from the day-to-day running of  
19 the organisation, because you are just consumed with  
20 managing a crisis and, no pun intended, but fighting fires  
21 on a daily basis.

22  
23 Q. Wouldn't those crises in themselves be a warning bell  
24 for introducing a further deficit budget? So they were  
25 likely to have a negative impact on the council's finances,  
26 were they not?

27 A. Yes, and that was part of the reason why I then  
28 engaged Grant Thornton to review the budget process and at  
29 that stage, soon after they were engaged, COVID kicked in,  
30 and then I asked them to model the impacts of COVID on the  
31 organisation.

32  
33 Q. Just explain to me, as the general manager do you have  
34 much control over what goes into a budget?

35 A. I suppose, you know, the ultimate responsibility and  
36 accountability sits with the council and the general  
37 manager, but in my experience, and certainly at Central  
38 Coast Council, the development of the budget was a very  
39 fraught process. As I mentioned earlier in there, I was a  
40 little bit surprised that there weren't principles  
41 surrounding the development of the budget, and certainly  
42 the capital works program, and one of the recommendations  
43 from the Grant Thornton report was actually to set up a  
44 dedicated budget oversight committee to develop that.

45  
46 I think the organisation itself, you know, generated  
47 the budget by and large. The executive spent an inordinate

1 amount of time towards the end of the process trying to  
2 bring the budget into line. So it was very much what  
3 I would call a subscription budget, so, you know, the staff  
4 and various areas of the organisation would put up their  
5 desires and their wants and then the executive had to pare  
6 that back to something that was manageable and affordable.

7  
8 Q. And they didn't quite get there?

9 A. No.

10  
11 Q. Okay. I'm just taking you over now to the section  
12 where you're dealing with the staff. The industrial  
13 psychologist that was engaged, was there ever a report  
14 prepared? Is there any document that I can look at that  
15 would let me understand what was explored in that process?

16 A. There should be on the council records. I can't  
17 recall whether there was a final report because, as I think  
18 I said, it got disrupted by a number of the crises. But  
19 there would certainly be some interim findings of some of  
20 the conversations that were had with councillors and some  
21 of the observations that he made, observing council  
22 meetings and those sorts of things.

23  
24 Q. Do you think they were solvable problems?

25 A. Commissioner, you're asking me to speculate on  
26 something. If I was to speculate, I would say that there  
27 would need to be a willingness on the part of the majority  
28 of the councillors to try and solve the problems, and based  
29 on what I observed, I think that would have been very  
30 challenging.

31  
32 Q. Okay. What was your relationship with staff like?

33 A. Commissioner, you mean the executive or the staff in  
34 general, or --

35  
36 Q. Well, yes, take the executive team.

37 A. I think it was a - I would describe it this way: I  
38 think the executives as individuals are very competent and  
39 have the really best intentions for the organisation. I  
40 think as a group, we didn't function particularly well and,  
41 as I said, I brought somebody in to try and facilitate and  
42 assist that process.

43  
44 It was a reasonably large executive, based on the  
45 number of directorates. I think, as I also mentioned, the  
46 dynamics between those established members of the executive  
47 and the newer ones that came on, trying to find their feet



1 and work together, so there was certainly, you know, the  
2 usual silo mentality that you would find in the executive.

3  
4 With respect to the rest of the staff, I believe that  
5 I had a good relationship with the staff and certainly the  
6 feedback that we got through the six weekly pulse surveys  
7 that we did during the COVID crisis, the feedback was very  
8 positive about not just my leadership through the crisis  
9 but the way the council as a whole managed a very difficult  
10 situation. I think they appreciated the communication. We  
11 held regular staff videos and briefing sessions and those  
12 sorts of things.

13  
14 Obviously from time to time there were industrial  
15 issues that we had. There were disagreements about  
16 different things, but overall, I would like to think,  
17 anyway, that it was a reasonable relationship.

18  
19 Q. In relation to the finance department, was there any  
20 particular tension between you and them?

21 A. I think there was on occasion tension in relation to,  
22 as I said before, the way that finance felt that things  
23 needed to be done. I don't - I'm not quite sure how that  
24 was - how that came about, but perhaps it was because, for  
25 a while, the organisation in the early stages of the  
26 merger, from my understanding, didn't receive a lot of  
27 financial reporting due to complications with the system,  
28 and I think there was a lot of reliance and trust on the  
29 finance team to basically keep the organisation running.

30  
31 I think there was probably also a feeling amongst the  
32 finance staff that some of the budget managers - and what  
33 I mean by that, people who had responsibility for budgets -  
34 probably didn't do enough of their own work and relied too  
35 much on finance to, you know, address some of the issues  
36 that they had. So there was probably a feeling of inequity  
37 of responsibility and work in terms of, you know, managing  
38 the budget process, managing the financial reporting,  
39 managing the variances and those sorts of things.

40  
41 Q. The councillors have told me that they weren't aware  
42 of whether there were budget blowouts within individual  
43 directorates. Were you?

44 A. Towards the end, yes. From time to time within  
45 budgets themselves there would be - within directorate  
46 budgets, for example, there would be blowouts, and it was  
47 expected that directors would manage that within their own

1 budgets. But there was also tension in relation to - and  
2 I suppose this goes back to the finance area where, in  
3 order to balance the books, as it were, there were some  
4 what were called forced savings put into the budget lines.  
5 And sometimes the degree of communication between finance  
6 and the various directors and directorates was not as clear  
7 as it could be, and for some directorates they felt that  
8 communication was lacking, they were delivered a budget  
9 that didn't look anything like the draft budget that they'd  
10 prepared and they were now being held accountable for some  
11 forced savings that they weren't party to.

12  
13 So there was a fair degree of tension there.  
14 I suppose from the councillors' perspective, they would see  
15 more of the high-level budget reporting. So in some ways  
16 I'm not really surprised that they indicate that they  
17 weren't aware of some of those issues.

18  
19 Q. Now, over at page 3 you say in 2.11 you struggled to  
20 get accurate information on staff. Some might find that  
21 unusual or surprising, given that you were the general  
22 manager, that you would have been able to get that  
23 information quite quickly?

24 A. I agree. As I say, it really surprised me, and as  
25 I state there, it was - I suppose part of the frustration  
26 was that the two former councils had different ways of  
27 accounting for full-time equivalents, for casuals, for  
28 temporary staff, for contractors. So getting a clear  
29 understanding of what the full-time equivalent was at the  
30 time of merger and then subsequently proved to be quite  
31 challenging for the organisation.

32  
33 There also seemed to be a disconnect between the  
34 figures that payroll had and the figures that the people  
35 and culture or the HR department had in terms of, you know,  
36 the numbers of staff as well.

37  
38 Q. That is even more surprising. Why would the payroll  
39 have different numbers to HR?

40 A. Well, I suppose they were running separate systems,  
41 and for me the more important thing was how many people  
42 were getting paid on a weekly basis rather than numbers in  
43 an organisational chart that may or may not be - may or may  
44 not be filled. So that was the key indicator for me, not  
45 necessarily, as I say, what was on the organisational  
46 chart.

47

1 Q. Now, in 2.12 you talk about the different pay cycles  
2 and the mess, basically. Has that now been rationalised?

3 A. At the time that I left, they were getting very close  
4 to that, from what I - from what I can recall, and I would  
5 sincerely hope that that has been resolved now.  
6

7 Q. Down at 2.14 you talk about the project management  
8 office. Can you tell me what that was and why it was  
9 disbanded?

10 A. So my understanding was that there was a dedicated  
11 office set up to manage the merger process, and there were  
12 different projects. I think it was called rocks and  
13 pebbles and those sorts of things. I don't know why that  
14 was disbanded, and, as I say, my understanding was that it  
15 was going to become part of business as usual, but when  
16 I arrived I couldn't find a coherent project plan. Some of  
17 the projects had sort of disappeared. There didn't seem to  
18 be any timeframe and there was certainly, you know, no  
19 tracking of what the merger was costing.  
20

21 Q. Do you think that contributed to the lack of  
22 information that councillors were able to get about the  
23 costs and benefits of the merger?

24 A. I do, yes.  
25

26 Q. Down at 2.17, you're talking about the effect of the  
27 staff freeze. Mr Best gave evidence this morning about an  
28 expected rate of natural attrition. Did that occur while  
29 you were at the council?

30 A. There was certainly - again, I can't recall the exact  
31 staff turnover. I think it was sort of in the region of  
32 between 10 and 12 per cent, which is I guess, you know,  
33 based on my experience, within the sort of benchmarks, and  
34 I know that the people and culture area were managing a  
35 number of vacancies. I think at the time that I left there  
36 was over 400 vacancies on the books.  
37

38 Q. Mr Best also mentioned that the council now has to pay  
39 about \$40 million in redundancies. Not all of those would  
40 have been avoidable redundancies, presumably?

41 A. I don't know whether I can really comment on that.  
42 I understand that those redundancies are as a result of  
43 the actions that the current administrator and potentially  
44 CEO have taken, so I probably wouldn't want to speculate on  
45 the - you know, whether some of those could have been  
46 avoided or not, because I'm not across the detail, I'm  
47 sorry.

1  
2 Q. No, thank you. At 2.26 you say:

3  
4 Each directorate had one or more finance  
5 business partners.  
6

7 Does that mean a personal indicated to them who was in the  
8 finance directorate?

9 A. Yes. So in some cases more than one person, yes.

10  
11 Q. But there was a disconnect between those people?

12 A. In my view there was, and that was based on what I saw  
13 and observed in that sometimes business partners would have  
14 a different view, and then when I asked some of the  
15 managers in the finance department they would give me a  
16 different response. It was a little bit frustrating that  
17 sometimes the communication lines weren't as clear as they  
18 could have been.  
19

20 Q. Over at 2.30, you are quoting there from the Grant  
21 Thornton report. You might not be able to answer this, but  
22 the final dot point in that quote relates to "the further  
23 use of restricted funds for purposes other than as  
24 intended". What does that refer to in terms of "the  
25 further"?

26 A. Yes, it's a good question. I'm not sure - I might  
27 have to go back to the report to see the context in which  
28 that was made. Certainly the Grant Thornton report was the  
29 first occasion where anybody had raised with me the use of,  
30 at that stage, internally restricted funds for purposes  
31 other than as intended, and then that then prompted me to  
32 engage Dennis Banicevic to do a deeper dive and we then  
33 discovered that it was far worse than that and actually  
34 involved externally restricted funds as well.  
35

36 Q. Yes, and I should apologise to Mr Holstein because  
37 I think I suggested that it was not related to externally  
38 restricted funds, but initially the alert was related to  
39 internally restricted funds and Mr Banicevic said it was  
40 wider than that?

41 A. Yes, yes.  
42

43 Q. Do you understand the debate that has been bubbling  
44 away about the way those contributions were dealt with at  
45 an accounting level?

46 A. I've certainly been very interested reading some of  
47 the assessments of the current administrator, the opinion

1 of the New South Wales solicitor general, and also what was  
2 done previously in I think 2016 and 2017 in relation to the  
3 policy, and also the auditor-general's recommendation that  
4 the Office of Local Government provide some clarity around  
5 the use of restricted funds.  
6

7 So I guess what that says to me is that there  
8 certainly isn't clarity, and it does need to be resolved  
9 one way or the other not just for Central Coast Council's  
10 perspective, but for New South Wales as a whole.  
11

12 Q. At paragraph 3.2 you list all of the changes that were  
13 made as of July 2020 to the IT system. What more needed to  
14 be done when you left, do you think?

15 A. In terms of IT?

16 Q. Yes.

17 A. It was certainly --  
18  
19

20 Q. Sorry, yes, you mentioned that there was about \$7.2  
21 million to finalise. What did that involve?

22 A. From memory, there was still work to be done in  
23 relation to the - well, there was the rates harmonisation  
24 and the rating database that needed to be worked on. There  
25 was some work around the local environmental plan  
26 consolidation, or the comprehensive local environment plan,  
27 and some of the supporting work there. I think certainly  
28 some of the financial reporting out of the Oracle system,  
29 there was more work to be done there, and then the pay  
30 alignment, as I mentioned earlier. I think, from memory,  
31 those are some of the things. As I say, I can't recall  
32 exactly what the outstanding issues were at that time.  
33

34 Q. Now, I'm just skipping over to 4.1. You there in the  
35 final paragraph refer to councillor briefings each week.  
36 What was the attendance of - your observation of the  
37 attendance by councillors at those briefings?

38 A. It varied. I think there was, from memory, a core  
39 group of councillors who attended very regularly. So that  
40 was typically the mayor and deputy mayor - so Councillor  
41 Smith and Councillor Matthews at the time. Councillor  
42 Holstein was usually there, Councillors Sundstrom,  
43 Greenaway, and yes, it was, I guess, very seldom that you  
44 would have all 15 councillors attend council briefings.  
45

46 Q. Was that a function of the time that it was held, or  
47 was there some other reason for it?

1 A. My understanding was there was certainly a function of  
2 the time. So there were some councillors who simply  
3 couldn't get there because of work commitments. But I also  
4 understand that there were some councillors who, for their  
5 own reasons, chose not to attend.

6  
7 Q. Eventually those briefings went online after COVID  
8 commenced?

9 A. Yes.

10  
11 Q. Did that alter the attendance rate of those meetings?

12 A. From memory, I think it did. I think it made - I do  
13 recall - I think it was Councillor Vincent, who often had  
14 difficulty attending briefings because of work commitments,  
15 saying that was far easier for him jump online than to  
16 travel to Gosford, for example, which would have been over  
17 an hour each way. So, from memory, I think the attendance  
18 did improve.

19  
20 Q. At the bottom of 4.2 you talk about surveys of  
21 councillors. What were the general results - were the  
22 councillors happy with the support they were receiving?

23 A. I think it was mixed. I mean, some councillors were  
24 comfortable with the support they were receiving. Most of  
25 the feedback that came back to me directly from councillors  
26 was more so about timeliness of responses or the fullness  
27 of responses to questions raised or councillor requests,  
28 all those sorts of things.

29  
30 There were a number of councillors who expressed  
31 frustration about the hub and the way that that was  
32 organised, and the searchability, and those sorts of  
33 things. So where we could, we'd try to assist councillors  
34 either, you know, in person or online to help them with  
35 technology.

36  
37 Q. Now I'm skipping over to 4.13, the unrestricted cash  
38 position in the investment reports. Who was the unit  
39 manager financial services at that time?

40 A. That was Mr Oldfield, Carlton Oldfield, yes

41

42 Q. And who was CFO?

43 A. It was Craig Norman.

44

45 Q. Did you ever receive an explanation about the absence  
46 of that line item?

47 A. No. As I say there, it was brought to my attention

1 after I left, and certainly Mr Norman has left the  
2 organisation, and I understand Mr Oldfield has as well, so  
3 I haven't been able to ask either of them why, how.  
4

5 Q. Over at 5.1, you said that you set up a dedicated  
6 resource as a sort of replacement to the project management  
7 office. What did that entail?

8 A. What that entailed was a secondment of an existing  
9 staff member from the innovation and futures directorate, a  
10 very competent person who did an excellent job of trying to  
11 extract information from across the organisation. So while  
12 it's called a project management office, it was an office  
13 of one.  
14

15 Q. Was there any report or information published as a  
16 result of that?

17 A. Yes. So there were monthly internal reports that came  
18 to me, so they'll be on the council records, but I think  
19 the main report back to council was to council on 27 July  
20 2020 where there was a report on the estimate of costs, the  
21 progress to date, what was required to be done, and those  
22 sorts of things.  
23

24 Q. So that was like a summary of what you'd already been  
25 receiving on a monthly basis, was it?

26 A. Yes.  
27

28 Q. You say those monthly reports would be available  
29 within the council?

30 A. I would hope so, yes.  
31

32 Q. Now going over to 9.2, Grant Thornton - you asked them  
33 to model the potential effects of COVID. They modelled a  
34 worse case scenario of the \$153 million hole in the budget.  
35 You say it wasn't accepted by councillors. What was the  
36 reaction?

37 A. So Grant Thornton had a number of scenarios. As you  
38 correctly point out, there was sort of a worst case  
39 scenario. Some councillors at the budget workshop felt  
40 that that was scaremongering and that COVID was not going  
41 to have that degree of impact on the organisation. Other  
42 councillors felt that, based on their experience,  
43 particularly in the business area - and, from memory, I  
44 recall Councillor Best was quite vocal in that. So there  
45 was certainly, as I state there, considerable debate on the  
46 issue as to the merits of the modelling and whether it was  
47 deemed to be accurate or not.

1  
2 Q. But even if you took the best case scenario of the  
3 Grant Thornton modelling, there was still going to be a  
4 detrimental impact to the budget?

5 A. Yes.

6  
7 Q. What was the attitude of the councillors to making any  
8 changes there and then to the budget?

9 A. From memory, there wasn't a great deal of appetite at  
10 that point, and as a result of that, we arranged a number  
11 of further briefings as well as one-on-one briefings with  
12 councillors to go through all of that.

13  
14 Again, some of the feedback from the councillors was  
15 there was a lot of information to take in all at once and  
16 they felt it had just been dumped on them, so we needed to  
17 take a little bit - a little bit more time. But  
18 eventually, when the final budget was adopted in July 2020,  
19 there were certainly changes made to the budget in order to  
20 address the potential impacts of COVID.

21  
22 Q. What sort of changes? What magnitude, do you recall?

23 A. It was in the tens of millions. So there were a range  
24 of what we called levers that could be pulled by the  
25 organisation - for example, a staff freeze and not  
26 recruiting any staff. It was reducing the capital works  
27 program. It was a more effective use of restricted funds,  
28 so using restricted funds for funding capital works rather  
29 than the general fund. I must stress that that, you know,  
30 is the appropriate use of restricted funds for the purposes  
31 for which they were collected. And there were also some  
32 asset sales suggested, increase in fees and charges, those  
33 sorts of things, to try and address the likely impact of  
34 COVID on the organisation.

35  
36 Q. So when was that budget delivered?

37 A. From memory, I think it was late July 2020. So the  
38 Office of Local Government, I think, recognised and  
39 acknowledged the impact that COVID was having on councils  
40 and permitted the delay of the adoption of council budgets  
41 from June until July.

42  
43 Q. Then at about the same time, or a little later, you  
44 found out from Mr Banicevic that there was a bigger problem  
45 facing the council?

46 A. A much bigger problem, yes.

47



1 Q. Did you use the same sort of tools to develop the  
2 100-day plan?

3 A. Yes, but there was certainly - because of the extent  
4 of the problem, the tools were a lot more aggressive than  
5 what we had proposed to council as part of the budget  
6 process.

7  
8 Q. Would you look at paragraph 9.8. I know it's you're  
9 quoting, but could you explain in layman's terms what that  
10 means?

11 A. So there's a tendency for a large value of work in  
12 progress to accrue with costs not always capitalised on  
13 commissioning of projects. So what this refers to is the  
14 carrying value of WIP, it's a horrible acronym, a work in  
15 progress. The impact that it has - sorry, I'll go back a  
16 step.

17  
18 What should happen is that when a project is  
19 completed, it should be capitalised so that the full cost  
20 of the project is realised on the books. When it's carried  
21 and not done at the time or as soon as practicable, it then  
22 becomes an end-of-year adjustment or sometimes, you know,  
23 beyond that, and it has a significant impact, particularly  
24 in terms of depreciation, because you're now adding a  
25 significant asset to the books which now has to be  
26 depreciated. If that hasn't been budgeted for, then it  
27 provides for an unpleasant surprise at budget time. That  
28 was certainly the case towards the end of the 19/20  
29 financial year. I think there was what I would call a  
30 depreciation surprise of I think in the order of about  
31 \$20 million or \$30 million.

32  
33 Q. Where does the responsibility lie for the  
34 capitalisation of completed works - is that within the  
35 directorate that carries out the works or is it within the  
36 finance section that does the books?

37 A. My understanding is that it's probably a shared  
38 responsibility, but the onus is certainly on those who are  
39 doing the works to ensure that that information is passed  
40 on to finance, and that finance then does what is required  
41 to address that. So, yes, I would say it's a shared  
42 responsibility, but certainly the onus is on the  
43 directorate that is commissioning the work to make sure  
44 that that's done.

45  
46 Q. This is likely to have been an ongoing issue with the  
47 council, isn't it?

1 A. Yes, and to be fair, it's an ongoing issue with, in my  
2 experience, local governments in New South Wales. It's  
3 just the quantum of that. The more disciplined councils  
4 I think have a much better process and don't carry as much  
5 work in progress, but if you look back at the audited  
6 financial statements of Central Coast Council, you will see  
7 that there has been a tendency for work in progress to be  
8 carried over.

9  
10 Q. Are projects split up, so that once a stage is  
11 completed it becomes capitalised, or not?

12 A. Not in my experience, I don't think it was - and that  
13 is often part of the problem, when you have a significant  
14 project that goes over multiple years, that it is  
15 capitalised in the year in which it's completed, and may  
16 cause some issues as a result of that.

17  
18 Q. Wouldn't there be some mechanism for predicting the  
19 capitalisation of those sort of assets?

20 A. Yes, because the capital works program is certainly  
21 known before it's started. So it's really just a question  
22 of timing of when the works are completed and when the  
23 works are capitalised.

24  
25 Q. Down at 9.11, in the second paragraph, you talk about  
26 code of conduct complaints. I'm not going to ask you to go  
27 into them, but do you think those complaints were  
28 weaponised against particular councillors?

29 A. From what I saw, I guess in a privileged position of  
30 having to deal with the code of conduct complaints, on one  
31 or two occasions there did seem to be what I would class to  
32 be tit for tat or retaliatory code of conduct complaints,  
33 or using the code of conduct process for, I would say, not  
34 really the purpose for which it is designed. I think  
35 that's an issue for New South Wales in general.

36  
37 It's a bit of a hobby horse of mine, but I find the  
38 code of conduct process very fraught. The fact that a  
39 general manager has to deal with code of conduct complaints  
40 about his or her employer is really challenging.

41  
42 Q. Now, you say, over at 10.2, the suggestion that there  
43 is something wrong with only having one account, you say  
44 no, that's, in your experience, not unusual, but would you  
45 agree that it would have been a simple measure to have been  
46 able to have facilitated the protection of those funds?

47 A. Yes, it's an interesting point, because certainly

1 Dennis Banicevic, in his initial commentary, from  
2 recollection, recommended that council have more than one  
3 bank account. I think he then reconsidered that and it was  
4 more so around the controls that should have been in place.  
5 As I say there, you know, I was well aware of the controls  
6 in place for the Gosford arts trust and the protection of  
7 the environment trust, because the trusts often wanted to  
8 ensure that they were being properly accounted for, and  
9 were getting reports on the transactions within those trust  
10 accounts.

11  
12 Q. So they had people identified with them, whereas  
13 section 94 funds perhaps don't have the same level of  
14 scrutiny, and similarly the funds collected under the Water  
15 Management Act?

16 A. Yes, and I think the evidence points to that level of  
17 scrutiny lacking at Central Coast Council.

18  
19 Q. You've pointed us to where councillors were offered  
20 ongoing training. We know that Councillor Best undertook  
21 the company directors course and Mr Mehrterns the  
22 certificate course, or at least part of it. Are you aware  
23 of other councillors taking advantage of those training  
24 methods and facilities?

25 A. Yes. So typically the process was the councillor  
26 would put in a request for training. It would go to the  
27 staff. The staff would come to me for approval or  
28 otherwise of that training, in terms of the council's  
29 expenses policy and budgets. So I think, from memory, all  
30 of those requests came across my desk. There was a range  
31 of opportunities, as you say, from the Australian company  
32 directors course to Local Government New South Wales, or  
33 other courses on a range of matters, I guess relating to  
34 councillor activities. So off the top of my head, I can't  
35 recall exactly what some of the courses might be, but there  
36 was certainly a number of councillors who availed  
37 themselves of the opportunity.

38  
39 The provision of funding for councillor courses or  
40 professional development was quite generous, in my view.  
41 There was certainly never an occasion where we declined  
42 something on the basis of budget; it was more having a  
43 nexus between what the nature of the course was and the  
44 obligation of the councillor.

45  
46 Q. So there was a budget, then, for that sort of  
47 education?

1 A. Yes, and I think it was regularly reported, along with  
2 the councillor expenses and policy, and those sorts of  
3 things, in terms of IT support, travel allowances and  
4 training.

5

6 Q. Was it ever a budget that was blown?

7 A. I don't recall that it was, no.

8

9 THE COMMISSIONER: Thank you, Mr Murphy. They are my  
10 questions. I will just see if Ms Annis-Brown has any  
11 questions.

12

13 MS ANNIS-BROWN: Thank you, Commissioner. It appears my  
14 microphone is working now. I apologise for earlier. No, I  
15 have no questions.

16

17 THE COMMISSIONER: Ms Bulut, did you want to ask your  
18 client any questions in re-examination?

19

20 MS BULUT: Just one question. Which is really a point of  
21 clarification I wish to ask Mr Murphy.

22

23 <EXAMINATION BY MS BULUT:

24

25 MS BULUT: Q. Mr Murphy, do you recall earlier this  
26 afternoon the Commissioner asked you some questions about  
27 the vacancy in the CFO role, and I believe your answer was  
28 that that you had reluctantly taken on that role yourself,  
29 including the statutory tasks allocated to the CFO role.  
30 Do you recall giving that evidence?

31 A. Yes.

32

33 Q. I want to ask you a question which is whether external  
34 consultants were considered as an alternative to you  
35 taking on that role and, if not, why not?

36 A. Yes. So certainly when that vacancy arose in that  
37 position, I consulted extensively with the executive  
38 manager of people and culture. Given that the CFO was an  
39 identified senior staff position, there are certain  
40 parameters around who can be appointed to that and  
41 obligations for consultation. There was certainly a  
42 thought that one of the contractors from Grant Thornton,  
43 for example, could fill that interim CFO role for that  
44 purpose, and the advice that I was given was that that was  
45 not possible, it needed to be - that that just wasn't  
46 possible. Because I, as I said, reluctantly took on that  
47 role, because the CEO role is full-time as it is, but

1 because there didn't appear to be any other option, I took  
2 that on somewhat reluctantly. Given that I did not have  
3 CPA or other training, I utilised staff within the  
4 organisation - there was another staff member within the  
5 innovation and futures area who was a qualified CPA, and I  
6 would pass any concerns that I had, including reports or  
7 journals, to her and ask for her professional opinion on  
8 that before I made a decision.

9  
10 Also, while I was not able to employ people from Grant  
11 Thornton in that role, I certainly availed myself of the  
12 opportunity to draw on their expertise and ask their  
13 opinion where I felt it was needed. So I felt in that way  
14 that I was exercising due diligence in that role, but it  
15 was certainly not something that sat comfortably with me.

16  
17 Q. Thank you.

18  
19 MS BULUT: That's the only question that I have, Commissioner.

20  
21 THE COMMISSIONER: Thank you, Ms Bulut. Mr Murphy, that  
22 conclude your evidence, thank you very much.

23  
24 THE WITNESS: Thank you, Commissioner.

25  
26 <THE WITNESS WITHDREW

27  
28 THE COMMISSIONER: There is just one point of  
29 clarification that I wish to make, not with you, Mr Murphy,  
30 but in relation to Mr Best's evidence. He referred to a  
31 numbered list of questions. That was not a list of  
32 questions compiled by the inquiry, it was compiled by  
33 Mr Best. It came about because some of the suspended  
34 councillors had asked the inquiry about what topics might  
35 be covered in their evidence, and a generalised list of  
36 topics was provided to all of the suspended and former  
37 councillors in order to help them under what evidence they  
38 might be asked to give. That list of generalised questions  
39 was prepared based on the written submissions that had been  
40 received by the inquiry. That list of topics was to assist  
41 the witnesses and is not a public document. I just wanted  
42 to make that clarification. We will resume tomorrow at 9am  
43 with Ms Hogan giving evidence. That concludes today's  
44 proceedings. Thank you.

45  
46 AT 2.56PM THE COMMISSION WAS ADJOURNED TO  
47 THURSDAY, 7 OCTOBER 2021 AT 9AM