



## **PUBLIC INQUIRY INTO LIVERPOOL CITY COUNCIL**

**COMMISSIONED UNDER S 438U OF THE LOCAL  
GOVERNMENT ACT 1993 (NSW)**

**PUBLIC HEARING  
SYDNEY**

**TUESDAY, 15 JULY 2025  
AT 10 AM**

**DAY 2**

### **APPEARANCES**

**Ms T McDonald SC, Senior Counsel Assisting**

**Ms B Anniwell, Counsel Assisting**

**Mr E McGinness, Counsel Assisting**

**Mr J Emmett SC with Mr D Parish and Mr N Andrews, Counsel for Liverpool  
City Council**

**Ms C Palmer, Counsel for Mayor Ned Mannoun**

**Ms C Hamilton-Jewell, Counsel for Mr P Ristevski**

**Mr R Size, Counsel for Auditor-General**

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**<THE HEARING COMMENCED AT 10.04 AM**

**COMMISSIONER:** Just before we start, just picking up on an issue you raised yesterday, Mr Emmett, I understand there has been some discussions overnight or  
5 this morning about some further potential either non-publication orders or redactions to documents in the tender bundle?

**MR EMMETT:** In relation to further orders, can I take instructions on that?

10 **COMMISSIONER:** Of course you can. The point of me raising it was just to raise with you whether there is something more I need to do even in the interim as to whilst those matters are being worked out and redactions are being done. If there is something that you or your - those instructing you would like me to do by way of protective orders, if I can put it that way, you will just let me know and perhaps liaise  
15 with counsel assisting.

**MR EMMETT:** This may not be - the only thing we would seek to the extent necessary is before anything enters the - might otherwise enter the public domain is interim orders to protect any order over which a claim had been made.  
20

**COMMISSIONER:** Yes.

**MR EMMETT:** I understand that in relation to the first - the initial tranche - that is, the tender bundle that was served last week -  
25

**COMMISSIONER:** Yes.

**MR EMMETT:** - or circulated last week, I understand all applications that have been made by - by the council have - you, Commissioner, made orders in respect of those.  
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**COMMISSIONER:** Okay.

**MR EMMETT:** So I understand that those -- I understand that has been dealt with in relation to the further documents that came over the weekend and this morning. I imagine -  
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**COMMISSIONER:** Of course.

40 **MR EMMETT:** - the council may still be considering its position.

**COMMISSIONER:** In any event, if there is something that you would ask me to do either in the interim or on a more final basis, you just liaise with counsel assisting and let me know.  
45

**MR EMMETT:** I'm grateful, Commissioner. We will.

**MS McDONALD:** Commissioner, if there is no other administrative matters -

**COMMISSIONER:** Is there anything more for me to do before we start the evidence?

5

**MS McDONALD:** I call Adam Dansie.

**ADAM KENNETH BRANDON DANSIE, AFFIRMED**

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**COMMISSIONER:** Thank you, Mr Dansie. Yes, Ms McDonald.

**MS McDONALD:** Please state your full name.

15

**MR DANSIE:** Adam Kenneth Brandon Dansie.

**MS McDONALD:** Mr Dansie, what is your current occupation.

20 **MR DANSIE:** I'm a director of workforce and legal at Local Government NSW.

**MS McDONALD:** Would you explain what Local Government NSW is?

25 **MR DANSIE:** Local Government NSW is the peak industry association for local government in New South Wales. We are a registered industrial organisation of employers under the Industrial Relations Act in New South Wales and also the Fair Work Act. We provide a range of specialist services to members, including industrial relations, and employment work, policy advice and assistance. We advocate the views and interests of our members to government.

30

**MS McDONALD:** Is Liverpool City Council a member of Local Government NSW?

**MR DANSIE:** Yes, it is.

35

**MS McDONALD:** Have you or, to your knowledge, other officers of Local Government NSW in the past provided advice or assistance to Liverpool City Council?

40 **MR DANSIE:** Yes, I have, and other members of the team have. Yes.

45 **MS McDONALD:** The questions I'm going to ask today focus at a high level of evidence about employment and industrial relations within the local government sector. I do not intend to ask you questions about anything in particular in respect of Liverpool City Council. Now, I want to start by asking you some questions about the employment conditions for council employees. In asking these questions, I want to break it up into two time periods. The first time period that I want to ask you about is

up until 31 August last year. Now, as at 31 - sorry - 1 September, I think, was when the changes we will come to were implemented. Up until 1 September, was there a particular position or term where - of designated senior staff?

5 **MR DANSIE:** Yes, there was.

**MS McDONALD:** What was that?

10 **MR DANSIE:** Yes. So up until that point in time, the councillors could determine a position to be a senior staff position, and once so determined to be a senior staff position, then different arrangements applied to those positions by virtue of section 340 of the Local Government Act.

15 **MS McDONALD:** I'm going to come back to senior staff positions, but, for the moment, in asking you questions about conditions of employment for council staff up until 1 September of last year, can we put to one side designated senior staff? Now, for other employees of council how were their conditions of employment determined?

20 **MR DANSIE:** Yes. So for other employees, they would be covered by awards or enterprise agreements. In the case of Liverpool City Council, I don't believe they have an enterprise agreement, so they would have been covered by the - primarily the Local Government State Award, so that would have covered the vast majority of employees. There are a number of other local government awards that can apply to  
25 some employees as well. But, by and large, the Local Government State Award.

**MS McDONALD:** Those other awards, are they usually specialist awards? For example, an aged care - Local Government Aged Care Award or something along those lines?

30 **MR DANSIE:** Correct. Yes. So we have got the Local Government Aged Disability and Home Care State Award. We have got a Local Government Electricians Award. So they tend to be more occupation focused as opposed to industry focused.

35 **MS McDONALD:** Just excuse me for a minute. Commissioner, I don't know, does the microphone, may I inquire, amplify or -

**COMMISSIONER:** If it can amplify a little more, that would assist me. Yes.

40 **MS McDONALD:** Yes.

**COMMISSIONER:** There is a tipping point at which I understand it starts to interfere with all the microphones, but if it could be pushed up a little higher, that would be helpful.

45 **MS McDONALD:** Now, you spoke about an award. That's the Local Government State Award.

**MR DANSIE:** Yes. Yes.

5 **MS McDONALD:** Associate, could you bring up the following document within the hearing room: INQ.012.001.0007. And I'm hoping that will appear on your screen, Mr Dansie, or the big screen or the screen in front of you.

**ASSOCIATE:** Can you repeat the number?

10 **MS McDONALD:** INQ.012.001.0007.

**ASSOCIATE:** I am about to show document INQ.012.001.0007. Do you want this document shown on the live stream?

15 **MS McDONALD:** Yes. Thank you. Now, I will take you to certain pages, but that's the first page indicating that it's the Local Government State Award 2023. I understand there might have been some amendments to the award subsequently, but we are just relying on this particular version.

20 **MR DANSIE:** Understood.

**MS McDONALD:** Now, in determining conditions of employment of employees cover of the local council covered by the award, is clause 6, the school descriptors?

25 **MR DANSIE:** Yes.

**MS McDONALD:** And, Associate, that's at \_0015, and on the body of the document, it's actually page 7 down the bottom. And we might - yes, that would be great if we could expand that, maybe, a little bit more. Now, Mr Dansie, this clause states:

30 "The award structure consists of skill-based bands and levels that are defined according to the following skill descriptors."

And just taking you through that, we start with an operational band level 1.

35 **MR DANSIE:** Yes.

**MS McDONALD:** There are different levels for that band, and if we could go to the next page, which is \_0016, you can see it at about point 5 of the page, we then move to a different band entitled Administrative Technical Trades Band 2.

40

**MR DANSIE:** Yes.

**MS McDONALD:** Then if you go to the next page, \_0017, down the bottom we've got professional/specialist band 3 level 1.

45

**MR DANSIE:** Yes.

**MS McDONALD:** And then if you go across to \_0019, right down the bottom of the page, we see band 4, which is entitled Executive Band 4.

5 **MR DANSIE:** Yes.

**MS McDONALD:** Now, just very briefly, would you describe to the Commissioner the different bands and how they operate?

10 **MR DANSIE:** Yes, sure. So the award is what we call a skills-based award, and under the award, employees are paid based upon acquisition and use of skill. So when a, you know, new employee comes into local government, one of the first things to do is identify which of the bands they fall in. So the operation band tends to be your outdoor-type work, so parks and gardens staff, for example. The next band is  
15 your administrative and technical trades band, band 2. That band, as the name suggests, deals with administrative staff but also your technical and trade employees. Band 3 is our professional specialist band. Typically your degree-qualified type positions, and then also your executive band, which is moving into the director space.

20 **MS McDONALD:** Now, when determining the rates of pay, are they determined by a separate document which is referred to in the award as salary system.

**MR DANSIE:** Yes, they are.

25 **MS McDONALD:** Are salary systems unique to each council?

**MR DANSIE:** Yes, they are.

30 **MS McDONALD:** And if we then can go to \_page 0020? If we first look at clause 7 under Rates of Pay, it talks about:

"The rates of pay are established with the positions with the skill descriptors as defined in clause 6."

35 Which we just took you to, and they are entry levels of rates of pay only. And then under 7(ii), there is a reference to the employer introducing a salary system to complement the skill-based structure and rates of pay of the award.

40 **MR DANSIE:** Yes, that's correct.

**MS McDONALD:** And then if you look at clause 8, that provides further details of what has to be included in a council salary system.

45 **MR DANSIE:** Correct, yes.

**MS McDONALD:** Now, you gave evidence that a salary system is unique for each council. How does the salary system establish the pay, for example, for a professional specialist planner who is classified as a band 3 level 1?

5 **MR DANSIE:** Yes. So - so the - so, firstly, you start off - so the award sets the industry minimum, rates, but then the award also requires in clause 7 that each council have a salary system, and, as it indicates, the salary system complements the skills-based structure of the award. So each council will have a salary system  
10 structure with a number of grades. Each grade will correspond with a band and level of the award, and then, under the salary system structure, the structure will provide a number of progression steps based on either acquisition and use of skill or employee performance. So the - sorry -

15 **MS McDONALD:** No, no. Keep on going.

**MR DANSIE:** No, well, that's basically - yes.

**MS McDONALD:** So again using a hypothetical example of the planner, we have got his particular band of the award. We would then look at the salary system, and he  
20 or she would be allocated a particular grade.

**MR DANSIE:** Correct.

25 **MS McDONALD:** And then within that grade, there are progression steps, which can be based on the acquisition of skill for at least one of them.

**MR DANSIE:** That's right. So under the - when we look under the clause 8 of the award, it talks about the salary system structure. So under a council salary system structure can provide for progression either based on acquisition and use of skill, or  
30 employee performance. But when we move into the employee-performance progression, there has to be at least one skills-based progression step, and that's reflected in clause 8(iv)(b).

35 **MS McDONALD:** With a person who is appointed to a particular grade with the progression steps, assuming the grade is a standalone grade, by the time they move up the various progression steps, is that the, in a sense, maximum grade and then hence maximum salary that they will achieve under the salary system?

40 **MR DANSIE:** Under the salary system, yes, because employees do top out in their grade. So for the purposes of the salary system, yes. Once you reach your top progression step, then you've achieved the maximum progression based on the salary system structure.

45 **MS McDONALD:** For those employees, are there other potential components of payment of either wages or salaries or allowances which would then contribute to what amount of remuneration they receive from their employment?

**MR DANSIE:** Yes, there can be. So we tend to talk about - and the terminology we tend to refer to is total reward, and so there's a number of components of the total reward. The - so the industry - as the award sets the industry minimum, and then above the industry minimum the award requires councils to have a salary system. So then the salary system becomes, if you like, the effective minimum award rate at the enterprise level. The award also then has a number of other award-related payments, so allowances, shift penalties and the like, and then beyond the award payments, councils can then provide above-award benefits to attract and retain staff, so that might be things like a market rate, for example.

**MS McDONALD:** We have seen in some of the evidence before the inquiry this term "market rate". So as you've just given evidence, that is potentially a component in the total remuneration being received by an employee, and the example you gave was where there might be a need to attract a planner with a particular skill, they are sparse in the labour market, and it is seen to attract that person, an additional payment reflecting the market needs to be paid.

**MR DANSIE:** Yes. So our award is a minimum rates award, our award being the Local Government State Award. It's a minimum rates award as distinct from a paid rates award, so there is the capacity to pay over and above the award payments to attract and retain.

**MS McDONALD:** The market rate in determining what the market rate would be for a particular position, are there any resources that are available, either free or by paying for them, to a council to determine what the market rate is?

**MR DANSIE:** Yes, absolutely. There's - well, our own organisation does a number of reports that councils can subscribe to. We have a local government remuneration report. There's a general manager remuneration report. Other organisations also run their own remuneration reports. So there is entities like Mercer, for example, Master Tech, and I think also McArthur's do remuneration reports. Our counterpart organisation in Western Australia, the West Australian Local Government Association, they also do remuneration reports. So there's quite a number of different reports that can be accessed to, you know, get a sense of what the market should - should - what the market expects for particular positions.

**MS McDONALD:** So your organisation's local government remuneration report, does that - if you subscribe to it, does that provide comparative information - again, using our planner as an example - that a planner within this band are receiving a total remuneration, is it?

**MR DANSIE:** Yes. So they - yes. So it does. It picks up the total remuneration. Our report only goes to a certain level, and, off the top of my head, I can't remember if planners are specifically identified in it. I think they are, but yes, I'm not 100 per cent certain.

**MS McDONALD:** Would it include employees in a directorship role?



**MR DANSIE:** Yes.

**MS McDONALD:** And what about a manager role?

5

**MR DANSIE:** Yes. Managers are picked up.

**MS McDONALD:** And then the GM, general manager remuneration report, again that's based on information provided to you by your constituent members about what they are paying their general manager under his or her contract of employment?

10

**MR DANSIE:** Correct. Yes.

**MS McDONALD:** Still dealing with the period up until 1 September of last year, the designated staff position. You have given evidence that that was a position where the council has designated a particular role to be a senior staff position.

15

**MR DANSIE:** Yes.

**MS McDONALD:** Once a position - I'm sorry, I withdraw that. Within a council which has a structure of general manager, directors and managers, in your experience, which level of the executive were at times designated a senior staff position.

20

**MR DANSIE:** So it is generally the direct reports below the general manager, so your - and there has been a few phases of changes to section 332 of the Local Government Act, but I think in the period that you are talking about, yes, the - the senior staff were typically the direct reports to the general manager.

25

**MS McDONALD:** Now, once a position was designated as a senior staff position, what repercussion did that have as to what instrument or legal instrument determined salary and conditions of employment?

30

**MR DANSIE:** So once a position is designated a senior staff position, they cease to be covered by the arbitral functions of the Industrial Relations Commission and, therefore, are not covered by awards or enterprise agreements, and are instead covered by a statutory contract approved by the Office of Local Government.

35

**MS McDONALD:** And compared to an employee covered by the award, access to the state tribunal system with - for applications for unfair dismissal, if you were a designated senior staff position, was that available to you?

40

**MR DANSIE:** No, it was not.

**MS McDONALD:** So you are employed under a statutory contract, which would reflect the statutory contract devised by the Office of Local Government?

45

**MR DANSIE:** Correct.

**MS McDONALD:** And was that contract - it could be up until five years?

5 **MR DANSIE:** Yes. So minimum of 12 months, maximum of five years.

**MS McDONALD:** And, again, terms of employment - and, in particular, rates of pay - that would be determined by the relevant contractual provisions dealing with remuneration?

10

**MR DANSIE:** For the senior staff, yes.

**MS McDONALD:** Yes.

15 **MR DANSIE:** Yes, that's right. Well, the - yes. So the actual - for the individual concerned, yes, it would be dealt with under their contract of employment and form part of their total remuneration package amount, which forms part of the contract.

20 **MS McDONALD:** Now, I'm putting to one side at the moment the general manager, and I referred you to that cut-off date of up until 1 September 2024. What occurred after 1 September 2024 in respect of designated senior staff positions?

25 **MR DANSIE:** Yes. So from 1 September 2024, the ability for councils to designate positions as senior staff positions was removed from the Act. Employees who were already on a senior staff contract went into a transitional phase, and, under the transitional provisions of the amendment legislation, they could either remain on their statutory contract until its termination date, or they could request to transition across to award-based employment earlier than the termination date, and then councils could not unreasonably refuse that request.

30

**MS McDONALD:** Associate, we can take down that exhibit. Thank you. So putting to one side - and we will confine ourselves to directors. A director who did not want to transition to the award system, any new director appointment will then be covered by the award?

35

**MR DANSIE:** Correct. So any new executive-level employee employed after 1 September 2024 is required to be employed under either an award or an enterprise agreement because there was no longer the availability of the statutory contract.

40 **MS McDONALD:** Now, I just asked for the exhibit to be taken down, but you will remember there was that executive band -

**MR DANSIE:** Yes.

45 **MS McDONALD:** It was either 4 or 5. Is that the band that a director would then come within?

**MR DANSIE:** Yes. So you could only have an employee on a senior staff contract prior to that 1 September 2024 if the duties were commensurate with the executive band of the award. And so, yes, those people who are transitioning from senior staff employment to award-based employment, we are talking about the executive-band level people under the award.

**MS McDONALD:** And the description that you gave about non-designated senior staff employment conditions and, in particular, their salaries, they now apply to directors within the executive band who were either new appointments or who have transitioned.

**MR DANSIE:** Correct. Yes. So they will now - moving forward, they will have a salary system rate of pay, so there will be required to have a grade under the council salary system, and then other provisions of the award that are relevant will apply.

**MS McDONALD:** Including the potential for that additional market rate?

**MR DANSIE:** Correct. Yes. Yes.

**MS McDONALD:** In your experience, before 1 September 2024, looking at that level of management, the executive level of directorships, was it common for directors to - the respective directors of a council to be on the same salary, or did salaries differ?

**MR DANSIE:** I'm sorry, I think I understand. So you're - can I maybe just make sure I've got the question right. Are you asking me whether directors at a particular council typically were all on the same remuneration?

**MS McDONALD:** Yes.

**MR DANSIE:** I think it varies from council to council, but my - it will - I think the short answer is, it varies from council to council.

**MS McDONALD:** The various components that you describe for the other employees - so you look at the award, the salary system and any award allowances, and then you could have that additional benefit. If you go back to what is designated under a salary system for a particular director, again, can you comment on whether generally all directors receive the same level within the salary system.

**MR DANSIE:** Not necessarily, because you still start on the - so the salary system - so the grade under the salary system is based on acquisition and use of skill, so you would be looking at the role, the position description, how big the position is, the level of authority, the level of account accountability, the responsibilities, perhaps the market - sorry, the budget, not the market - the budget that they are responsible for. So different director roles within a council will vary based on authority, skill, accountability, and that would impact on the salary system grade. And then, of course - so in terms of the award payments, that would be the first thing

that could potentially differ. And then we have also got different markets as well. So councils could be paying directors different rates based on different markets, depending on the type of work that they do.

5 **MS McDONALD:** The question of the payment of a particular salary, for example, to a particular director, is that within the responsibility or the jurisdiction of the general manager, or do - or does the governing body of the council, either the mayor or councillors, have any decision-making role in respect of that?

10 **MR DANSIE:** So since 2016, the - section 332 of the Local Government Act has provided that the council is responsible for determining the allocation of resources for staffing in consultation with the general manager, and then the general manager is responsible for determining the positions within the organisation structure, having regard to the council's strategic plan and operational requirements. So when you look  
15 at that - so the answer is that the general manager gets to make decisions on the remuneration to staff within any confines or parameters set by the council when they set the budget for staffing.

**MS McDONALD:** And. As you said, those parameters are obviously the budget  
20 which would include an identification of employee salaries and benefits for next year of \$1 million, let's say.

**MR DANSIE:** Yes. So it's typically done as an aggregated amount, so the council will make a decision, a lump-sum amount for staff-related employment-related costs.  
25 Sometimes they can go a little bit further and break it into directorates, but they can't go to so far as positions because that would then be, you know, usurping, I guess, the responsibility of the general manager. So councils can make a decision about allocation of resources for staffing. General manager then makes the decisions about the positions and then who goes into those positions.

30 **MS McDONALD:** The reason for the abolition of the designated senior staff position, do you know how that came about or why it came about?

**MR DANSIE:** Yes. Do you want me to answer it?

35 **MS McDONALD:** Yes.

**MR DANSIE:** Okay. Okay. So following Operation Dasher, which I can't remember exactly, it was about 2020-2021 I think from memory, the - Operation Dasher  
40 identified a potential corruption risk with the no-fault termination provision of the senior staff contract. There were a number of recommendations made. Local government unions were strongly of the view that the best solution for removing the corruption risk was to remove the statutory contract and to give employees protection from unfair dismissal, and our organisation ended up agreeing with the unions. It  
45 took us a while, but we eventually agreed with the unions on that. And so then there was a joint position from local government unions and Local Government New

South Wales to see the abolition of the statutory contract for executive-level employees.

5 **MS McDONALD:** The abolition of the senior staff position, the difference now for a director who either decided to transition to the award system or a new appointment, is it primarily that they are now given protection under the award, which includes the ability to bring unfair dismissal proceedings?

10 **MR DANSIE:** Yes, that's exactly right. So that was the main change, if you like, is that the - by doing away with the statutory contract, and bringing executive-level employees under - employment under the award, they now have protection from unfair dismissal.

15 **MS McDONALD:** With a director who was a designated senior staff member and subject to a contract, if that their role was to be abolished while they were under the contract, their employment could be terminated?

**MR DANSIE:** Yes. There were termination provisions in the statutory contract, yes.

20 **MS McDONALD:** And, for example, if it was a termination because the role was being abolished, would they generally be entitled to a payment until the end of their contract?

25 **MR DANSIE:** So there was - under the senior staff contract, there was what we call the 10.3.5 provision, which was that a council could terminate the employment of a senior staff position by giving either 38 weeks' notice or the balance of the contract, whichever was the lesser. And so using that example of a redundancy-type scenario, that would be the payment that you would look to.

30 **MS McDONALD:** All right. So if you were a director and you only had a year for your - of the term of your contract, and the role was abolished, there - sorry, that's a bad example. If you only had six months for your contract, you would be entitled to a pay-out of the six months, not the 38 weeks.

35 **MR DANSIE:** Correct, yes. Yes.

**MS McDONALD:** Now that a director is covered by the award, are they provided with additional protection or additional payments if it is a redundancy?

40 **MR DANSIE:** So the award does provide for notice and severance in the case of redundancy. Yes.

**MS McDONALD:** Now, can I turn to the general manager.

45 **COMMISSIONER:** Just before we do that, can I just raise something with Mr Dansie. Before the changes came into effect on 1 September of last year, correct

me if I am wrong, but it was the obligation of the governing body to determine the senior staff positions within the council organisation structure. Is that right?

5 **MR DANSIE:** Yes. So from - from the period between 2016 to 2024, the wording of section 332 of the Local Government Act provided that councillors, determine, one, the allocation - hang on, sorry, I think I've got the dates wrong. There was a - councillors used to - sorry, I'm trying to think whether it changed. Just give me a moment.

10 **COMMISSIONER:** That's all right. Take your time. If you need to come back to it -

**MS McDONALD:** I might be able to assist.

15 **MR DANSIE:** Councillors determined the direct reports, so prior to the removal of the senior staff from the Local Government Act, councillors were responsible for determining, effectively, the senior staff positions, which were direct reports to the general manager.

20 **COMMISSIONER:** Yes. And now, the difference is now whilst the council - the governing body, I should say - determines the resources to be allocated to staffing generally, it's within the purview of the general manager to determine those direct reports or director positions?

25 **MR DANSIE:** In consultation with the -

**COMMISSIONER:** In consultation.

**MR DANSIE:** Yes.

30 **COMMISSIONER:** But the responsibility - there is a shift from that being a matter from the governing body to be determined to it now being one for the general manager to be determine, albeit after consulting the governing body.

35 **MR DANSIE:** Yes. Correct. So the state of play now is that the general manager is responsible for determining all of the positions in the organisation structure in consultation with the elected council.

**COMMISSIONER:** Thank you.

40 **MS McDONALD:** Associate, could you please bring up exhibit INQ.012.001.0006.

**ASSOCIATE:** I am about to show document INQ.012.001.0006. Do you want this document (indistinct)?

45 **MS McDONALD:** Now, you can see from that first page, it is the Local Government Act, and you can see the currency of the version. It is up until - to 31 August 2024.

**MR DANSIE:** Yes.

**MS McDONALD:** And could I take you to \_0233?

**COMMISSIONER:** That's the provision I had in mind.

**MS McDONALD:** In answer to the Commissioner's questions, is this the relevant provision that was dealing with that question of determination of structure?

**MR DANSIE:** Yes, that's right. So under 332(1), we firstly see there that the (a) - the council must, after consulting the general manager, determine (a) the senior staff positions within the organisation structure of the council, and also (b) the roles and reporting lines for other - for other senior - it's not very well-worded, but the intent being that the roles and reporting lines of the holders of senior staff positions. So that the governing body would determine senior staff position in and the roles and responsibilities of the senior staff positions.

**MS McDONALD:** And then also the resources to be allocated to the employment of staff.

**MR DANSIE:** Correct. Correct, yes.

**MS McDONALD:** And then under 1A:

"The general manager must, after consulting the council, determine the positions other than senior staff positions within the organisation structure of the council."

**MR DANSIE:** Yes, correct.

**COMMISSIONER:** And was that change also driven by the outcome of that inquiry -

**MR DANSIE:** Yes.

**COMMISSIONER:** - that you mentioned earlier as part of this suite of changes to remove the designation of senior staff positions and also to make these changes to how the organisation structure is to be determined?

**MR DANSIE:** Yes. So effectively now leave it to the general manager to determine the positions within the organisation structure in consultation with the elected council.

**COMMISSIONER:** Thank you.

**MS McDONALD:** Could I take you to another exhibit. INQ.012.001.0005?

**ASSOCIATE:** I'm about to show document INQ.012.001.0005. Do you want this document (indistinct).

5 **MS McDONALD:** In Local Government Act, but a version - the current version, at least, for 23 May of this year, obviously incorporating those changes that came into effect on 1 September last year.

**MR DANSIE:** Yes.

10 **MS McDONALD:** And could we go to page \_0237. And down the bottom it is section 332. If you could expand that a little bit. Is this now the amended provision which deals with determination of structure?

15 **MR DANSIE:** Yes, it is.

**MS McDONALD:** Which, as you said, seemed to be part of the changes that were implemented after the ICAC inquiry?

20 **MR DANSIE:** Correct.

**MS McDONALD:** And as it states there:

25 "The council must, after consulting the general manager, determine the resources to be allocated towards employment of staff."

Picking up on one of your previous answers, that's looking at an aggregate amount?

30 **MR DANSIE:** Yes. So the advice from the Office of Local Government, which we agree with, is that the council determines a lump sum, if you like, payment towards the employment costs.

**MS McDONALD:** And then under 1A:

35 "The general manager must, after consulting the council, determine the positions within the organisation structure of the council."

**MR DANSIE:** Yes, correct.

40 **MS McDONALD:** And, again, the way it is worded, it is not looking at consultation with a particular member of the governing body like the mayor, but rather with the governing body - that is, the council, the councillors, including the mayor?

**MR DANSIE:** Yes, correct. So it is, effectively, all of the councillors.

45 **MS McDONALD:** And again, as 1B says, it is:



"To be determined so to give effect to the priorities set out in strategic plans and delivery program of council."

**MR DANSIE:** Correct.

5

**MS McDONALD:** Now, we are onto the general manager. Their position, to state the obvious, is not covered by the award?

**MR DANSIE:** Correct.

10

**MS McDONALD:** They are - enter into a contract. Is the contract with the council or with the mayor?

**MR DANSIE:** It's with the council, but the mayor typically signs the contract on behalf of the council.

15

**MS McDONALD:** The terms and conditions contained in the contract, where do you find those? What are they based on?

**MR DANSIE:** So the Office of Local Government has a statutory contract. So under section 338 of the Local Government Act, it provides that, in effect, where the - where the Office of Local Government makes a statutory contract, councils are required to use it. And so there is a statutory contract for general managers. There has been since about 2006, and that is - that sets the terms and conditions of employment.

25

**MS McDONALD:** And it's mandatory for a council to use that contract?

**MR DANSIE:** Correct.

30

**MS McDONALD:** The statutory contract itself could be amended by the Office of Local Government?

**MR DANSIE:** Correct.

35

**MS McDONALD:** And then within the contract, are there provisions which allow, for certain clauses, amendment by council in respect of a contract with that particular mayor?

**MR DANSIE:** Yes.

40

**MS McDONALD:** With that particular general manager, sorry?

**MR DANSIE:** Yes, so, there are limited circumstances where it can be amended by the council, or what I might call a variation, and they are referenced in - I think it is clause 19 variations of the contract. So we would highlight where you can do a variation.

45

5 **MS McDONALD:** Now, the standard contract of employment for general managers, again, as a result of that ICAC investigation, did that lead to some - look, before asking you that, under the standard contract, there are provisions which allow in certain circumstances for the termination of the general manager's contract?

**MR DANSIE:** Correct.

10 **MS McDONALD:** That ability to terminate the contract, is that vested in the governing body of council?

**MR DANSIE:** Yes.

15 **MS McDONALD:** So it's not a decision that can be made solely by, for example, the mayor or a deputy mayor?

**MR DANSIE:** It's the council. The council.

20 **MS McDONALD:** And they have to pass a resolution at a council meeting?

**MR DANSIE:** Yes. There has to be some form of formal decision by the council.

25 **MS McDONALD:** The ability - and I'm just asking you this broadly - the ability for that governing body to terminate a contract of the government - of the general manager, in what circumstances are they given that ability?

30 **MR DANSIE:** So clause 10 of the contract sets out the various circumstances in which a contract can be terminated before the termination date. There were some changes to the contract in 2022, so if I get some of the clause references wrong, forgive me. But -

**MS McDONALD:** Can I just interrupt you for a minute. Just starting very broadly, there is a right to terminate in a sense, with cause?

35 **MR DANSIE:** Correct.

**MS McDONALD:** And what would - what's included under cause?

40 **MR DANSIE:** So there's - there's a capacity under the contract to do a poor performance termination by paying 13 weeks' notice or termination pay. So that's - I think that's the one you're referring to.

**MS McDONALD:** What about in circumstances where there is misconduct?

45 **MR DANSIE:** So there is a separate provision for summary dismissal about 10.4.

**MS McDONALD:** And as it sounds, a summary dismissal is the contract is terminated with no further payments?

**MR DANSIE:** Correct.

5

**MS McDONALD:** And then is there, again at a general level, a provision which allows termination of the contract without cause?

**MR DANSIE:** Correct. Yes.

10

**MS McDONALD:** So as it suggests, the council governing body can decide to terminate the contract with no reason, without anything like a poor performance or misconduct, and the repercussion of that is a particular level of payment?

15

**MR DANSIE:** Yes. So under the current version of the contract, 10.3.1E, which used to be the old 10.3.5 clause, a council can terminate the contract without providing a reason by the - by giving of 38 weeks' notice or the balance of the contract, whichever is the lessor.

20

**MS McDONALD:** Now, I interrupted you. There were some changes to the standard contract - sorry - standard contract of employment for a general manager, which had an impact on this right of termination.

25

**MR DANSIE:** Yes. So in 2022, there were some - there was a new iteration of the statutory contract for general managers where we - in relation to the - what was then a 10.3.5, which is now 10.3.1E, the - if the council was to utilise that 38-week provision, then the general manager is entitled to request the reasons for the termination if they want - want the reasons, and then if they request them, they have to be provided with the reasons. Was one of the changes.

30

**MS McDONALD:** Was there also a change which allowed some form of mediation?

35

**MR DANSIE:** Yes. So the - we - the contract also changed to highlight the availability of mediation. So mediation was already referred to in the dispute resolution procedure, but I guess the industry parties took the view that we needed to highlight the availability of mediation, and so that was done in a number of respects. One, it makes it quite clear that the parties are entitled to request mediation. The contract also changed to provide that if a council refused a request for mediation, then the general manager is entitled to know the reasons for such refusal.

40

**MS McDONALD:** But under the new contractual provisions, you need both the council and the general manager to agree to mediation?

45

**MR DANSIE:** It's still an agreed process, yes.

**MS McDONALD:** Also in respect of poor performance, if that is the nominated reason for terminating the contract, was there also a requirement that some kind of performance review had to be done?

5 **MR DANSIE:** Yes. So the 2022 change also - or made it clearer that if you were going - if a council was going to utilise the termination for - based on performance, that it had to be following a performance review, and that the general manager had to be afforded an opportunity to utilise the dispute-resolution procedure in the contract. So, again, I guess a reference back to the mediation and afforded an opportunity to  
10 address the externally.

**MS McDONALD:** Moving away from the area of termination, under the mandatory - or the standard contract, is there a provision for regular performance review of a general manager?  
15

**MR DANSIE:** Yes. So the contract provides that the performance has to be reviewed at least annually, and can be reviewed more frequently by agreement - sorry - more frequently at the behest of the council. And, sorry, on the mediation, one of the other changes was that the contract also now indicates that the  
20 parties can agree on a mediator at the time that they enter into the contract.

**MS McDONALD:** And with remuneration under the standard contract for a general manager, are there any provisions for like performance pay?

25 **MR DANSIE:** Yes. So under the statutory contract there's a - so in terms of remuneration, are we talking about the post-2022 contract or the pre-2022 - both - both versions did provide for a pay increase based on performance.

**MS McDONALD:** What was the change that was introduced?  
30

**MR DANSIE:** So the change that was introduced, though, in 2022 is that the performance pay is now for a 12 month - sorry - is for a 12-month period only, unless the council decides that it is to continue for the duration of the contract. So to get a performance-based adjustment, the employee has to have performance that is  
35 assessed as better than satisfactory following a performance review, and if the council is satisfied that the performance was better than satisfactory, they can grant a performance increase. But under the post-2022 version, that increase is for a 12-month period, unless the council decides that it is to be for the duration of the contract.  
40

**COMMISSIONER:** Does that mean it's assessed for that 12-month period only, rather than on a rolling basis? Is that what you mean?

45 **MR DANSIE:** Yes. So the problem - well, the issue that was identified prior to 2022 was that it wasn't really a performance payment if you got the increase in the, you know, first year of a five-year contract and then you continue at - that payment, but not necessarily maintain the performance.

**COMMISSIONER:** I see.

5 **MR DANSIE:** So now you get a performance increase, or you can get a performance increase, for better than satisfactory performance, but you only carry it for 12 months, unless the council decides that it continues beyond that period.

**COMMISSIONER:** I understand. Thank you.

10 **MS McDONALD:** I want to now turn to a different topic, and we can take down that exhibit. Thank you. And that topic is general employment by a council. In some of the material before the inquiry, at times there is a reference to a direct - a direct employment. Can I ask you, when the council want to employ somebody in a role, and the person is currently outside the organisation, their entrance into that local  
15 government employment pool or employment family, can that be done first by a temporary contract?

**MR DANSIE:** So, yes. So section 351 of the Local Government Act does allow for temporary appointments. The limitation, though, is that you can only do a temporary  
20 appointment for up to 12 months, or 24 months in the case of maternity leave.

**MS McDONALD:** An alternative way of becoming employed would be immediate employment under a contract in a permanent role.

25 **MR DANSIE:** Yes. So you could - you could engage somebody permanently by going through the advertising and merit-selection process and then appointing them permanently to a position within the council structure.

**MS McDONALD:** Those requirements of advertising, et cetera, they are part of  
30 Local Government Act?

**MR DANSIE:** Yes. So the advertising requirement is in 348 of the Local Government Act, and then the merit principle is in 349 of the Local Government Act.

35 **MS McDONALD:** And both of those provisions should be followed if somebody is - with one exception which I will get to - if a person is being appointed to a permanent role within council.

40 **MR DANSIE:** Yes. So to become a permanent feature of the local government family, if I could describe it that way, you have to go through an advertising and merit-selection process.

**MS McDONALD:** Now, the exception that I referred to, is that where you're already  
45 employed by the council but as a permanent employee, but your employment or your role might shift in some way?

**MR DANSIE:** I think you might have been alluding to - 350 of the Local Government Act indicates or provides that the advertising and merit-selection provisions or requirements don't apply when an appointment is by way of a lateral transfer or demotion, unless the council decides that they want those provisions to apply. So if it was taking an existing employee, as you say, and then wanting to move them into a comparable role but a different role - so lateral transfer - then you wouldn't have to go through the merit - advertising and merit process to shift them across.

10 **MS McDONALD:** The terminology that I referred you to at the beginning of these questions of a direct employment, is that something that you have come across in your work?

15 **MR DANSIE:** I think the terminology, if it's used, it would be in relation to lateral transfers. So, again, if you are directly appointing someone because you are not going through an advertising and merit-selection process, it is because you are already taking somebody who has been through that process, they are part of the local government family, and then you directly are appointing them into a lateral transfer position. And then there are also - for amalgamated councils, there are  
20 similar provisions which relax the rules where there has been a council amalgamation or boundary alteration as well.

**MS McDONALD:** The appointment of a person from outside the organisation to a temporary position, in a way, it is a direct appointment, but it's for a limited time  
25 period.

**MR DANSIE:** Yes. So there - that - yes, okay. So the - yes. So you can appoint a person temporarily. So my terminology is that's a temporary appointment. It's a temporary appointment in accordance with 351 of the Local Government Act. Yes,  
30 you don't have to go through the usual advertising process to do temporary appointment under section 351 of the Local Government Act. So I guess the thinking is, you know, if you have got an emergency situation or sudden urgent need, you can bring somebody in very quickly to deal with that by putting them on as a temporary appointment.

35 **MS McDONALD:** Putting to one side the circumstances of replacing somebody who is on maternity leave, there is a time limitation of 12 months.

40 **MR DANSIE:** Correct.

**MS McDONALD:** And after the 12 months, that - that person's temporary contract cannot be renewed?

45 **MR DANSIE:** Correct. So once - once the 12 months is up, they either cease employment or council would go through an advertising and merit-selection process to then bring them - bring them in permanently potentially.

**MS McDONALD:** When you were asked some questions about the structure of the council and how the statutory provisions of who determines it either the general manager in consultation with the council, et cetera. Can I broaden that inquiry as to the relationship between the governing body and the general manager in terms of dealing with the actual operations of council. Are there any, first, statutory provisions which, in a sense, demarcate the involvement of the governing body in the actual operations of council?

**MR DANSIE:** So the functions of the general manager are set out in 335 of the Local Government Act. They include the day-to-day management of the council, the appointment and dismissal of staff. There is probably some other relevant things that relate to the operations, but it's the general manager's function to deal with the day-to-day administration of the council. And again, coming back to the structure, you would also look at that section 332 because it, you know, makes it quite clear the councillors are responsible for determining the allocation of resources to - for staffing, but the general manager is now responsible for determining the positions, having regard to the council's strategic plan, et cetera.

**MS McDONALD:** Councillors are approached and deal with constituents, and constituents often raise particular issues or complaints about what's happening within their community. The role of a councillor in raising that where it is really raising an operational matter, can I ask a series of questions. First, the ability of the councillor to agitate or raise that matter. Is that governed by any statutory provisions other than 335 saying, "General manager, you deal with operational matters"?

**MR DANSIE:** Yes. Sorry, there is a whole layer of things here that I - the - we have got the code of conduct. That's the first thing. So the Local Government Act requires councils to have a code of conduct that's not inconsistent with the model code of conduct. So the Office of Local Government has issued a model code of conduct for councils under their 23A provision of the Local Government Act. The code of conduct deals with appropriate and inappropriate interactions between councillors and staff, and so, for example, it's not appropriate for councillors to be discussing individual employee grievances with staff, but they can have a discussion about broader workforce issues. So that's dealt within the code of conduct. There are also various other guidelines that the OLG have issued that also deal with that.

**MS McDONALD:** What about an example of a constituent who has contacted the council and said, "My garbage hasn't been collected, and this is a constant problem" and that councillor wants to contact within the waste section of the council and have it - and complain?

**MR DANSIE:** Yes. So that would be inconsistent with the requirements of the code of conduct. Now, the councillor could raise it with the general manager, but they are not allowed to go directly to staff about those individual matters.

**MS McDONALD:** You spoke about there are other OLG guidelines. Procedures whereby a councillor can raise through the GM the fact the garbage is regularly not collected, in your experience, is that usually or often internal council procedure or -

5 **MR DANSIE:** Yes. So the Office of Local Government, again, one of the - one of the guidelines that they have, or one of the requirements that they have put out, is they require councils to have a policy on - I think it is called a councillor and staff interaction policy or something to that effect. Councils are required to have such a  
10 policy, and in that policy, it, again, deals with what are appropriate and inappropriate interactions between councillors and staff.

**MS McDONALD:** Could you just excuse me for a minute?

15 **COMMISSIONER:** Yes, of course.

**MS McDONALD:** I have no further questions.

**COMMISSIONER:** Mr Dansie, just on interaction policies, and tell me if this is too general, but, in your experience, is it often a feature of policies of that type that  
20 councillors will be permitted to contact the general manager and director-level positions depending on where their query lies?

**MR DANSIE:** Yes. So under the OLG's model policy - it's been a while since I've looked at it.  
25

**COMMISSIONER:** That's all right.

**MR DANSIE:** The - from memory, schedule 1 of the policy gives the council an opportunity to indicate who councillors can talk directly with. So, for example, they  
30 might indicate the directors in schedule 1, and I think it then goes on to schedule 2, which might then be other - other people that are able to - they are able to talk to about specific issues.

**COMMISSIONER:** Someone beneath - I don't mean that in a - I will rephrase it.  
35 Someone else within the organisation, not a director level, but who might have responsibility for a specific matter within the organisation that a councillor could go to in relation to that narrow area of responsibility?

**MR DANSIE:** So if they are not identified in the policy, they would have to go  
40 through the general manager and seek the general manager's permission.

**COMMISSIONER:** All right. But if there was an interaction policy that said you could go to the general manager or a director if it's within that directorate, that  
45 wouldn't strike you as unusual?

**MR DANSIE:** If - well, if the council has decided that they think that that's okay, then that's okay.



**COMMISSIONER:** Yes. But you've seen - do I understand you - you are familiar - you have seen examples of that amongst the membership more broadly?

5 **MR DANSIE:** Yes. So I think most councils follow the OLG template as it is written, and so you start off by saying, okay, schedule 1.

**COMMISSIONER:** Yes.

10 **MR DANSIE:** These are the people that the councillors can talk to directly about matters, and they will typically be your directors.

**COMMISSIONER:** Yes.

15 **MR DANSIE:** Schedule 2, I think, is more limited. It will be you can talk to these people but only about specific areas within their area of expertise.

**COMMISSIONER:** Yes.

20 **MR DANSIE:** And then anything outside of that will be a no-no unless the general manager said it was okay.

**COMMISSIONER:** And are policies like that important in your view?

25 **MR DANSIE:** Absolutely.

**COMMISSIONER:** Why?

30 **MR DANSIE:** The - so that we don't have - it can be perceived as putting undue pressure or bullying or harassment on staff. So it's part of the work health and safe, I guess, of protecting the staff, one. Sorry.

**COMMISSIONER:** That's all right. You are all right.

35 **MR DANSIE:** But I guess also we have got to remember the general manager is responsible for staffing, and so they are entitled to know what their staff are doing, who they are talking to, whether there are any issues or concerns. If the general manager has got them, then, you know, following those appropriate protocols and procedures, I think, just protects that.

40 **COMMISSIONER:** Anything arising out of that?

**MS McDONALD:** Yes. Could I just ask, the OLG policy on councillor staff interaction, roughly when was that introduced?

45 **MR DANSIE:** Gosh, you are really testing me on this one. I can just say it was in the last five years, but I couldn't tell you when exactly.

**MS McDONALD:** And, again, the operation of that policy, is it your understanding that if, hypothetically, a councillor was in breach of it, it may then ground a code of conduct complaint?

5

**MR DANSIE:** Yes. Yes.

**COMMISSIONER:** Does anyone seek leave to ask Mr Dansie some questions?

10 **MR EMMETT:** Commissioner, I don't seek to examine Mr Dansie. Can I just say this: There is no way any criticism of what's happened. Mr Dansie has given you, Commissioner, a lot of evidence that is in the nature of questions of law or legal matters.

15 **COMMISSIONER:** Sure.

**MR EMMETT:** I don't have any questions for Mr Dansie, and there may end up being no dispute about any questions of law. If there is any question of law that you need - that is (indistinct) by the parties, we will be asking for our submissions  
20 (indistinct).

**COMMISSIONER:** Of course. That's understood. Does anyone else want to ask Mr Dansie some questions?

25 **MS HAMILTON-JEWELL:** No, thank you.

**COMMISSIONER:** Thank you, Mr Dansie, for your attendance and your assistance today. Mr Dansie can be excused, or would you prefer to reserve?

30 **MS McDONALD:** Commissioner, what I would seek is that, at the moment, with the position with answering summons, that no witness be excused.

**COMMISSIONER:** Yes, all right.

35 **MS McDONALD:** Obviously, when it is determined that there will be no need to hear from a particular witness, the assisting team will inform them as soon as possible. But if the moment for abundant caution, if witnesses could not be excused.

40 **COMMISSIONER:** All right. Mr Dansie has made a retreat from the witness box. Always very sensible. But he's in the back of the room. Mr Dansie, what that means is I won't formally excuse you from your summons. In the unlikely event that we need to get you back, we will let you know, but as soon as a decision is made that you can be released, it will be communicated to you. Thank you.

45

**<THE WITNESS WITHDREW**

**MS McDONALD:** Our next witness isn't due until 12.30.

5 **COMMISSIONER:** Okay. All right. Well, I will adjourn, and if we can get started earlier, someone will let me know.

**MS McDONALD:** Yes.

10 **COMMISSIONER:** Thank you. We will adjourn until 12.30 or unless I'm told earlier.

**<THE HEARING ADJOURNED AT 11.20 AM**

15

**<THE HEARING RESUMED AT 12.32 PM**

20 **COMMISSIONER:** Yes. Thank you, Mr Size. Yes, leave is granted for that purpose.

**MS McDONALD:** Commissioner, before hearing evidence from Mr Medina, may I tender another document. It is part of TB8, but, of course, I wish to show it to this witness. We intend to tender it separately.

25

**COMMISSIONER:** Okay.

**MS McDONALD:** It is a document entitled Local Government 2024 Financial Audit dated 31 March 2025, and the identification number of the document is  
30 INQ.023.001.0040.

**COMMISSIONER:** 0040?

**MS McDONALD:** Yes.

35

**COMMISSIONER:** And that's to be part of exhibit 8?

**MS McDONALD:** When we tender exhibit 8. Exhibit 8 at the moment, there are some requests for non-publication order -

40

**COMMISSIONER:** I see.

**MS McDONALD:** - that we are still dealing with.

45 **COMMISSIONER:** So do you want to tender this now, or should I mark it for identification to be wrapped up in the tender?

**MS McDONALD:** Yes, that's probably easier.

**COMMISSIONER:** All right. That document will be MFI4. I think we are up to 4?  
Thank you.

5

**MFI #4 LOCAL GOVERNMENT 2024 FINANCIAL AUDIT DATED  
31/05/2025**

10

**MS McDONALD:** I call Brad Medina.

**COMMISSIONER:** Yes. Just come forward, please, sir.

15 **<BRADLEY JAMES MEDINA, AFFIRMED**

**COMMISSIONER:** Yes, Ms McDonald.

20 **MS McDONALD:** Please state your full name.

**MR MEDINA:** My name is Bradley James Medina.

25 **MS McDONALD:** And what is your occupation?

**MR MEDINA:** I'm an assistant Auditor-General in our financial audit branch at the Audit Office of New South Wales.

30 **MS McDONALD:** Mr Medina, can I commence by asking you some general questions. The Audit Office of New South Wales, and indeed the Auditor-General broadly, what is that office's role?

35 **MR MEDINA:** The Audit Office of New South Wales headed by the Auditor-General is a body established under the government sector audit Act to conduct audits of government bodies within New South Wales. That includes our state sector agencies, those bodies controlled by the state of New South Wales, state-controlled universities and local government, including local councils, joint organisations and county councils. We have two main functions that - that we focus our time on, and those are conducting financial audits - that is, expressing an opinion  
40 on the financial statements of audited entities - or undertaking a performance audit - that is, an audit into the effectiveness, efficiency and economy of a particular aspect of government administration or lawfulness.

45 **MS McDONALD:** The last audit that you referred to, have there been performance audits that have focused on a particular aspect of local government?

5 **MR MEDINA:** There has. In our performance audit function, which is - to give a sense of the Auditor-General's mandate, we have an annual audit work program that talks to about 15 to 20 performance audits per annum. So differently to our financial statement audits where we are mandated to come into an entity that we are required to express an opinion on the financial statements, and that tends to be at the balance date every year, our performance audits are discretionary activity of the Auditor-General, for which he undertaking a sector-wide risk assessment, including covering local government and our state sector, and designs a series of performance audits which may look into a particular aspect of public administration, again, focusing on efficiency, economy and effectiveness. In terms of the topics, they are a matter for the Auditor-General, and they are prioritised by risk, and they are explained in our annual audit work program. Those focus areas may change over time.

15 **MS McDONALD:** Just as an example, has there been a recent performance audit looking at local councils in cybersecurity?

20 **MR MEDINA:** There has been a range of performance audits into the local government sector. We have looked recently at cybersecurity. We have also looked - we have a current audit underway, which is not yet tabled in the Parliament, dealing with coastal management, which involves local government sector.

**MS McDONALD:** Coastal management?

25 **MR MEDINA:** Coastal management. So the management of the New South Wales coastline.

30 **MS McDONALD:** Now, I want to ask you some questions about the first type of audit, which you described as the financial audit. Can you just -

35 **COMMISSIONER:** Mr Medina, whilst counsel assisting is just grabbing that, don't take this as a criticism because it's not, but can I just trouble you to maybe just speak a little slower when answering. There are some people down the line taking it down, and I'm taking some notes by hand, so that will assist us all. Thank you.

**MS McDONALD:** The financial audit which you described as a mandated audit, local councils produce financial statements at the end of every financial year?

40 **MR MEDINA:** That's correct.

**MS McDONALD:** And is it those financial statements produced by local council that the Audit Office will audit?

45 **MR MEDINA:** That's correct.

**MS McDONALD:** I want to take you to an annual financial statement of Liverpool City Council, and it is the last available annual financial statements that we have for

the year ended 30 June 2024. And could the document INQ.001.001.0362 be brought up on the screen and also live streamed, please. Now, up on the screen you can see that's the cover page of the annual financial statement. If we can go down a little bit to the bottom for Liverpool City Council for that financial year ending 30 June 2024.

5

**MR MEDINA:** That's correct.

**MS McDONALD:** Now, I first want to take you to part of these statements, and that is found at \_0091, and this document is on - headed Independent Auditor's Report, Report on General Purpose Financial Statements for Liverpool City Council, and then there is correspondence addressed to the councillors where an opinion is expressed, basis for opinion, and if we can go to the next page, you can see from the heading Other Information, councillors' responsibilities for the financial statements, auditors responsibilities for the audit of the financial statements, and if we can go to \_0093, there is a signature of Min Lee, delegate of the Auditor-General of New South Wales. Now, Ms Lee, she is also an employee of the Audit Office?

10  
15

**MR MEDINA:** That's correct.

**MS McDONALD:** And by signing this letter with the requisite opinion and other information, does that indicate that she was one of the people who conducted the audit of the financial statements?

20

**MR MEDINA:** That's - that's- correct. So the Auditor-General under the local - the terms of the Local Government Act 1993 is the mandated financial statements auditor for all local government entities in New South Wales, including councils, joint organisations and county councils. In respect of the Auditor-General's responsibilities in the sector, they are delegated to various officials within our office, including Ms Lee, who is the engagement controller, so the person responsible for forming the opinion on the financial statements of, in this, case Liverpool Council, and that's her delegated role. So her role is to conduct an audit, obtain reasonable assurance that the financial statements are free from material misstatement, and issue an auditor's report, which she has done here.

25  
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**MS McDONALD:** All right. And then if we could go to the page which is \_0094, and I can take - you can see from that page it's a letter, again from Ms Lee, addressed to the mayor of the council, entitled Report on the Conduct of the Audit for the Year Ended 30 June 2024 ,and if we could jump to page \_0099, and if we can just go towards the bottom of that page, you can see again the signature block of Ms Lee and her signature.

35

40

**MR MEDINA:** That's correct.

**MS McDONALD:** If we can jump back to \_0094, this particular document, which I will take you to in a little while, how does it sit with the previous report that I just showed you, which was addressed to the councillors, while this one is addressed specifically to the mayor? How do they kind of sit together?

45

5 **MR MEDINA:** In terms of the independent auditor's report, that is a requirement of the Australian Auditing Standards that at the conclusion of a financial statement audit, we are required to express an opinion on the subject matter. In this case the financial statements. What the independent auditor's report, which is largely form and content with the wording driven by the Australian Auditing Standards, is to describe the types of procedures that we have performed, the types of evidence that, in this case, Ms Lee the engagement controller has obtained in the course of her audit, and to convey whether or not, in the professional judgment of the engagement controller, there has been enough evidence gathered as part of a financial audit to conclude that the financial statements are free from material misstatement, either due to fraud or error. The purpose of that first report, the independent auditor's report, is to also explain the auditor's responsibilities, and so under the subsection or the heading Responsibilities of the Auditor, it will discuss the types of procedures we may perform in a financial statements audit.

20 **MS McDONALD:** Can I just pause there. Could we go back to \_0092, please. And if we can go towards the bottom of the page, you were referring to the section under the heading Auditor's Responsibilities?

25 **MR MEDINA:** That's correct. And so as set out in this section, which explains the objectives of the audit - that is, to express an opinion on the financial statements, whether they are free from material misstatement as a whole, whether due to fraud or error, and issue this independent auditor's report. The section here also conveys that reasonable assurance is not absolute assurance, and the particular subject matter that we are assuring here is the compliance of the financial statements with the Local Government Accounting Code, Australian Accounting Standards and other legislative requirements.

30 The purpose of this section is to indicate that misstatements, if they are considered material, they could influence the users of the financial statements. So the basis of our audit is to aggregate sufficient and appropriate audit evidence to confirm whether those financial statements are free from material misstatement. In this case, for the 2024 financial statements, our opinion was that there was sufficient and appropriate audit evidence available to confirm that the financial statements complied with the Code and were free from misstatement.

40 **MS McDONALD:** All right. And then how does that fit with the next document addressed to the mayor which was the report on the conduct of the audit?

**MR MEDINA:** The -

**MS McDONALD:** Sorry, if we could go to page \_0094.

45 **MR MEDINA:** The report on the conduct of the audit is a specific requirement of section 417 of the Local Government Act. So those requirements obviously mandate the Auditor-General to undertake the financial statements audit of councils, and

require us to provide an independent auditor's report. That was the first document we just discussed. The second document is the requirement of the local - of the Local Government Act, and specifically aspects of the Local Government Accounting Code which require us as auditors to communicate certain information that has come  
5 to our attention during the course of the audit that may be of interest to the users of the financial statements, the council, or others in the sector. So the specific requirements of this report would be to communicate significant issues if they were to arise.

10 Now, that's a matter of judgment of the engagement controller. It's not a bright line test, but it would be to convey those matters of interest which are - were fundamental to the conduct of our audit and which we think the reader of the financial statements, including the mayor, would be required to know in order to understand our auditor's report, particularly if we have made specific recommendations to council on a  
15 very - on a significant matter.

The other purpose of this report is to confirm legislative compliance as it pertains particularly to the construction of the financial statements and the records that support them. So we will include a segment of this report which draws out whether  
20 or not we have aggregated evidence that there has been non-compliance with the Local Government Act as to the way the financial statements have been constructed.

The third item, which appears on screen at the moment, is really around discussion of particular areas of interest in the financial statements of the council - that is, how has  
25 the council performed for the period ended, in this case, 30 June 2024 and its financial position. The matters discussed in this report - for example, we have operating result with a number of subheadings on the screen now - are driven by the Local Government Accounting Code, which specifies the type of information as auditors we should include in this report. So if we were to look at the format of this  
30 report for Liverpool City Council, it will be very similar for the 128 other councils that we do issue reports for in the sector.

**MS McDONALD:** Now, can I just ask you, this first section we've got, I will jump to we have got an income statement, and there is a reference to operating result, and  
35 particular figures are picked up for this financial year and the previous financial year. Then jumping to the next page \_0095, we have got a heading Statement of Cash Flows, and then if you go to the other page, 0096, we've got a Financial Position heading. Can I take you back to \_0094, the income statement. Its interrelationship with the financial statements published by the council is if we go back to in this  
40 document \_0007, this is within the financial statements the income statement -

**MR MEDINA:** That's correct.

**MS McDONALD:** - for the council for that financial year. And is it a matter that  
45 within - if we can jump back to it in a minute - the 0094 income statement operating result, it would appear that Ms Lee has picked up on certain entries within that income statement.



**MR MEDINA:** That's correct.

5 **MS McDONALD:** So, for example, the first line item there, Rates and Annual Charges. If we jump back to \_0094, that entry is repeated there, but there is also that there's acknowledgment that there has been a variance between the two years' results.

**MR MEDINA:** That's correct.

10 **MS McDONALD:** And if we then go across the page to 0095, at the top it refers to that entry that the revenue increased by 14.2 million, and then allocates or states that it is due to a rate peg increase of a certain percentage, and also an increase in rateable properties.

15 **MR MEDINA:** That's correct.

**MS McDONALD:** So is it in identifying relevant parts of the council's income statement, Ms Lee is also providing some more information about why would particular items - there has been the evidence she saw about particular variance, or  
20 the reason for variance?

**MR MEDINA:** I wouldn't describe it necessarily as evidence, though these things would be formed on the basis of the evidence that we had before us. The purpose of this section is to present certain items from the income statement as you've drawn  
25 out, and then to provide an explanation of why there has been a movement between the financial years. So the comparative year being, in this case, '22 - the comparative year, in this case, being '22/'23, and we obviously have '23/'24 as the current year, and the description of why that movement has occurred, why that variance has occurred. It's a statement of fact. It doesn't describe a particular performance by the  
30 council, but it does describe the circumstances which led to the change, in this case, of rates and annual charges.

**MS McDONALD:** Certain line items within that financial statement, the identification of those line items which are reported, and a variance is noted, is that  
35 mandated by, for example the Local Government Code of - Accounting Code, or is that a matter of matters that the auditor thinks are relevant?

**MR MEDINA:** It's a matter of what has been mandated or suggested, I should clarify, suggested in the code as errors that we may discuss as part of providing a  
40 report on the conduct of the audit. Of course, the Auditor-General has discretion with these products to provide particular information. But in this case, the particular line items from the income statement that you can see displayed on the previous page would be ones that were suggested as part of the Code.

45 **MS McDONALD:** Now, if we can just move down the bottom of that page 0095, we then move to statement of cash flows, and again if we can jump back to page \_0011. This is in the financial statements of the council, statement of cash flows.

And, again, is it a similar procedure that the - I will just say the auditor - the auditor is picking up particular information contained in that statement of cash flows and reproducing that on page 0095 if we can jump back to that.

5 **MR MEDINA:** That's correct. So the statement of cash flows comprises part of the primary audited financial statements which we have expressed an opinion on. That is the independent auditor's report. The purpose of the report on the conduct of the audit is to provide that summary-level information. So the graphical representation that you can see on the right-hand side of this page is information at a subtotal  
10 level - that subtotal of operating activities cash, investing activities cash, and financing activities cash - derived from the statement of cash flows. You will note that this includes the 2024 financial year -

**MS McDONALD:** And -  
15

**MR MEDINA:** - the 2023 financial year, but it includes the previous audited financial statements that would have occurred for 2022.

**MS McDONALD:** Is there any reason why, in this particular section, you have gone  
20 back to 2022?

**MR MEDINA:** 2022. Well, the three years is our general preference for the way in which sort of the trend information around some of the information is compiled, and so three years is the practice that we use across our audit book.  
25

**MS McDONALD:** Right. Then if we can go to 0096, we then have a reference to financial position and two subheadings, Cash and Investments, and Debt.

**MR MEDINA:** Yes.  
30

**MS McDONALD:** Financial position is a reference to the good old assets and liabilities of the balance sheet.

**MR MEDINA:** That's right. The statement of financial position which comprises all  
35 of the councils' assets, liabilities and equity.

**MS McDONALD:** And if we jump back to \_0009, again, that's the statement of financial position for the council for that 30 June 2024, and from particular line items in that statement, if we can jump back to \_0096, particular matters dealing with total  
40 cash, cash equivalents and investments, and then debt have been identified in this part of the report.

**MR MEDINA:** That's correct. The information in this part of the report under the subheading Financial Position, and then Cash and Investments and Debt, these are  
45 numbers that are described in the statement of financial position, the balance sheet that we have just seen. But they are broken down at a more disaggregated level, which reflects information that are included in the notes to the financial statements.

5 So as a practicality, on the balance sheet, there will be a line item cash, there will be a line item investments, there will be a note disclosure that the council has prepared and we have audited that will have more information, which has caused us to be able to describe the cash - if we took cash and investments, the cash and investments that are subject to external restrictions or internal restrictions.

10 **MS McDONALD:** So instead of, in a sense, looking at the financial position and then the requisite notes within the financial statements, this is, in a sense, a summary or an amalgamation of certain aspects of that.

**MR MEDINA:** That's correct.

15 **MS McDONALD:** Can I then turn to the next - before I do that, could we go back to \_0094, and the second paragraph:

"I expressed an unmodified opinion on the council's general purpose financial statements."

20 The reference to an unmodified opinion, what does that refer to?

**MR MEDINA:** This refers to the opinion expressed, in this case by Ms Lee, in the independent auditor's report, which was the earlier document that we reviewed. The independent auditor's report requires the conduct of - let me take that back. The purpose of conducting the financial audit is for us to express an opinion whether the financial statements have been prepared in all material respects with the Local Government Accounting Code, and by virtue of the Act, as well as Australian Accounting Standards, and to express an opinion. So in this case, expressing an unmodified opinion represents our view that we have obtained enough evidence, sufficient and appropriate evidence, in the course of our audit to express to a reasonable assurance standard that the financial statements presented by the council do not contain material misstatements.

35 If the engagement controller in this case was of the view that that was not correct and that there was the reasonable likelihood of a material misstatement, we would express a different type of opinion called a modified opinion, and that has a range of different connotations, depending on the type of errors or issues that we identify in our audit. So just in this case for 30 June 2024, we have issued an unmodified opinion on the council's general purpose financial statements, which is the representation of the auditor's view that the financial statements complied with the accounting requirements and were free from material misstatement. As mentioned before, this is done to a reasonable assurance level; it is not absolute assurance. But that is the formation of our opinion.

45 **MS McDONALD:** Can I take you back to \_0096. Now, in this section, which is headed Performance, we have a heading Performance Measures, and then, doing an overview of the section of this report, we have subheadings with an operating performance ratio. Then if we go across to \_0097, Own Source Operating Revenue

Ratio, Unrestricted Current Ratio. Over to page 98, Debt Service Cover Ratio, Rates and Annual Charges Outstanding Percentage, and then at page 99, a Cash Expense Cover Ratio. Can we go back to \_0096. These particular ratios which are set out in this section, are they included because of the dictates of the Code, or is it a matter of the discretion of the auditor to pick certain ratios which the auditor is of the view are relevant?

**MR MEDINA:** These particular ratios are established by the Office of Local Government as are currently sits between the Department of Planning housing and infrastructure. So each of the ratios that follows after the subheading Performance Measures are set - the framework is set by the Office of Local Government. This report seeks to indicate whether or not a council has met a particular ratio and a factual explanation as to why that may or may not have occurred based on the information we've obtained and the presentation of the audited financial statements.

**MS McDONALD:** In the financial statement, there are also in section - I think it is the part of the notes - section H, which is a Statement of Performance Measures Consolidated Results Graphs. Could we go to that page, please, 0088. There you will see with the first graph a description of operating performance ratio, and there is a graph there where, conveniently colour-coded, if it's in a green colour, it means it has reached the benchmark; if it's in the red, it hasn't. Again, with a description of the purpose of operating performance ratio and some commentary on that financial year's result. This section, these - are these the ratios that have been determined by the council in preparing its financial statements?

**MR MEDINA:** My understanding of this disclosure, and I would note that it is unaudited, so this is not part of the financial statements where we do express an opinion. So the independent auditor's report that we discussed previously does not cover this disclosure, which is why we can see at the top of the page Additional Council Disclosures Unaudited draws that to the attention of the user of the financial statements. That being said, as I understand it, these are the ratios that we have otherwise reported on in our report on the conduct of the audit, compiled by the council, and including commentary by the council on why a particular ratio may not - may or may not have been met.

**MS McDONALD:** Could we go back to 0096 with the operating performance ratio there towards the bottom of the page. Does the auditor independently perform the analysis and calculation for the determination of the operating performance ratio, or do they rely on that analysis that I just took you to in section H of the financial statement?

**MR MEDINA:** The information that we have presented here in the report on the conduct of the audit is based on the audited financial statements. So if we took the operating performance ratio as an example, the description of how this is calculated and the information that forms the basis of the particular result, whatever it may be, is driven by the audited financial statements. And so in preparing this report, our

audit teams, or our auditors and the engagement controller, has reasonable assurance that the balances that go into those calculations are reasonable and fairly stated.

5 **MS McDONALD:** Now, with the operating performance ratio, can you explain what does that ratio look at.

10 **MR MEDINA:** This is one of the ratios that has been established by the Office of Local Government. It sets a particular target result, similar to the remainder of these ratios.

**MS McDONALD:** Can I just stop you. A target result -

**MR MEDINA:** A target result -

15 **MS McDONALD:** - is described as a benchmark?

**MR MEDINA:** Is a benchmark. That's right. And it is determined by the Office of Local Government. The Auditor General has not determined whether a particular result or benchmark for each of these ratios is appropriate or not, we are just  
20 reporting on a basis of fact whether or not a council has or hasn't achieved that ratio and the basis for which they may not have, which is provided in an analysis. This operating performance ratio is all around understanding how a council has contained its operating expenditure within operating revenue, and so, importantly, it includes a  
25 number of adjustments to work from the financial statements that we have been discussing to get back to the numbers. So we take out items, including capital grants and contributions, fair value adjustments, so fair value adjustments to assets that occur as part of accounting processes and non-cash transactions, and so they are removed from this ratio, and the reversal of revaluation decrements.

30 So, again, a fair value adjustment assumes an asset value - a revaluation decrement assumes an asset value may have gone down, but, again, as part of the valuation process, it is a non-cash transaction. And so in describing the ratio, the Office of Local Government has set up the framework. The framework is it is calculated in this particular fashion. They have determined this is what the benchmark should be for  
35 the sector. This report is providing a visual representation, in our view, on whether a benchmark was achieved during the year and, again, why this may not have been or why had it changed from previous periods. We are required to offer some commentary that provides some context as to reasons for movements within these ratios.

40 **MS McDONALD:** All right. So looking at the graph next to it, then to state the obvious, the - under the graph, you have got the OLG benchmark, which is greater than zero per cent, and just looking at the graph, it would appear in 2023 the benchmark was satisfied because there is a positive column there.

45 **MR MEDINA:** That's correct.

**MS McDONALD:** And then - but if you are looking at 2024, the column under the line with zero would reflect the benchmark hasn't been reached.

**MR MEDINA:** That's correct.

5

**MS McDONALD:** And, again, looking at the text towards the left, as you identified or commented upon, there is reference to the auditor's view as to why the ratio has deteriorated from the 2023 result to 2024.

10 **MR MEDINA:** In this case, as it is a change in ratio that represents a deterioration, that is explained.

**MS McDONALD:** I know you said this is part of the operating performance ratio that's required by the OLG Code.

15

**MR MEDINA:** It is required by the OLG. So as at 30 June 2024, these were the benchmarks that councils were required to measure their performance against. Again, the Auditor-General has not determined the benchmarks, so, in this case, the benchmark of greater than zero per cent has not been a view of the Auditor-General; 20 it is very much a view of the Office of Local Government office. This report is providing some transparency around whether the council has achieved that benchmark and reasons for movements between years.

25 So if I draw you to the explanation in the bottom left of this page, it's a statement of fact. Based on the financial statements, the ratio has deteriorated due to a reduction in operational grants, an increase in employee benefits and on-costs, an increase in materials and services, and borrowing costs. So they are the primary financial statement line items which have varied from year to-year that would explain a change in the ratio of performance. What this report doesn't do, and what it is not 30 designed to do, and we do not express an opinion on, is whether that's appropriate or not. That's a matter, I guess, for the council as management, and for management in determining the appropriate level of performance. This is a statement of fact as - as to how financially the council has performed.

35 **MS McDONALD:** Can I just ask you, you identified employee benefits and on-costs. What are on-costs?

**MR MEDINA:** On-costs are a requirement of the Accounting Code and the Accounting Standards. So they represent valuation differences. For example, the 40 accrual of leave, which may be valued in a particular way, the accrual of superannuation, which may be valued in a particular way. In accrual-based accounting, we will obviously have our salaries and wages, our leave taken, particular payments made to individual employees. These are the accounting adjustments representing items such as leave.

45

**MS McDONALD:** Can I take you to 0097. The next ratio is the own source operating revenue ratio. Would you explain what that looks at and what it takes into account?

5 **MR MEDINA:** This ratio again determined by the OLG, who also determine the benchmark for this ratio of greater than 60 per cent, measures the own source - measures the council's fiscal flexibility. So it's the degree in which the council relies on external funding sources, such as grants or other contributions - as part of its revenue mix. So the ability to fund its operations.

10 **MS McDONALD:** The issue of relying on external funding resources, it refers to operating grants and contributions. Is the contribution a reference to the contributions made in respect of property developments where there is the - can be - I think it's the section 2.11 contributions?

15 **MR MEDINA:** I need to - in the context of this particular council in explaining in ratio, I would need to have a look at that in some more detail, so I'm not sure I would be able to necessarily bring that to the fore. This is around funding sources where it's not a regular source of funding. So grants may occur from time to time, particular programs, particular support from government, particular support for activities. Compared with those more regular sources of income. That is, rates collected by the council. And so the ratio is really measuring as a total own source revenue bucket, does that lean more towards those regular sources of funding, or does it comprise more grants or other items which may not be continuous in their -

25 **MS McDONALD:** May be one off or, yes.

**MR MEDINA:** Possibly. Without being able to get behind this and explain further, I would have to leave it at that sort of general answer.

30 **MS McDONALD:** And as you have indicated, the benchmark is not determined by the Audit Office; it comes from OLG. And, again, looking at the graph, it would appear for 2024 the council did reach the benchmark.

35 **MR MEDINA:** That's correct, because we had the view that, of the mix, it was 63 per cent, which will be greater than the OLG's benchmark of greater than 60 per cent.

40 **MS McDONALD:** And, sorry, the benchmark of 60 per cent, does that mean if overall revenue is \$100, it would be \$63 worth funded from your regular sources of income?

**MR MEDINA:** Expressed - you are checking my maths now, but expressed as a percentage, that is the concept.

45 **MS McDONALD:** All right.

**COMMISSIONER:** Even the lawyers in the room probably got that one.

**MS McDONALD:** I know. Commissioner, I do note the time.

**COMMISSIONER:** Yes.

5

**MS McDONALD:** Would it be convenient to take a lunch break at this point?

**COMMISSIONER:** Yes. Yes. Mr Medina, we are going to break for lunch. We will resume at 2.15. If you wouldn't mind being back here ready to go at about 2.10, I would be most grateful. We will adjourn until 2.15. Thank you.

10

**<THE HEARING ADJOURNED AT 1.13 PM**

15

**<THE HEARING RESUMED AT 2.20 PM**

**COMMISSIONER:** Yes, Ms McDonald.

20

**MS McDONALD:** Commissioner, before resuming the evidence, there are two other documents that I wish to take Mr Medina to.

**COMMISSIONER:** Yes.

25

**MS McDONALD:** They have been recently produced pursuant to a, notice, and it is anticipated that they will be included in TB8 when that folder of documents is tendered. They are two Audit Risk and Improvement Committee minutes from 26 February 2025 and 28 April 2025. May I give an indication that already in the evidence before the inquiry, an extract from the Audit Risk and Improvement Committee minutes from 26 February is already in evidence, and there is no objection to that. Given that this has just been raised, and I do wish to show Mr Medina these documents, at the moment could they be just marked for identification?

30

35

**COMMISSIONER:** Yes. Have they got document IDs as yet?

**MS McDONALD:** Yes, I'm sorry.

40

**COMMISSIONER:** Yes.

**MS McDONALD:** 26 February 2025 is LCC.014.002.1411.

**COMMISSIONER:** That will be MFI5.

45

**MFI #5 LCC.014.002.1411**



**MS McDONALD:** And then the 28 April committee minutes of this year, LCC.014.002.1412.

**COMMISSIONER:** That will be MFI6.

5

**MFI #6 LCC.014.002.1412**

**MS McDONALD:** Excuse me.

10

**COMMISSIONER:** Yes, of course.

**MS McDONALD:** Mr Medina, I want to return to that report on the conduct of the audit for the year ended 30 June 2024, and it is document reference

15

INQ.001.001.0362\_0097, and on the live streaming too, please. If we could just move down the page. I wanted to move to that ratio unrestricted current ratio. What is - what information in the financial statements is that based on?

**MR MEDINA:** This ratio is based on the 30 June 2024 financial statements. The coverage of special - the coverage of liabilities to be covered by unrestricted assets on a short-term basis. Current assets.

20

**MS McDONALD:** So, for example, if there was a property with a registered mortgage over it, it wouldn't be taken into account - the value of that asset wouldn't be taken into account?

25

**MR MEDINA:** This would be current assets, which wouldn't tend to be - as - without looking into the numbers that sit behind this report on the conduct and the financial statements in detail, these would tend to be current assets and unlikely to be -

30

**MS McDONALD:** Subject to a liability along those lines.

**MR MEDINA:** Unlikely to be non-current assets, which tend to be holdings of property, plant, equipment, et cetera.

35

**MS McDONALD:** So it looks at the value of current assets, and what does it then look at?

40

**MR MEDINA:** The ability of those assets to service short-term obligations. So liabilities. The ability to service current liabilities.

**MS McDONALD:** So it is really looking at current assets and current liabilities.

45

**MR MEDINA:** Yes.

**MS McDONALD:** Again, the OLG has established a benchmark of greater than - is it 1.5?

**MR MEDINA:** My understanding it is 1.5 times.

**MS McDONALD:** And based on the graph there for 2024, the OLG benchmark was not reached?

**MR MEDINA:** Yes.

**MS McDONALD:** And why is the unrestricted current ratio - why do you look at that? What's its, in a sense, usefulness?

**MR MEDINA:** So the - whether the benchmark is useful or not is a matter for the Office of Local Government as they set the performance framework.

**MS McDONALD:** No, that's fine. I'm just looking at the ratio.

**MR MEDINA:** In terms of the ratio, and specific to local government, provides the - or provides the representation of the council's ability to meet its short-term obligation as they fall due.

**COMMISSIONER:** By looking at its ability to access the value of the current assets?

**MR MEDINA:** By - by the ability to access current assets to meet its short-term or current obligations.

**MS McDONALD:** We will go over to the next page, \_0098, and at the beginning of the page, there is a reference to a debt service cover ratio. Again, would you explain what does this ratio examine?

**MR MEDINA:** This ratio is a measurement of the operating cash available to service debt, particularly including interest, principal and lease payments.

**MS McDONALD:** How does that differ from the unrestricted current ratio?

**MR MEDINA:** This is - this is covering a particular item which is debt and debt defined as including interest, principal and lease payments.

**MS McDONALD:** So it is including liabilities that arise from a liability on a - sorry - not a current liability.

**MR MEDINA:** For those items classified as debt in the financial statements.

**MS McDONALD:** Regardless of whether they arise from a mortgage on a - a non-current liability?

**MR MEDINA:** Correct.

5 **MS McDONALD:** And again, here there's a benchmark set by the OLG, which is greater than two times, and looking at the graph for 2024, that benchmark was not reached.

10 **MR MEDINA:** That's correct. For 2024, the calculated ratio is 1.8 which is less than the benchmark.

**MS McDONALD:** Why is a debt service cover ratio useful?

15 **MR MEDINA:** Again, it's a matter for the OLG in terms of their - their framework for performance of councils. But this ratio provides a visualisation or a - or a frame in which to understand a council's ability to service its debt obligations based on operating cash available.

**MS McDONALD:** And the reference to operating cash, what does that refer to?

20 **MR MEDINA:** Operating cash is taxpayer that refers to operating cash flows are reported in the statement of cash flows, which is a - one of the financial statement items that we discussed before lunch.

25 **MS McDONALD:** If we can move down that page to \_0098, we then have a rates and annual charges outstanding percentage, which again refers to an OLG-established benchmark. What does the rates and annual charges outstanding percentage - what parts of the financial statement is it looking at?

30 **MR MEDINA:** It is looking at total rates revenue, so the revenue that a council has collected from the rates, against the outstanding receivables or debtors at the balance date. So as at 30 June, what's left over, uncollected in cash terms.

35 **MS McDONALD:** The benchmark set by the OLG is less than five per cent for metropolitan councils. Looking at the graph, was the result for 2024 for this percentage 8.5?

**MR MEDINA:** I agree. 8.5.

40 **MS McDONALD:** Does that indicate that the benchmark established by the OLG has not been met?

**MR MEDINA:** That's correct. As indicated in the sort of text on the bottom left, the council did not meet the benchmark during the 2024 reporting period.

45 **MS McDONALD:** Now, it is accepted that this arises from OLG requirements, but, again, the utility or use of determining the rates and annual charges outstanding percentage, what is its utility?

5 **MR MEDINA:** Again, the particular benchmark of five per cent for metro councils, less than five per cent, for metro councils is a matter for the OLG. But this is really describing uncollected or potentially collectible cash at balance date each financial year that is available from the head of revenue, which could be described as rates.

**MS McDONALD:** If we go to the next page, \_0099, and we have a cash expense cover ratio. What does that ratio examine?

10 **MR MEDINA:** So this is a liquidity ratio, and it indicates the number of months that the council can continue to pay for its immediate expenses without any additional cash inflow. So I think importantly for this ratio, it assumes no cash will be received to meet those operating expenses, and so it is about the cash that is held - the cash and investments held - at the balance date of that particular financial year.

15 **MS McDONALD:** It is identified that the benchmark set by the OLG is greater than three months. So does that mean that the cash as at balance date could, in a sense, last for a period of time sufficient to meet ongoing liabilities?

20 **MR MEDINA:** This ratio has been calculated in accordance with the methods set out by the OLG and its guidance and requirements for the performance benchmarks, and what it indicates is, for 2024, the cash on hand for the council could fund 11.9 months of operating expenses in a cash sense. This measure includes restricted and unrestricted cash balances.

25 **COMMISSIONER:** In a general sense, pay staff, day-to-day outgoings for almost a year (indistinct) 2024 without receiving any further cash inflow.

30 **MR MEDINA:** If it received no further cash inflows, it could meet 11.9 per cent - 11.9 months of operating expenses.

**COMMISSIONER:** Operating - ordinary day-to-day operating expenses. Is that what is in that context?

35 **MR MEDINA:** Yes.

**MS McDONALD:** But it includes both restricted and unrestricted -

40 **MR MEDINA:** That's correct.

**MS McDONALD:** - funds. That's a question I didn't ask you, the reference to restricted and unrestricted funds, what's your understanding that that's referring to?

45 **MR MEDINA:** Restricted funds can be - restricted cash or investments can be comprised of two sources. Those are externally restricted. So cash or investments that are restricted by law or statute or a contractual requirement with a counterparty. Or internally restricted. A council may have a policy to restrict certain cash or

investments for a particular purpose. It's usually a policy matter, and it's an internal restriction.

5 **COMMISSIONER:** Just a general example divorced from this particular council but of an external restriction of the kind you mentioned?

**MR MEDINA:** An external restriction may be develop a (indistinct).

10 **MS McDONALD:** Again, hypothetically if a local council received a particular grant from the state government for a particular project, according to the deed or legal requirements of that grant, there could be a requirement that that money be restricted?

15 **MR MEDINA:** There could be. But that would very much be based on the particular terms of the contract or agreement, and the specificity to which those sort of restrictions are made clear.

20 **MS McDONALD:** You gave - sorry. The example you just gave of contributions also are particular rates dealing with, I think, waste.

**MR MEDINA:** That's right. Domestic waste management charges may be considered to be externally restricted.

25 **MS McDONALD:** And then the question of internally restricted, again, that's an internal decision by council that certain funds will be treated in that fashion.

**MR MEDINA:** I think I characterise them as a policy matter. It's a policy matter for the council.

30 **COMMISSIONER:** It's a policy decision directed to using a particular parcel of funds for a particular purpose?

**MR MEDINA:** If the council is minded to make an internal policy to restrict, yes.

35 **MS McDONALD:** When you're conducting an audit - sorry, I will start again. The identification of funds being subject to the external restriction, is that reflected in a separate bank account, or are funds usually in the one council bank account but demarcated in a particular way?

40 **MR MEDINA:** It would be difficult for me to answer in a general sense. I think how I could answer is the financial statements, particularly of note to the financial statements required in these accounts, would break down the balance of cash and investments held as both externally restricted or internally restricted. A council's particular banking arrangements and how they administratively put together their  
45 bank accounts is a matter for - it will be very hard for me to comment on.

5 **MS McDONALD:** Can you just excuse me for a minute. Within this document, could we move to page 0040? These are the notes to the financial statement, and you will see this is headed C1-3. Restricted and Allocated Cash, Cash Equivalents and Investments. If you look at the document at about point 4, there is a reference to "external restrictions other" and then a list of particular items.

**MR MEDINA:** Yes.

10 **MS McDONALD:** And is it your understanding that that's some of the cash that the council had that was subject to either that - well, to that external restriction?

**MR MEDINA:** That's what this note in the financial statements is explaining.

15 **MS McDONALD:** Right. And the example that you gave, the developer contributions, that appears to be the first item?

**MR MEDINA:** Under "external restrictions other", yes.

20 **MS McDONALD:** Excuse me for a minute. Could we go back to 0099, please. The cash expense cover ratio. I accept that it's one of the requirements of OLG, but from a practical perspective, what's the use or utility of this ratio?

25 **MR MEDINA:** It's providing an overview of how long a council could operate without any cash inflow based on its available cash at balance date.

**COMMISSIONER:** Which is a measure of liquidity in general terms?

**MR MEDINA:** This is a measure of liquidity.

30 **COMMISSIONER:** So the higher of coverage, the greater the liquidity to reduce it to bare basics?

**MR MEDINA:** On a scale, yes.

35 **MS McDONALD:** With the ratios that I've taken you to, which commence with the operating performance ratio, and if you need to have another look at them we can take you to them, but of those ratios, which ratios really address liquidity? Obviously, the last one you have identified.

40 **MR MEDINA:** Our local government report looks at financial sustainability. So local government 2024 looks at financial sustainability, and it considered three ratios. One which is not recorded here around infrastructure renewal, operating performance ratio, and the current ratio.

45 **MS McDONALD:** All right. That's reflected in the report to Parliament.

**MR MEDINA:** That's right.

5 **MS McDONALD:** We will come back to that in a minute. Are we still on - yes, 0099. The heading Infrastructure Property Plant and Equipment Renewals, this particular part records the money spent on renewal by the council of infrastructure, property, plant during the '23/'24 financial year. What is that - why is that included there? What's its utility?

10 **MR MEDINA:** This part of the report on the conduct of the audit explains the dollar value that has been spent or expended on renewing existing property, plant and equipment or infrastructure, in addition to expenditure on new assets, so new property, plant, infrastructure.

15 **MS McDONALD:** And why would somebody reading the financial statements be interested in that?

**MR MEDINA:** This provides an overview of the rate at which existing assets are being maintained or renewed, plus a council's development of new assets. So new assets which are being brought on to the financial statements.

20 **MS McDONALD:** Now, I'm not going to take you to some other parts of this document which deal with an audit for special purpose financial statements or anything like that. Can I take you now to that report that you just referred to -

25 **COMMISSIONER:** Just before you do, Ms McDonald, can I just raise one thing. I'm certainly not asking you to express a view as to the utility or otherwise of the benchmark set by the OLG, but in each of the ratios that you have been taken to that have been depicted for a three-year period. Is there any utility in general terms in looking at trends across a period such as that?

30 **MR MEDINA:** We present three years as a basis to try and provide a trend. A user of the financial statements could deduce the current year number, in this case 2024, the prior year number, the comparative in this case 2023. We do consider that it's useful to the users of these reports and useful to the users of the financial reports to illustrate a trend.

35 **COMMISSIONER:** Why is that?

40 **MR MEDINA:** Any - any of these ratios deal with matters evolving over time. Past performance is not a reliable predictor of the future, but it is a reasonable basis on which to form a view of the achievement of a council of any of these benchmarks that are specified. The period we have nominated in this report is three years. One may take a longer view, but we find this to be useful. We think that this is useful for the users of our report for the audit to illustrate in general terms how council is performing.

45 **COMMISSIONER:** Thank you.

**MS McDONALD:** I will take you now to MFI4, which is INQ.023.001.0040.

**ASSOCIATE:** Do you want this document -

5 **MS McDONALD:** Yes, please. Sorry, I keep on. Now, if you would have a look at the first page, it is the Local Government 2024 Financial Audit 31 March 2025 produced by the Audit Office of New South Wales. Is this a document that's tabled in Parliament?

10 **MR MEDINA:** This document has been tabled in Parliament, and my understanding based on the date is that would have been 31 March 2025.

**MS McDONALD:** Right. I think it will be page 0041. There might not be any pages. The next page after the - that's the indication that it was tabled in Parliament  
15 around - on 31 March?

**MR MEDINA:** That's correct, in accordance with the terms of section 421 of the Local Government Act.

20 **MS McDONALD:** Now, a general question to begin with. What is the purpose of this report.

**MR MEDINA:** This report is a requirement of section 421 of the Local Government Act which - and I will describe in general terms - requires the Auditor-General to  
25 make a report, at least annually, on the audits within the local government sector. And so this report has been designed to fulfil that purpose, to provide evidence or information around the conduct of our audits, and themes that are important for the sector in a summary product. So this is not articulating detailed audit opinions on every council, but it is a summary of the information across the sector.  
30

**MS McDONALD:** Within the report, there is a section which deals with financial sustainability.

**MR MEDINA:** That's correct.  
35

**MS McDONALD:** Which is section 4. Can you excuse me for a minute. That is page 0021. Now, this chapter, as you have outlined, uses a chapter dealing with financial sustainability of councils, but is more in a summary fashion.

40 **MR MEDINA:** In the spirit and the requirement for us under section 421 of the LG Act to produce a report that covers a sector, it is a report which necessarily covers the sector. So across all 128 local councils, plus the associated joint organisations and county councils.

45 **MS McDONALD:** In looking at financial sustainability, in particular, do you - in preparing this report, do you look at three particular performance measures?



**MR MEDINA:** In this particular report, we have looked at three performance measures.

5 **MS McDONALD:** And if we can go down the bottom of that page, are they the ones set out there?

**MR MEDINA:** That's correct.

10 **MS McDONALD:** If you can cross-reference to the section of the financial statements, the operating performance, that was a ratio that was considered in the report on the conduct of the audit?

**MR MEDINA:** That's correct. That was the first ratio that we discussed.

15 **MS McDONALD:** Then the second performance measure, the current ratio, was that the unrestricted current ratio that, again, we have looked at in the financial statements?

20 **MR MEDINA:** That's correct.

**MS McDONALD:** And the final one, the infrastructure renewals, was that particular measurement - was that expressly considered in this report on the conduct of the audit?

25 **MR MEDINA:** That is not a ratio included in the report on the conduct of the audit.

**MS McDONALD:** Can you explain, what's that ratio?

30 **MR MEDINA:** So this ratio measures the rate at which assets are renewed against the rate at which the assets on the books of a council are depreciated.

**MS McDONALD:** And, again, what's the utility of that?

35 **MR MEDINA:** It provides an indication of the renewal of existing assets against the depreciation across the useful life of those particular assets that are held by the council.

40 **MS McDONALD:** And, again, what is the - what information or what assistance do I gather from looking at that particular ratio?

**MR MEDINA:** Generally, assets recorded - non-financial assets recorded - on a council's financial statements will have a useful life associated with them, and this measures - it measures the rate at which - which drive the level of depreciation. So the useful life of an asset plus its value will drive the level of depreciation recorded.  
45 And this measures the rate at which those assets are depreciated against the rate at which they are renewed, so money spent on renewing infrastructure.

**MS McDONALD:** You've raised the depreciation of assets. The requirement for account a council in its financial statement to depreciate particular assets. That's not peculiar to council, that's a requirement of Accounting Standards, Auditing Standards.

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**MR MEDINA:** It's a requirement of the Australian Accounting Standards and a requirement of the Local Government Accounting Code.

**MS McDONALD:** Is there anything peculiar or unusual in the way that councils are required to depreciate their assets?

10

**MR MEDINA:** Councils will generally be required to depreciate most classes of their assets - and there are exemptions in the Accounting Standards where you would not depreciate an asset, for example land - which guide a reporting entity, such as a council, to determine its useful life or its value. So the value might have been the money that you paid for the asset at point in time in which you acquired it or the construct of fair value which councils are required to pay where we mark the asset over time to a fair value, often on a current replacement cost basis. But those are all requirements of the Accounting Standards.

15

20

**COMMISSIONER:** I'm sorry, I just didn't catch the second part of that. Fair value, did you say?

**MR MEDINA:** There is a requirement for councils to, mark their non-financial assets to fair value in accordance with a very particular requirement of the Accounting Standards, which is a requirement of the Code, and that means that a council should report its assets with a reliable and reasonable level of reference to the price that may be in the market. Often because of the nature of assets that councils hold - sewers, roads, et cetera - that's a current replacement cost.

25

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**COMMISSIONER:** Thank you.

**MS McDONALD:** Can we go to page 0022. At the top of the page, there is (indistinct) 35 councils met just one or none of the three financial sustainability benchmarks, and then if you go further on that page, in the paragraph under the graph, there is a reference to:

35

"However, three councils, Bathurst, Liverpool City Council, and Shoalhaven City Council, did not meet any of the benchmarks."

40

**MR MEDINA:** That's correct. Of those three benchmarks.

**MS McDONALD:** And, sorry, can we jump back to the infrastructure renewals. That ratio wasn't involved in - included in the report. Why was it not included in the report?

45

5 **MR MEDINA:** On the report of the conduct of the audit, that particular ratio is based on a separate schedule to the financial statements. So there are range of other schedules and special purpose financial statements which accompany the general purpose financial statements. The report on the conduct of the audit is on the general purpose financial statements, and that's why it doesn't appear in those terms in the report on the conduct.

10 **MS McDONALD:** And where on - if we go back to page 21, down the bottom, it says:  
"The benchmark must be greater than 100 per cent."

What does that mean?

15 **MR MEDINA:** That's an OLG requirement.

**MS McDONALD:** Yes.

20 **MR MEDINA:** And to infer greater than 100 per cent, it means that assets are renewed at least on the basis of which assets have been depreciated.

**MS McDONALD:** Sorry, say that again.

25 **MR MEDINA:** It means that assets are renewed at least on a basis of which existing assets have been depreciated.

30 **MS McDONALD:** Would you return to page 22, and underneath the graph, there the - I have just referred you to the identification of three councils that did not meet any of the benchmarks, which included Liverpool City Council. There then is a reference that Bathurst and Shoalhaven hadn't met any of the benchmarks for at least three years, and that indicates more serious concerns regarding their continued financial sustainability. The three performance measures in producing this report, are they the measures that are used by the Audit Office in compiling this report consistently over the last couple of years?

35 **MR MEDINA:** The nature of this report changes from time to time, but these are ratios that we consider to be indicators of financial sustainability. Of course, they are presented in financial statements and included in our report on the conduct due to the accounting code and the OLG, but we have aggregated them here to provide a sector level view.  
40

**MS McDONALD:** The next paragraph refers to:

45 "We also calculated whether council's available cash and investments not subject to external restrictions were sufficient to meet three months of expenses, excluding depreciation and borrowing costs."

That particular calculation, is it reflected in one of the ratios that I took you to that are referred to in the report or is that a separate calculation?

5 **MR MEDINA:** No, it is a separate calculation. It is similar to a measure in the - in the benchmarks, but it is slightly different in its calculation logic.

**MS McDONALD:** Can you explain its calculation logic?

10 **MR MEDINA:** This analysis that the Audit Office has performed as part of this report considers the basis of available cash for a council at 30 June 2024 if we did not consider externally restricted cash and investments, so those cash and investments which are externally restricted and should otherwise be used only for that externally restricted purpose.

15 **MS McDONALD:** And looking at that pool of cash that isn't subject to an external restriction, it looks at whether it - that amount is sufficient to meet the council's three months of expenses, including certain expenses?

20 **MR MEDINA:** The ratio was to compare to - whether or not the available balance of unrestricted cash and investments would be able to meet the ability to fund three months of expenses, adjusted for two items, including depreciation, which is non-cash.

25 **MS McDONALD:** Now, in that - the rest of that paragraph, there is a reference just generally to an aggregate number of councils that either met that or didn't meet that. Can I take you in this report - and could you excuse me for a minute - could we go to page 0069. Thank you. This is appendix 4, council liquidity. You can see at the top part it talks about:

30 "We calculated whether council's available cash and investments were sufficient to meet three months of general fund expenses with the two exclusions."

So this appendix is giving at least some more detail with the identification of certain councils for that test or ratio that I just took you to.

35 **MR MEDINA:** That's correct. Hopefully, if we have done our sums correctly here on the number of items in each of the tables, these will reconcile back to the paragraph we previously discussed which included the summary trend. This is the detail behind it, the particular councils that are called out.

40 **MS McDONALD:** Under the heading Least Liquid Councils, Liverpool City is included.

45 **MR MEDINA:** That's correct.

**MS McDONALD:** And what does that indicate with Liverpool City Council being included in that list under the heading Least Liquid Councils?

5 **MR MEDINA:** This indicates that as at 30 June 2024, Liverpool City Council, and the other councils listed in the Least Liquid Councils table, did not have unrestricted cash available to meet three months of operating expenses as defined as part of the analysis.

**COMMISSIONER:** So those councils didn't meet that rule of thumb or benchmark?

10 **MR MEDINA:** That's right.

**MS McDONALD:** Excuse me. Could we return to page 0022, and towards the bottom of the page. I have taken you to the penultimate paragraph, which looked at this calculation of available cash and investments not subject to external restrictions being sufficient to meet three months of expenses. At the bottom, the last paragraph says:

"It is crucial that all councils have effective long-term financial plans that aim to ensure they meet key financial sustainability benchmarks."

20 The reference there to "key financial sustainability benchmarks", what are you referring to?

25 **MR MEDINA:** We are referring to the analysis that we have performed above, so the three ratios or performance benchmarks were specifically called out as being important. But more broadly, I think - and that's the basis of our - that's the basis of our conclusion there, in addition to our further analysis, which was the ratio which considered unrestricted cash's ability to fund operating expenses.

30 **MS McDONALD:** The statement that it is crucial that all councils have effective long-term financial plans, is that a matter that has been recently considered by Parliament - indeed, I think it might have been the Upper House or some kind of committee of the Parliament?

35 **MR MEDINA:** Financial sustainability has been considered by the Upper House in the Parliament, and a committee has recently reported.

**MS McDONALD:** And that - can you give us the title of that report?

40 **MR MEDINA:** Not - not from my knowledge, no.

**MS McDONALD:** Or not. And your understanding of the report, does it make recommendations about either change or reform to councils' financial operations?

45 **MR MEDINA:** I'm - I'm not able to discuss those.

**MS McDONALD:** If that can be removed. Mr Medina, I want to move to an associated topic. As a result of conducting the audit, at times are issues identified by

the Audit Office which leads to a management letter being sent to the council which raises some areas of concern?

5 **MR MEDINA:** Our usual practice in conducting financial audits, which is really bound by the requirements of the Australian Auditing Standards, requires us to communicate very particular matters with those charged with governance and management. Particularly if we identify matters associated with, say, fraud or wrongdoing, non-compliance with laws or regulations, weaknesses in internal controls which support the preparation of the annual financial statements, those are  
10 matters which we are required to report to management and those charged with governance, and the commonly accepted form and the way in which we would do that is in a written management letter.

15 **MS McDONALD:** The procedure, again generally, with the issuing of a management letter, does it - if matters have arisen during the audit that the Audit Office considers should be raised in a management letter, is a draft management letter usually sent first to the council?

20 **MR MEDINA:** Our usual practice with management letters would be to - if we had a need to issue one - that is, we had identified - we would call them findings that are more than inconsequential, so they met a threshold based on our professional judgment that they should be communicated, we would compile a draft management letter. It is a standard management letter that we use for all of our engagements, and we would generally share that with the recipient of the management letter for their  
25 feedback and comments, particularly on factual accuracy, but our findings will generally include a section for management comments and response.

**MS McDONALD:** And if the recipient council does raise factual matters, they can be taken into account with the final management letter that's issued?

30 **MR MEDINA:** We would afford the recipient of the letters, council or another one of our mandate audit entities, we would afford them the ability to comment, correct us where there may be a misunderstanding of the facts or factual accuracy in something that we are raising, and that's not uncommon. There may be a difference  
35 of view and some additional evidence may be provided that would ameliorate the finding or change our view on that finding. But it's not uncommon for there to be a process where we would receive feedback from management.

40 **MS McDONALD:** Now, again at a procedural level, the final management letter is sent to the council. Is there any ongoing involvement by the Audit Office in the matters that you've raised in the management letter, or is it a matter of, at the next audit, considering issues that were raised and whether they had been dealt with?

45 **MR MEDINA:** The primary purpose of the management letter is to fulfil our obligations to communicate with management and those charged with governance areas where there may be deficiencies in internal controls associated with the preparation of the financial statements, perhaps non-compliance with laws or

regulations that have come to our attention, perhaps fraud. And I name those items because they are called out specifically in the Auditing Standards. We must, as engagement controllers, communicate those to management. But it is not our view to implement any findings. We are only an observer, and we report our findings based on fact. Subsequent to the issuance of the letter, it is really a matter for management whether they agree or disagree with our findings or implement the necessary response to those findings. Perhaps in its an improvement in management internal controls, perhaps a policy or procedure, whatever the issue may have been. But it's a matter for management to deal with.

10 **MS McDONALD:** Can we bring up exhibit LCC.011.001.0020.

**ASSOCIATE:** Do you want that document (indistinct).

15 **MS McDONALD:** Now, that's the first page, Mr Medina. Can you see this is addressed to Mr Jason Breton, Acting CEO of Liverpool Council, dated 4 December 2024, entitled Management Letter on the Final Phase of the Audit, Audit for the Year Ended 30 June 2024.

20 **MR MEDINA:** I can see that information on the document.

**MS McDONALD:** And in the letter, it refers to - it outlines the first three dot points: Matters of governance, interest we identified during the current audit; unresolved matters identified during previous audits; and matters we are required to communicate under Australian Auditing Standards.

25 **MR MEDINA:** I can see that document.

**MS McDONALD:** And then if we follow down this letter, you can see the paragraph:

"For each matter in letter we have included our observation, risk assessment and recommendations. The risk assessment is based on our understanding of your council. Management should make its own assessment of the risks to council."

35 And then underneath that, three dot points which are recommendations to do - for action about the matters raised in the letter.

40 **MR MEDINA:** I can see that's documented there.

**MS McDONALD:** Now, if we go to page 0003. That's the first page of the final management letter.

**MR MEDINA:** It appears to be.

45 **MS McDONALD:** Actually, I probably should have gone to 0002. You can see there again the signature block of Ms Lee, director financial audit, and her signature.

**MR MEDINA:** Consistent with our approaching issuing the independent auditor's report and the report on the conduct of the audit, communications such as management letter would be also issued by our engagement controllers.

5

**MS McDONALD:** Can we go to page 0007. This is a summary of issues for this particular management letter. And if I could just take you to the various subheadings there is prior year matters not resolved by management.

10 **MR MEDINA:** That would be our usual practice.

**MS McDONALD:** And you can see five items recorded there. The - for example, next to the first issue, you've got the matters of likelihood, consequence and risk assessment. Is your understanding they reflect the assessment of those matters that were contained in the management letter for the previous year, or are they updated?

15

**MR MEDINA:** As a general practice, and without having seen this management letter in detail, as a general practice, it would be - it would be our practice to consider the risk rating of any findings identified by us in the prior periods or in the current period, and update a potential assigned risk rating based on likelihood and consequence for the facts and circumstances of that particular year.

20

**MS McDONALD:** If we move down that page, there is then a subheading Current Year Matters, and you have got items 6 through to 14.

25

**MR MEDINA:** I can see that on the page.

**MS McDONALD:** And does that record that they are matters that have arisen during that current audit that Ms Lee considers should be specifically raised in this management letter?

30

**MR MEDINA:** Without going into the detail of the particular matters that are listed there, it would be my expectation that that subheading in our management letter templates and the guidance that we provide to our engagement controllers is we would communicate items that had come to light at a particular period in the current year.

35

**MS McDONALD:** And if you go to page 0008, this is the first issue that had been raised in a previous management letter, and it sets out what the observation was, the implications of this matter, recommendations, management response, and also particular dates where it was anticipated the issue would be addressed by management.

40

**MR MEDINA:** In a general sense, whenever we report issues or findings as part of our management letters that we share with councils, we would require a summary of the issue that we had identified to be articulated - that is, the thing that came to our attention, the implication of that thing, a recommendation that, in our professional

45



judgment, may ameliorate the thing that has been raised, and, as I mentioned before, be an ability for a council to comment or any audited entity to comment on our particular finding and observation.

5 **MS McDONALD:** The fact that these matters - that the heading is Prior Year Matters Not Resolved by Management. Do I take it from that the usual procedure if a matter is raised in a management letter and then is adequately dealt with according to the auditor for the next financial year, it then, in a sense, isn't referred to in the new management letter?

10 **MR MEDINA:** If a matter had been dealt with, and we were otherwise satisfied that the original intent of our finding had been addressed, or management's agreed action had been implemented, we would consider that matter closed, and we would report otherwise in this letter in a subsequent part of the pro forma, which would include a summary of matters that have been addressed.

15 **MS McDONALD:** Can you then move to page 0013. Now, this is a current year matter, and you can see on the heading Issue Number 6 Non-Compliance in Procurement Process.

20 **MR MEDINA:** I can see the heading on the page.

**MS McDONALD:** And again look at the document, and I know you haven't prepared this document, but it would appear that under observation background is given, particular matters that had been either observed or found during the audit.

25 **MR MEDINA:** This would be prepared similar to any other management letter that we would prepare and that we would set forth the facts or the particular observations, a recommendation, implications, and we would seek a comment.

30 **MS McDONALD:** So that's reflected in the heading Audit Findings?

**MR MEDINA:** We would generally use this part of the document to set out the facts as we had seen them when we were undertaking our audit.

35 **MS McDONALD:** If we go to the next page, 0014. Then we have a heading Implications, and this would appear to be looking at the reluctant risks that may arise.

40 **MR MEDINA:** In a general sense. The idea behind us reporting implications is to give a sense of the particular risks that may have crystallised. An event may have happened or may happen if the matter had not been dealt with in the future. But that's based on our professional judgment and as we see an interpretation of the facts.

45 **MS McDONALD:** And then the next heading is Recommendations, and looking at it, it's your suggested recommendations that - of action management can do to either eradicate, control or minimise the risks.

**MR MEDINA:** Again, it would be our policy and our approach, consistent with industry practice, to make a recommendation in particular for any matters that we have identified that we would raise them as finding and formally communicate them.

5 We would propose a suggested course of action. That being said, a council or a recipient of this letter may decide that it is appropriate to take another course of action, but that would be covered in a management response. This would just include information relating to our view of the facts and circumstances, and a potential way to address the concern that we had identified.

10

**MS McDONALD:** Can you help me that - if we can move down, you can see there is a heading Management Response, and it has got "agree", and then there are certain statements which appear to be what management at the council is going to do. The fact that it's got "management response agree", does that indicate before the issuing of the formal management letter, there has been a discussion with council about, 15 "This is our concern", agreement that it is a matter of - that council will deal with and deal with it in this particular fashion?

**MR MEDINA:** As a generalisation, and without reflection on this particular matter, 20 it would be our practice to discuss these matters with management - our management contacts - to seek the facts and circumstances and to indicate that we may report a particular item in a management letter.

**MS McDONALD:** But it would appear that this actually has "management response 25 agreed"?

**MR MEDINA:** We would provide a draft of our management - management letter to the recipient, to the council, and we would seek their comments. We would usually seek from a council whether they agree or disagree with a finding. It is well 30 within a council's rights to disagree with our view on a particular set of circumstances. But we do like that for - for procedural purposes to be clear, so we do ask that management indicate a very clear agree or disagree.

**MS McDONALD:** What happens if they disagree? 35

**MR MEDINA:** The matter would still likely be - as a generality?

**MS McDONALD:** Yes.

40 **MR MEDINA:** If they disagreed on a matter of fact, and we had interpreted the circumstances incorrectly, we may not end up reporting that matter in a management letter. If management disagreed to something that we will be reporting, and we do have a particular view on, it's a clear statement of management's position. But again, we will continue to report on that basis, and we will share that information as part of 45 the final report. We wouldn't remove it unless there was a factual basis of conclusions that was incorrect, and we had interpreted the facts wrong.

**MS McDONALD:** Again, at a general level, if there isn't agreement by the council that they will take certain steps, is it a matter of just raising that in the management letter, and does the Audit Office take it further in the immediate future?

5 **MR EMMETT:** I'm sorry to raise to my feet. The - just the way the question was framed, I didn't understand - I didn't understand that quite reflected the witness' evidence where it said if there isn't agreement - the question was, if there isn't agreement by the council that they will take certain steps, it wasn't clear to me that the answer was that the agreement recorded an agreement to take certain steps.

10 **COMMISSIONER:** All right. Well perhaps that can be just clarified in the way the question is put and there will be no uncertainty.

**MS McDONALD:** I have referred you to that section with "management response agree", and underneath there are - it would appear to be steps that the council has agreed that they will implement to deal with the particular risk. The response of - a management response of "agree", does that indicate, first, agreement as to the factual basis of the matter?

20 **MR MEDINA:** We would generally understand that to be an agreement with the factual basis of the matter that we have raised, whatever the finding may be.

**MS McDONALD:** Also agreement with the - for example, the implications, the increased risk that has been identified?

25 **MR MEDINA:** It's it not possible for me to comment on that in a specific sense. Management may take the opportunity to offer a comment that they disagree with a particular rating that has been assigned. Now, that rating is professional judgment of the engagement controller based on the facts and circumstances that come to hand, but the council may have a different view or the recipient of this letter may have a different view on the types of risk that is otherwise - that otherwise could potentially crystallise or has crystallised.

35 **MS McDONALD:** And if that was the case, would that be recorded in the management response section?

**MR MEDINA:** Again, a matter for management as to the detail that they would otherwise record. They can - we do provide them, obviously, the opportunity, management to provide comments that are specific to the nature of that finding.

40 **COMMISSIONER:** But if it there was a response along those lines, it would be the practice of the office to record it in this section of a document like this?

45 **MR MEDINA:** I expect that this section of the management letter that deals with management comments to a particular item is verbatim that has been provided by the recipient of the letter.

**MS McDONALD:** Excuse me for a minute. Could we go to page 0024, please. Now, this is an appendix to the management letter. I think it reflects some evidence you have given a short time ago. It would appear that, first, there's a review of matters raised in the prior year management letters that are not yet due, and  
5 identification of a particular issue.

**MR MEDINA:** In a general sense, this part of the document is referring to findings we may have identified in previous periods. It would be our practice to not report on those again if the initial management response and identified or agreed action date  
10 was some time in the future when that action date had had not yet occurred.

**MS McDONALD:** And then you can see the next heading is Review of Matters Raised in Prior Year Management Letters That Have Been Addressed. So this is the area where, as you gave evidence, if a matter was raised in last year's management  
15 letter that has been dealt with by the council, that's where it is recorded.

**MR MEDINA:** It would be our practice to record all the findings that we have identified over a period of time and record the specific point of time during which audit that they had been complete, and we would otherwise generally acquit that in a  
20 management letter.

**MS McDONALD:** The identification of:

"In the last management letter we raised X, and X has been dealt with adequately."  
25 Does that - the evidence supporting that conclusion, does that arise during the audit - the new audit?

**MR MEDINA:** In a general sense, that's correct. We would - we would generally receive information. A council may provide us with additional evidence. They may walk us through a new process that indicates they had dealt with a particular matter that addressed the original concern that we had raised, and we would look at that to the extent of identifying whether the design and implementation effectiveness of what had been put forward by management had otherwise occurred.  
30

**COMMISSIONER:** Are you leaving this document?  
35

**MS McDONALD:** Yes.

**COMMISSIONER:** Just - I think I know the answer to this, but at various times in this document, the risk assessment circles have appeared as variations of a full circle - a half circle or something or otherwise. I assume that's just a printing or conversion to PDF issue rather than signifying a level of moderate risk, for example?  
40

**MR MEDINA:** It wouldn't be our practice to present half circles in that way, so I assume it is a formatting matter.  
45

**COMMISSIONER:** Yes, I thought so. Thank you.

**MS McDONALD:** If that can be taken down, please.

5 **COMMISSIONER:** Yes.

10 **MS McDONALD:** Now, the practice of when a management letter is finalised, this management letter was addressed to the acting chief executive officer. In addition, is a copy of the management letter sent by the Audit Office to other - any other entity associated with the council? In particular, the audit, risk and improvement committee.

15 **MR MEDINA:** It would be our general practice to share this - a completed management letter - that is, a management letter which has been nor of authorised for issue by our engagement controller - with a council's audit, risk and improvement committee. That would be a general practice.

20 **MS McDONALD:** So the practice is to send another copy to that particular committee?

**MR MEDINA:** Yes.

**MS McDONALD:** Could - it's MFI5, and it's document LCC-014-002-1411.

25 **ASSOCIATE:** Do you want (indistinct)

30 **MS McDONALD:** Yes, please. Now, these are the minutes of that committee meeting on 26 February of this year. You can see that there are listed first the committee members present, and there are three names that appear there. I want to take you to the next list of people which is under the heading Observers, and, in particular, in that list, three from the bottom, Ms Lee Director Financial Audit Services NSW Audit Office is recorded.

35 **MR MEDINA:** I can see that's documented on the page.

**MS McDONALD:** Now, I know you are not listed as attending in an observer capacity, but, again, can I ask, on a general level, the person from the Audit Office - and, I'm sorry, is that the audit engagement -

40 **MR MEDINA:** The engagement controller.

**MS McDONALD:** The controller. Is it a usual practice that they are allowed to observe the meetings of an Audit, Risk and Improvement Committee?

45 **MR MEDINA:** I think I can only provide our response at a general level. It would be a generally accepted practice that representatives of the New South Wales Audit

Office would be invited to attend part if not all of an Audit, Risk and Improvement Committee.

5 **MS McDONALD:** Do you know from whom the invitation is made? Is it actually the committee or the council?

10 **MR MEDINA:** I don't know that I'm necessarily able to answer with a specificity, but an invitation would be extended to the Audit Office to otherwise attend. The facts and circumstances behind that invitation for a particular council, they may differ who the invitation is sought by or provided by, whether it's in the terms of reference for that committee that the Audit Office is an attendee. It will be difficult for me to comment with a level of generality, but we would have a reasonable expectation that an Audit Office representative would attend most Audit, Risk and Improvement Committees and be an invited attendee.

15 **MS McDONALD:** I will just briefly show you MFI6, which is LCC.014.002.1412, and if it can be live streamed. I just want to take you to the first page. These are the minutes for 28 April. Again, we have got committee members present, and then a number of observers. Four from the bottom, Ms Lee appears again.

20 **MR MEDINA:** I can see that on the document.

25 **MS McDONALD:** And, again, is that consistent with the evidence that you just gave that as a general practice, the representative from the Audit Office is regularly invited to attend the committee meeting, maybe for a particular part or the whole meeting?

30 **MR MEDINA:** That would be consistent with my general expectation of the practice within the sector.

**MS McDONALD:** Could we go back to LCC.014.002.1411, which was the minutes of the 26 February 2025.

35 **COMMISSIONER:** Is that MFI5?

**MS McDONALD:** Yes, I'm sorry.

**COMMISSIONER:** That's all right.

40 **MS McDONALD:** And can we go to page 0007. Excuse me for a minute. You can see down the bottom of that page, section 7.2 Final Audit Management Letter for the Financial Year 2023-'24.

45 **MR MEDINA:** I can see that on the page.

**MS McDONALD:** Again, does this reflect your expectation or general practice that the management letter that I've taken you to is forwarded to this committee, and there is a consideration by the committee of the contents of that letter.

5 **MR MEDINA:** As a general - as a general - as a generality, we would expect that that to be the case. Without commenting on the particular item that's on the screen in front of me, we would have an expectation that at least our correspondence is shared with the head of the Audit, Risk and Improvement Committee, and we would provide correspondence to them or to the secretariat facilitating that committee. And  
10 if the audit committee was minded to have this as an agenda item, we would obviously speak to it if we were asked.

**MS McDONALD:** So again, at a general level, your expectation if an issue arises, and the committee would be assisted in the Audit Office representative speaking to  
15 them, that can be done?

**MR MEDINA:** That's correct. If in setting the agenda, a particular contribution is sought from the Audit Office, we would otherwise have our engagement controllers or staff available to speak to that item.  
20

**MS McDONALD:** Can we then move to page 008, and you can see if we move down the page, there is a reference to 7.3, 2024 External Audit Engagement Plan. Do you see that?

25 **MR MEDINA:** I can see the title.

**MS McDONALD:** Then if we go to the next page, 0009, the second action item:  
"The committee agreed to have a general catch-up meeting with the Audit Office to  
30 discuss general matters prior to the April 2025 committee meeting."

**MR MEDINA:** I can see that that's documented.

**MS McDONALD:** Again, as you are restricting your answers to general - at a  
35 general level and general practice, is that something that's often done, or that you've come across that the committee would have a general catch-up meeting with the Audit Office?

**MR MEDINA:** It may be that our engagement controllers or audit teams from time  
40 to time meet with chairs or other members of audit committees to discuss matters, to prepare for audit commits, particularly if the Audit Office has been asked to come along and present on a particular item. That being said, our formal business is done in the open session of an audit committee. But it's not uncommon for relationships between members or chairs of audit committees and our engagement controllers,  
45 they are a key part - audit and risk committees are a key part of the accountability process for which we feed in information as part of our financial audits.

**COMMISSIONER:** And is that function of the audit committee the reason why you would expect that correspondence like a management letter would be shared with that committee?

5 **MR MEDINA:** That's correct. I would expect the information canvassed in our management letters is very relevant to the guidance material around what constitutes the functions of an audit risk (indistinct) .

**MS McDONALD:** Excuse me. No further questions.

10

**COMMISSIONER:** Thank you. Does any party wish to seek leave to question Mr Medina? Do you have any questions? Mr Medina, that completes your evidence. Thank you for your attendance and assistance this afternoon.

15 **MS McDONALD:** I'm sorry, your Honour, consistent with my - sorry, Commissioner, consistent with my submission this morning, if Mr Medina could not be excused, just for abundant caution in case a matter does arise subsequently.

20 **COMMISSIONER:** What that means, Mr Medina, is that I won't formally excuse you from further attendance, but someone will be in touch with you, and as soon as we can release you formally, that will happen, and in the unlikely event you need to come back, someone will be in contact with you about that. Otherwise, you are free to go for today. Thank you.

25 **THE WITNESS WITHDREW**

**MS McDONALD:** Commissioner, there is a matter that we wish to raise about the further conduct of the hearing.

30 **COMMISSIONER:** Yes.

**MS McDONALD:** I have raised it with my learned friends. Mr Emmett just wants to have a quick word with me outside of the hearing. We anticipate it will only be a couple of minutes. Could we just have a break for, say, five minutes and -

35

**COMMISSIONER:** Why don't you come back at quarter to, and if you need more time, someone can tell me.

**MS McDONALD:** Yes. Thank you.

40

**COMMISSIONER:** If that is suitable. All right. I will adjourn until quarter to 4.

**<THE HEARING ADJOURNED AT 3.37 PM**

45 **<THE HEARING RESUMED AT 3.46 PM**

**COMMISSIONER:** Yes.



**MS McDONALD:** Thank you for that time.

**COMMISSIONER:** No trouble.

5

**MS McDONALD:** Commissioner, there is an application that the inquiry does not sit tomorrow. The basis of that application is as outlined in counsel assisting's opening yesterday, there were a number of summons that had been issued where there had not been compliance or complete compliance. Yesterday, I think late  
10 afternoon/evening, there was compliance, or at least partial compliance, with those outstanding notices to the extent that many documents have now been provided to the inquiry assisting team, and, in addition, there - we have been notified of some claims for legal professional privilege over some documents where, just looking at the title of the document, we have a question about whether privilege can be  
15 maintained over that document.

The result of that is, as for the approaching witnesses, in particular Mr Nadan and Mr Portelli, these additional documents we anticipate are relevant, and some of them will need to be put to those witnesses. I'm trying to avoid the circumstances where a  
20 witness is not excused and then has to be recalled, which we would like to avoid. We would seek for the hearing - for the public hearing not to sit tomorrow, so we can review those documents, discuss any documents over which there is an LPP claim where we want some clarification about that, and then for the public hearing to resume on Thursday.

25

**COMMISSIONER:** Resume with?

**MS McDONALD:** Again, this was part of the reason for the quick break.

30 **COMMISSIONER:** Yes.

**MS McDONALD:** About availability of witnesses.

**COMMISSIONER:** Yes.

35

**MS McDONALD:** We would call Mr Portelli on Thursday.

**COMMISSIONER:** Yes.

40 **MS McDONALD:** And then on Friday, we would deal with Mr Tim Pasley who deals with the Croc and also questions of the circular economy.

**COMMISSIONER:** Yes.

45 **MS McDONALD:** And also Mr Sheldon Rodricks, who again is looking at some interaction between councillor and staff in respect of a matter raised by constituent.

**COMMISSIONER:** And Mr Portelli will be most of Thursday, you anticipate.

**MS McDONALD:** Yes.

5 **COMMISSIONER:** Right. And how does that place us in terms of the overall hearing block? I know where we are but two days in, bearing in mind we get kicked out of here on the last day, but you are comfortable that that can be accommodated within the current sitting days?

10 **MS McDONALD:** I'm sorry, I'm just looking at - yes.

**COMMISSIONER:** All right. Does anyone wish to be heard on the application? Does it pose you any difficulty, Mr Emmett?

15 **MR EMMETT:** No we are grateful to counsel assisting for accommodating witnesses' availability in that proposed amendment to the order of witnesses.

20 **COMMISSIONER:** Yes. It doesn't pose anyone else any difficulty? All right. Look, for the benefit of those who are watching, in inquiries like this, these things happen, and what happens in the hearing room is only a part, and in some ways a smaller part of the overall machine. There is much to do outside of the hearing room, and if all counsel are satisfied that it can be accommodated within the hearing block, I'm satisfied that it is an efficient use of time not to sit tomorrow.

25 Just moving forward in scheduling things, there is vast amounts of experience at the bar table. If amongst you you want to discuss matters like this and then raise them with me as we go along, I'm happy for that to occur as we go to ensure it's efficient. And we can use most of the time we have. So we won't sit tomorrow. We will resume - adjourn until 10 am on Thursday. All right. We will adjourn until 10 am on  
30 Thursday.

**<THE HEARING ADJOURNED AT 3.50 PM**