

INQUIRY UNDER SECTION 438U OF THE LOCAL GOVERNMENT ACT

CENTRAL COAST CITY COUNCIL

Public Hearing

Conducted via Zoom videoconference

On Tuesday, 12 October 2021 at 10am
(Day 8)

Before Ms Roslyn McCulloch, Commissioner

1 THE COMMISSIONER: Good morning, the public hearings into
2 Central Coast Council are now resumed. Our first witness
3 today is Mr Carl Millington.

4
5 Mr Millington, could I ask you to come on camera and
6 off mute.

7
8 MR MILLINGTON: Thank you, Commissioner.

9
10 THE COMMISSIONER: Thank you. Now I can see you.
11 Ms Annis-Brown, would you please swear in Mr Millington as
12 a witness?

13
14 <CARL MILLINGTON, affirmed: [10.00am]

15
16 <EXAMINATION BY THE COMMISSIONER:

17
18 THE COMMISSIONER: Q. Now, you were a member of ARIC,
19 the council's audit, risk and improvement committee, since
20 its inception?

21 A. Yes, that's correct.

22
23 Q. What's your professional background and
24 qualifications?

25 A. So I am a practising chartered accountant, have been
26 for over 40 years. I'm a member of the Chartered
27 Accountants Australia and New Zealand. Other memberships
28 and experience: a member of the Institute of Internal
29 Auditors; I'm a fellow of the Governance Institute of
30 Australia; I'm a member of the AICD; and I'm a registered
31 company auditor.

32
33 As far as experience I've had over 40 years experience
34 dealing with local government in New South Wales, primarily
35 in New South Wales, from an audit, advising, consulting and
36 training perspective.

37
38 Q. So you are well versed in the problems and hiccups
39 that councils can experience?

40 A. Unfortunately, yes.

41
42 Q. What role did you see ARIC having in relation to
43 Central Coast's finances?

44 A. As far as their finances were concerned, the - okay,
45 so the committee has a reasonably broad-ranging
46 responsibility. We were scheduled under the charter and
47 pretty much industry expectations to meet on average four

1 times per year, but then we had an additional meeting at
2 least once a year to review the annual financial
3 statements, which was probably - that was the only agenda
4 item, normally the only agenda item at that time. So as
5 far as the financials, that was pretty much our involvement
6 with the financials of council.
7

8 Q. So it was an after-the-event supervision of the
9 accounts prior to them being audited?

10 A. It depended on the timing of the delivery of the draft
11 financials. So it could vary. Sometimes we got to see
12 draft financials prior to them being audited. In most
13 cases we would see them after they were audited when we
14 were reviewing the external audit reports on the conduct of
15 the audit, yes.
16

17 We tried - from a better practice point of view we
18 tried to have at least some input and oversight to the
19 preparation of the financial statements to make sure that
20 we were satisfied that what we were putting up for audit
21 was, from our perspective, which was reasonably limited -
22 from our perspective were appropriate.
23

24 Q. So you didn't have the ability to examine the accounts
25 in detail, the ledgers; you were more looking at it from an
26 oversight point of view?

27 A. Absolutely. Despite my professional background,
28 I didn't have the opportunity to go through and do the
29 audit of the financials. The audits take months and the
30 auditors are there full time with a team of people.
31

32 No, our objective was really to at least look at the
33 financials, satisfy ourselves that they appeared to comply
34 with the accounting standards that were current at the
35 time; ask management if they'd had any problems, you know,
36 with completing the financials, as far as any new
37 accounting standards that may have been applied during the
38 year that may have impacted on the financial statements;
39 and then, later, to have meetings with the - we'd have
40 a meeting and the Audit Office of NSW would attend. We
41 would also have an in camera meeting with the audit office
42 to discuss any issues that they had with regard to the
43 audit process, any concerns they may have had with regard
44 to the audit process, and we made sure we did that each
45 year.
46

47 Q. Did you have any knowledge at any stage prior to 2020

1 of the change to the accounting practice that was made in
2 the 2015/16 financial statements for Wyong and Gosford
3 councils?

4 A. No. No. Wyong and Gosford councils, the audit and
5 the financial statements were all done before the
6 establishment of the Central Coast ARIC.

7
8 Q. But that practice was carried through into the Central
9 Coast accounts, was it?

10 A. Well, not having looked at it closely as to what they
11 did prior to 2017, I'm not sure that I can say whether the
12 practice was carried forward or not.

13
14 Q. Okay. Were there ever any matters that came to your
15 attention on the committee that caused you concern for the
16 financial stability of the council?

17 A. No, not the financial stability of the council.
18 I mean, the - the audit, risk and improvement committee,
19 despite its name, doesn't just look - you know, worry about
20 audit. We had a really wide-ranging list of issues,
21 particularly for a newly merged council, and risk
22 management was one; the internal audit process and trying
23 to improve, that was one.

24
25 The only opportunity we had to really see the
26 financials was when we reviewed them prior to audit or
27 after audit. From a personal point of view, and bearing in
28 mind that we operate as a committee, not as individuals,
29 but with my professional background, I did take the time to
30 go through and look at the financials each year.

31
32 Bearing in mind that the general purpose financial
33 statements of council are a consolidated set of accounts,
34 everything we saw each year presented as though it was
35 okay. There was ample cash, there were assets, there were
36 liabilities, all the normal things. The ratios seemed
37 okay. There was nothing in those first few years that
38 would sort of suggest to you, hey, we need to look a bit
39 deeper here.

40
41 Realistically, on the basis of those annual financial
42 statements, up until 2020, despite a few audit issues and
43 a few delays in completion, the actual financials didn't
44 present as though there were concerns about financial
45 management.

46
47 Q. So you weren't overly concerned that the council

1 adopted deficit budgets for a couple of years, were you?
2 A. Well, we didn't get to see the budgets when they were
3 being adopted. The first time we would get to see the
4 budgets would be probably when we reviewed the annual
5 financial statements because they do include the budget and
6 then we do a comparison of their performance against the
7 budget.

8
9 I am now aware that there were what you'd call deficit
10 budgets. If I had been asked at the time, I probably would
11 have not been overly concerned on a short-term basis,
12 because, at times when you're trying to rebuild, or if
13 you're trying to do things, sometimes you have to go into
14 deficit.

15
16 My review of the financials each year always indicated
17 to me that we have an operating result that was a surplus
18 before capital grants; well, it was a surplus, and then
19 when you take the capital grants out, there was a couple of
20 years that there was a deficit. But the budget for each
21 year - I think from memory the budgets, when we looked at
22 the financials, were reasonably in line or there were valid
23 explanations as to why there was a deviation from the
24 original budget, bearing in mind that the budget that is
25 disclosed in the annual financial statements is the
26 original budget that is adopted by council.

27
28 During the year, through the quarterly review process,
29 those budgets can be amended, they can be changed to
30 address circumstances that have changed or new events. So
31 what is presented in the financial statements is the
32 original budget, so therefore there's detailed explanation
33 in the financial statements as to the deviations from that
34 budget.

35
36 Q. Yes. So you weren't privy to, say, the monthly
37 investment reports that were provided to council?

38 A. No, not then, no.

39
40 Q. The Q reports - the quarterly financial reports?

41 A. The quarterly budget review statements, no. They
42 weren't - they actually weren't presented to ARIC. My
43 recollection is we didn't get to see them, no. No, not the
44 quarterly reports.

45
46 Q. You mentioned before the internal audit. Can you just
47 explain to me what that function is - that is also not

1 a purely financial function?
2 A. No, the internal audit is parlance used by the
3 Institute of Internal Auditors. The internal auditors
4 represent the third line of defence in an organisation when
5 it comes to internal controls, risk management, et cetera.
6 So the internal audit function within council was
7 reasonably broad ranging. It had concern about operations;
8 it had fraud concerns; it had compliance concerns - I'm
9 saying "concerns"; these were issues that they were looking
10 to address. So the actual internal audit program didn't
11 focus just on financial matters. It was looking at a whole
12 range of other matters.

13
14 The issue with Central Coast Council also that you
15 can't overlook is it's a very big, sophisticated, complex
16 entity. The internal audit function there, therefore, had
17 to get across a whole range of different things. So there
18 are a whole lot of issues. So, no, they didn't just look
19 at financials. In fact, it was probably a very, very, very
20 small part, if any.

21
22 Q. So the primary financial audit was by the external
23 financial auditors?

24 A. From an audit perspective, the external auditors, yes,
25 I suppose that's correct in what you're saying. But the
26 external auditors are tasked with forming an opinion
27 whether or not the financial statements comply with an
28 accounting framework that's described in the notes.

29
30 As part of that process, one is the auditor needed to
31 go through and ensure that this is - you know, they say,
32 "This is what we've done", and the audit then says, "Yes,
33 okay, you've done it in accordance with what you said you
34 were going to do or should be doing." Also to confirm the
35 existence of the valuation of assets and liabilities and
36 incomes and expenses.

37
38 So the external audit run an eye over the annual
39 financial statements but they don't - they're not there
40 looking at the operational aspects on a day-to-day or
41 week-to-week basis. So it's really only that external
42 annual financial statement that they look at.

43
44 Q. So the keeping the eye on the accounts is the internal
45 finance department of the council, is it?

46 A. Better practice would suggest that you have sufficient
47 guidance, regulations and expectations in a council that

1 you would have sufficient experienced staff involved who
2 would be aware of what the responsibilities were and you
3 would have a situation where your finance team would be -
4 you know, from the bottom up, would be processing the
5 transactions, and then as they get more senior, they would
6 be analysing the transactions, reporting the outcomes,
7 reporting up to senior management, who then report it to
8 council.

9
10 So the expectation would be that there is ample scope
11 within regulations and legislation that would require
12 a whole range of things to do, which is things like you've
13 already talked about: the investment report must go to
14 council each month; the quarterly review statements 1, 2
15 and 3 must be done within two months of the end of the
16 quarter and presented to council. So there's a lot of
17 things that are required of the team and of management and
18 of council themselves.

19
20 Q. Prior to 2020 did you have any knowledge that
21 restricted funds were being used for non-restricted
22 purposes?

23 A. No. It was - I'm trying to think of the date.
24 I think it was 27 June or 17 June - I can't remember the
25 date, the actual day. It was June 2020 we attended a - we
26 had an ARIC meeting and it was really - to say we were
27 blind-sided is one phrase. I have to say - I must admit
28 I sat there a little bit incredulous at some of the things
29 that we were being told, and we had a presentation by
30 another accounting firm as well, as to the situation.

31
32 But the suggestion - at that time, it was the
33 suggestion that that might have been the case; it wasn't
34 until later on that, after DMB Consulting came in and did
35 some analysis and said, "Well, hang on a tick, they have
36 been using" - "unlawfully", I think was the word, "using
37 restricted funds."

38
39 So, no, we had no - until 2020, be it June or October
40 or September, whenever it happened, we had no idea that
41 that was happening. And there was nothing - the other -
42 the only - when it did come up, I mean, our point of view,
43 was when looking at reviewing the 2020 financial
44 statements, when we got a chance to look at it technically
45 and say that it didn't make sense to have negative
46 unrestricted cash. But prior to that, we had no idea.

1 Q. And you didn't have any idea when it had started, or
2 you did later?

3 A. Yes, we - look, to be really honest, I mean, I'm not a
4 hundred per cent sure that we know when it did start. If
5 you look at the short period of time, the two councils were
6 amalgamated back in 2016, the first financial reporting
7 period was the June 2017. It wasn't until 2020 that we
8 became aware of this issue. But then council engaged -
9 they had, and I can't remember who was doing what but
10 they've had a number of different specialists, different
11 consultants coming in and trying to sort through and work
12 out when it did start and what the ramifications were.

13
14 Later in 2020, after probably October, late October
15 and November, when ARIC did get involved and we had
16 a chance to start looking at things, there were a whole lot
17 of questions about the interaction between, you know,
18 water, sewer, drainage, the water supply authority, and
19 probably some confusing messages coming out of one set of
20 financials compared to another set of financials because
21 they're prepared for different purposes.

22
23 But I still don't - I still, despite everything we're
24 told, I'm still not a hundred per cent sure in my own mind
25 that we know when it started, how it started. I can guess
26 how it might have started but we've got no indication.

27
28 Q. So the first time that the councillors might have had
29 an inkling would have been when, in November 2019, the
30 format of the investment report changed?

31 A. I can only answer that question on the basis of
32 reviews I've done in the last week or two. I can't answer
33 that question in respect of what we as a committee did.

34
35 I think what you're referring to is it was November
36 '19 that the investment report showed negative unrestricted
37 cash, or in fact it didn't show - I think, from memory, it
38 showed that restrictions exceeded total cash, which is the
39 same story. But to be fair, my recollection of that is
40 that that investment report for November and December
41 wasn't presented until February 2020. So if council were
42 aware, and if they had read it and had understood what it
43 said, then it would likely have been February 2020 that
44 they may have had an inkling that maybe it's not quite
45 right. But --

46
47 Q. I might have misled you there. I think it was October

1 2019 when the line item "Unrestricted cash provision" was
2 removed from the report?
3 A. Yes. I mean, I saw that after, you know, listening to
4 some of the comments being made. I had a look at that.
5 What appeared to me to happen is that when it got to the
6 stage where unrestricted - or where restrictions exceeded
7 the amount of cash, there wasn't any unrestricted, so, you
8 know, they just took it out - I'm assuming it was taken out
9 because if you get to there and you've got, you know, \$100
10 of cash but \$120 of it's restricted, you don't have any
11 unrestricted. But then that's another technical issue.

12
13 Q. But from a good practice point of view, wouldn't it
14 have been incumbent on people to inform the councillors
15 that that situation had occurred at that point?

16 A. In my professional opinion?

17
18 Q. Yes.

19 A. I believe it's incumbent on management to raise issues
20 to the councillors, particularly where there's a potential
21 breach of a regulation or something that's not being - my
22 personal view, professional view, is that it's not good
23 enough to just write a report if you don't bring to the
24 attention of the regulator - well, not the regulator, but
25 to the attention of the governing body, the impact of that.
26 I think that's just falling short of being responsible.

27
28 Q. Now, did ARIC have a role, then, in assisting the
29 council to get back on track after the revelations of June
30 and then September 2020?

31 A. Yes, we did. We had - I mean, as I said before, our
32 charter provides that we meet at least four - well, meet
33 quarterly and once for the financials.

34
35 In the 2020 year we had numerous meetings,
36 discussions, phone calls. I know that the Office of Local
37 Government communicated with the then chair of ARIC.
38 I know that the - I think, from memory, the Minister for
39 Local Government may have communicated directly with the
40 chair of ARIC. I know the council, prior to their
41 dismissal at the end of October, sought to become - or to
42 seek more advice or wanted to know how we could help, and
43 we - yes, I do remember there was one meeting we had that
44 we agreed that, okay, we will meet fortnightly, just to
45 discuss progress, see how they were going and to add value
46 wherever we could and provide advice wherever we could at
47 that stage.

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After the council was dismissed at the end of October, I think it was, we continued with that, but it changed slightly because we had new people. We had Dick Persson and Rik Hart came in. Natalia was there as well trying to, you know, pull it together.

I do recall at one stage the ARIC members had a discussion, and we used to have discussions all the time outside of meetings and that. We had a discussion about, look, we feel we should still be pushing the point of being available to help but we sort of were bordering on a feeling we may have been a nuisance to them because we kept wanting to meet and say, "What can we do? What can we do to help?"

So we were a bit concerned about that. But we - you know, we persisted with it and I think, to be fair, they were reasonably effective meetings in that we had, you know, an administrator, an interim general manager or CEO and we had a new CFO. I think having the experience that we had, both John Gordon and myself from a finance point of view, and Dr Col Gellatly from his experience, I think it added something to them, it gave them an extra sounding board, was the impression that I got, at least a view that I formed.

Q. The charter of ARIC was amended in September 2021, I believe.

A. No, I think it was effective from July '21.

Q. You might be right. Yes, it was, sorry, April 2021, to expand on the financial oversight role of ARIC.

A. Yes.

Q. Was that instigated by the ARIC members or how did that come about?

A. No, it was instigated by - I'm not sure whether it was council or management. It wasn't instigated by ARIC. It might have been management, governance, or something. Yes, I'm assuming it was pretty much a reaction to the situation and circumstances that arose.

The only - not the only, but one of the concerns that ARIC had at that point was if they were to go too far with the financial management obligations and requirements, we then start to become more like a finance committee, and

1 then it changes the whole way it was meant to work and the
2 oversight role and all the rest of it, so we were a little
3 bit cautious about that. But, you know, I don't see it as
4 a major problem.

5
6 I mean, I think one of the discussions that we have
7 had and what's happened over the years is, you know,
8 Central Coast Council came together back in '16 and there's
9 been a whole evolution, a whole lot of change and all the
10 rest of it. The same thing applies to ARIC. ARIC started
11 back in 2017 and it continues to evolve and it will
12 continue to evolve into the future. I mean, examples of
13 that are, if you were to look at the agendas of meetings
14 back in 2017 compared to the agendas of meetings we have
15 now, they're significantly different and in my personal
16 view, and I hope the committee's view, are significantly
17 enhanced on how we used to try and interact with management
18 and with the council.

19
20 The lessons learnt out of this whole thing are also
21 starting to be represented in some of the requirements
22 that we have. So, for example, you have touched on
23 investment report and the quarterly business review
24 statement. So we, you know, or most of us at least - when
25 you say "most of us", I'm referring to those group of
26 people, professionals, who are involved in ARICs across the
27 state - are starting to learn that there are additional
28 things that we need to push for and there has to be - you
29 know, there are other areas and other things we can ask for
30 and we can do.

31
32 We have oft said that part of the limitation that we
33 have is that because we are so heavily dependent upon
34 information provided to us for the meetings, we are only as
35 good as the information we get. So it makes it difficult
36 to then - as we say in audit language, it's easy to audit
37 what is there; it's very hard to audit what's not there.
38 So it is one of those things that we are very dependent
39 upon the quality and the timing of information that's
40 provided to us.

41
42 One of the issues, I suppose, on that point that we've
43 had in this particular case is that the constant turnover
44 of key personnel in the organisation made it very difficult
45 for the organisation and for ARIC to get traction.

46
47 Q. Was that just in the finance section or was it

1 including the general manager?
2 A. The whole thing. The whole thing. From an
3 organisational point of view, the amount of disruption that
4 occurred makes it very hard to get that stability. If you
5 are trying to get - I mean, I'm trying to think how many.
6 I think from our point of view we dealt with something like
7 seven CEOs in the period - I mean, a couple of acting and
8 all the rest. That amount of churn and the change with
9 CFOs, CIOs, governance people, it impacts on the stability,
10 the traction that we get as ARIC, but it has far, far worse
11 impact on the organisation.

12
13 We struggled a little bit, to be honest, at times when
14 we would turn up to a meeting and it would be, "Oh, we have
15 a new governance officer", or, "We don't have a CFO at the
16 moment", things like that which made it very difficult.
17 Then we had a period where the internal auditor was off
18 sick for months.

19
20 All of those things have a destabilising effect.

21
22 Q. And what for the future? Do you feel confident that
23 things can get back on track now?

24 A. Absolutely. I think there's - I mean, there's a lot
25 of talk or has been a lot of talk about, for example,
26 a demerger. The phrase often used to describe that is like
27 trying to unscramble eggs. It's almost difficult to do.
28 I think if there was - if everyone gets together and has
29 a concerted effort on making it work and looking to the
30 future and looking after the community and putting them
31 first, then okay, it's got a chance to work.

32
33 Internally, from an ARIC point of view, we're growing
34 in confidence that there is hopefully - and we have been
35 through this a few times, so we'd have a general manager
36 for a couple of meetings and then we'd think, "Okay." Then
37 we get a new general manager and we say, "Okay, we'll give
38 him a bit of time to bed in", remembering we only meet four
39 or five times a year, so it's sort of - a year goes very
40 quickly when you're only meeting someone four times. So
41 you bed them in.

42
43 But we are very confident - I am, at least, very
44 confident at the moment that we have a general manager who
45 appears to have a pretty thorough understanding of the
46 industry. We have a general manager who is prepared to get
47 in there and present a view and take action, to the

1 extent - I mean, I've had a couple of conversations with
2 the new general manager/CEO. The first one was about - we
3 had a lengthy, you know, I think it was an hour and a half,
4 two-hour discussion about the effectiveness of ARIC, how we
5 could work better together and, you know, what he was
6 looking for, what I was looking for.

7
8 So I see that continuing, and if we - and I think my
9 personal view, and I think the committee probably share it,
10 one of the inhibitors that we've experienced, besides the
11 disruption and the change and the churn, one of the
12 inhibitors has been a little bit of - I have never, ever
13 felt that we've had that strong working together
14 relationship, you know, with management. We had not a lot
15 to do with council itself, the elected representatives,
16 probably because we had two councillors on the committee,
17 which I would have thought would be the conduit back to
18 council.

19
20 Yes, we were provided with information. Was there
21 a consistent, considered intent to engage with the
22 committee? I'm not sure that there was. You know, at
23 times you'd feel like there'd be some people presented
24 reports going through the motions. Again, that's
25 a maturity thing, I think.

26
27 Q. Has that changed at all?

28 A. I think so. I think, as I said, the new CEO has
29 a different approach, a bit more assertive, more prepared
30 to speak up, more prepared to become engaged, more prepared
31 to offer.

32
33 We've also changed a couple of things with the ARIC
34 meetings. So we provide now - for example, the CEO at the
35 start of each ARIC meeting provides us with a 10-minute, or
36 however long it takes, update, just general update on
37 what's happening. It could be financial; it could be
38 community based; it could be new projects; it could be
39 whatever he feels is appropriate to inform us. So that
40 sets the tone a bit more.

41
42 I think at the moment with - Rik Hart appears to be,
43 intends to be, a bit more engaged as part of what we're
44 doing.

45
46 We've got Natalia. Natalia is - I don't know if she's
47 the longest serving CFO, probably not at this stage, but it

1 feels like it because we've met her so many times. We've
2 probably met Natalia more times over the last however long
3 she's been there than we did with all the others, just
4 because of the frequency.

5
6 But indications are that, you know, the information
7 is coming. They're doing things like providing monthly
8 financial information now, and they are meant to send
9 a copy to us as well as to the Office of Local Government.

10
11 Q. To ARIC now?

12 A. Yes. We asked for that. When it was - the Office of
13 Local Government requested that they send it to them and we
14 at the time said, "Well, you know, if you've prepared it,
15 why don't you send it to us too." So they do that and they
16 get a bit bogged down at times but, I mean, that's
17 a change.

18
19 I think a lot of effort has gone into reducing
20 expenditure and trying to set assets and all those sorts of
21 things. My only personal concern is that the cost of
22 focusing on fixing the financial issues has to be carefully
23 balanced against the impact on the community. That's the
24 only thing that I was worrying a little bit about.

25
26 So when you ask me do I think that it's going to
27 improve, I think yes, it is. I do believe that the Central
28 Coast Council and the Central Coast community can work
29 together, so from what we have seen, as long as we get the
30 harmonisation right, get rid of the north/south mentality
31 and terminology and start thinking as an entity not
32 a couple.

33
34 Q. Have you seen any evidence to date of the community
35 suffering as a result of the measures that have had to be
36 taken?

37 A. Oh, look, only what I have heard second-hand. I mean,
38 I don't live in the Central Coast and I only occasionally
39 travel, and obviously of late I haven't travelled anywhere
40 outside my own LGA. I've heard - I have friends and
41 relatives who live in the area. Comments are made.
42 I suppose at times most of the comments that have been made
43 to me I find somewhat frustrating. A lot of them come from
44 lack of understanding of the facts behind the situation.
45 My uncle shaking his head and saying, "How could they take
46 on that much debt", and I just said, "well, what did you
47 expect they were going to do?"

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Q. Well, it is a topic that has come up because a number of councillors have said that they didn't understand that the prior councils carried debt into Central Coast, but that information was available in the final accounts of each of those predecessor councils, was it not?

A. Look, my understanding of it is that neither Wyong nor Gosford carried what I deemed to be excessive amounts of debt. When I had a look - and, as I said, I've had a look in the last few weeks or month or so, I've had a chance to go through and do a bit of digging around just so I get my own head straight at what have I missed, if anything.

When you bring together a \$10 billion organisation, you cannot reasonably expect there would be no debt. There would be very few councils in New South Wales who have no debt. It's just a fact of life. And every presentation I have ever done to a council, when they say to me, "We are aiming to be debt free", I think that's admirable, however, if I ran my personal finances that way, I would live in a tent because I can't afford to pay cash for the house I live in, I have to borrow the money.

So you've really got to balance out what the expectations of the community are with your capability to service the debt. My personal opinion is the amount of debt brought forward wasn't that significant. The cost of servicing it was not that significant. And in the first few years of council's existence, my recollection is they were reducing the debt each year.

To me, the debt wasn't the problem. There were other issues that were the problem and the issue - I've even had people say to me, "How can they lose that sort of money?" I think I don't know that they have lost that much money because every year that I have looked at, if I take depreciation out or if I take written-down assets, if I take out just normal things that one would take out when you are doing a financial analysis, they have generated surplus cash every year.

The problem is where restrictions come into play and that, to me, is where the confusion is and that's where there is the lack of understanding and there's the inconsistency between two entities, being the council and the water supply authority, and the treatment of certain things, which causes confusion. But it doesn't change the

1 fact that if all the money is in one bank account and you
2 know, as a finance professional, that maybe you shouldn't
3 touch it, then you've really, really got to think carefully
4 about what you are doing and why you are doing it.

5
6 Q. Do you think there are sufficient controls in place
7 within the council now to avoid that happening in the
8 future?

9 A. Now, I would like to think there are. I think the
10 discussions that we have had with the finance people, the
11 discussions we've had with the CEO, the focus on it, the
12 knowledge of the situation, even the administrator - all
13 very much aware of it, all very much focused on resolving
14 the issue and trying to balance that out again. So I think
15 there are more controls or more focus on - maybe not so
16 much more controls. I think more focus on the issue is
17 probably the more accurate way to talk about it.

18
19 The controls, theoretically, probably exist as far as
20 the requirements under regulations and legislation. They
21 do when it comes to "Thou shalt not spend restricted cash
22 unless it's for the purpose" - but I think the focus on it,
23 the fact that people are aware of it, understand the
24 ramifications of it. Hopefully in the future, with better
25 cooperation and collaboration between members of the ELT,
26 the council, the management and even ARIC, I think - I feel
27 confident that it's not likely to happen again.

28
29 Q. Have you had an opportunity to look at the report of
30 the audit office in 2021? I will just get the date.

31 A. Which report? Are you talking a performance audit
32 report or are you talking the audit report on the
33 financials?

34
35 Q. I will just get the name of that. It is the Audit
36 Office Report on Local Government 2020, I think. It
37 included as an appendix an advice from the New South Wales
38 Crown Solicitor about the treatment of or the accounting
39 practices --

40 A. Yes, yes.

41
42 Q. What's your view on the way funds collected under the
43 Water Management Act ought to be treated - just as an
44 accountant?

45 A. I'm not going up against the Crown Solicitor or any
46 other legal advice, Commissioner. Just give me a little
47 bit of slack there.

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I have a personal view on it. I think, from memory, Central Coast Council is the only council in the state that has this combination of a water supply authority which is regulated by IPART and the Local Government Act. So it is very clear in my mind that from the local government point of view under the Local Government Act, the financial statements should disclose - well, I'll go back a step.

The Local Government Act provides that there is one fund, not general, water, sewer. That's not provided for under the Local Government Act. That has crept in again.

However, any money that is raised by external parties or nominated, such as if it's water services, sewer services, domestic waste management services, drainage services, developer contributions, there is deemed to be an external restriction on the use of those funds, and that is that those funds can only be used in those areas that they were raised. That's reasonably clear in my mind.

When you go to the water supply authority Act you have drainage, water and sewer operations in there. They take the same approach as the consolidated fund of council - that is, they say that there are some funds that they have which are restricted by external obligations and there are some funds that they have which aren't restricted by external obligations. So they refer to them as being unrestricted within the water supply authority.

My personal opinion is that it is not appropriate to then add one to the other and say that whatever is unrestricted in water supply can be unrestricted in the council. They are two different purposes, two different pieces of legislation.

In my view, and when I have audited councils who have water and sewer and all of those things, I've been very adamant that if it is water and sewer and it is in the council, it is restricted. Simple.

Q. So is Central Coast the only council that has that particular problem, characteristic?

A. As far as I'm aware. As far as I'm aware it is, and it's because of the conflict between - and some people would argue that there really isn't a conflict because the financial statements prepared under the water supply

1 authority are - that's for that purpose. But the same
2 information is also included in the consolidated accounts,
3 financial statements of the council.
4

5 The problem is you have - part of the problem,
6 I think, is we've got a governing body that's having to
7 sign off on one set of financials which does things one
8 way, another set of financials which consolidates all of
9 that information but should treat it slightly differently,
10 and then they also have special purpose financials which
11 treat the same information again, but they don't eliminate
12 some of the interactions in the special purpose, so that
13 they may not agree with what's in the consolidation.
14

15 I defy anyone to run an eye over it, who is not
16 a practitioner with 40 years' experience or whatever --
17

18 Q. Thank you.

19 A. I would seriously believe it is difficult for anybody
20 who is not trained in the accounting concepts to grasp all
21 of those things.
22

23 Q. Thank you, Mr Millington. That has been really
24 useful. I don't have any further questions for you.
25 I will just check with Ms Annis-Brown.
26

27 MS ANNIS-BROWN: No questions, thank you, Commissioner.
28

29 THE COMMISSIONER: Thank you. And Ms Bulut, do you have
30 any application?
31

32 MS BULUT: No application, thank you, Commissioner.
33

34 THE COMMISSIONER: Q. Thank you very much,
35 Mr Millington. That concludes your evidence. Did you want
36 to add anything before you go?
37

38 A. No, I think I look forward to the outcomes and then at
39 a later date I would be happy to discuss some other ideas
40 I have that may move to address some of these issues, but
41 they are accounting related so I won't bore everybody with
42 the accountants' talk.
43

44 THE COMMISSIONER: Thank you very much, Mr Millington.
45

46 <THE WITNESS WITHDREW
47

THE COMMISSIONER: It is 10.43. Our next witness is

1 Mr John Gordon at 11.20. We will resume then. Thanks.

2

3 SHORT ADJOURNMENT

4

5 THE COMMISSIONER: The hearing into Central Coast Council
6 will now resume. Mr Gordon, I see that you are there.
7 Would you be able to come on camera and off mute, please.
8 Thank you.

9

10 MR GORDON: Good morning, Commissioner.

11

12 <JOHN GORDON, affirmed: [11.20am]

13

14 <EXAMINATION BY THE COMMISSIONER:

15

16 THE COMMISSIONER: Q. Thank you, Mr Gordon, and thanks
17 for joining us today. You are a current member of ARIC and
18 you were a member since its inception?

19 A. Yes.

20

21 Q. What's your professional background and
22 qualifications?

23 A. Commissioner, before I proceed with my evidence, could
24 I just clarify a point of protocol with you?

25

26 Q. Certainly.

27 A. During the proceedings, at least two organisations
28 have been named and one individual has been named that
29 I have had a present or past association with. It may well
30 come up in the evidence I give, but I thought it might be
31 better if up-front I made a disclosure of interest so that
32 I'm absolutely transparent about my past relationships.

33

34 Q. Certainly?

35 A. So just for background, Commissioner, I worked with
36 the firm of Coopers & Lybrand, who eventually merged with
37 Price Waterhouse in 1998 to become PricewaterhouseCoopers
38 and who are now called PwC. So we're talking about
39 mergers. That was the largest professional services firm
40 merger in the world, an international merger. So I know
41 what it's like to go through a merger and have a bit of
42 sympathy with council and their staff.

43

44 So the reason I tell you that is that the auditors of
45 Central Coast Council, up to I think it was 2018, were PwC
46 under contract from the Audit Office of NSW. Prior to
47 that, they were the auditors of Wyong council for a number

1 of years and prior to that, off and on, I think they were
2 the auditors of Wyong for about 20 years and Gosford for
3 probably 40 years. We had it for a long time, we lost it,
4 we got it back and we lost it again.
5

6 The reason for disclosing that is that I was on the
7 audit team. I had a specialisation in local government as
8 well as commercial sector, and I worked on both audits.
9 Prior to my retirement from PwC in 2008 I was actually the
10 signing partner for some of the years leading up to 2008
11 for Wyong.
12

13 You were talking about the water authority. Then we
14 were responsible for consolidating the two water
15 authorities' water and sewer funds from Gosford and Wyong
16 and producing the water authority accounts, which were,
17 back then, audited by the auditor-general. They were not
18 audited by PwC. So just to give you that background.
19

20 There were comments about PwC preparing the accounts,
21 the change in the accounting treatment. So just to be
22 aware that I was with PwC, I no longer am, from 2008.
23 I had nothing to do with the preparation of the financial
24 statements for 2016. So that background.
25

26 The next point is that the audit office are the
27 auditors for all councils across New South Wales, as you
28 are aware, as they are the auditors for Central Coast.
29

30 I am a member, an independent member of the audit and
31 risk committee for the auditor-general of New South Wales.
32 I was appointed to that by Margaret Crawford, the
33 auditor-general, and I'm an independent member along with
34 two others. Again, it is an advisory committee just like
35 this one is. So just to be transparent about that.
36

37 In that role we're looking at how the audit office
38 operates. We have nothing to do with the day-to-day
39 management of the office. We don't get involved in giving
40 opinions on whether an audit committee report - an audit
41 report should be qualified or whatever. So in that sense
42 I'm not involved with the day-to-day management and I'm not
43 involved in overseeing the audit or in any way of Central
44 Coast or any other council. But just be aware that I'm on
45 their committee and I'm looking at their risk and controls
46 just like we're doing here.
47

1 The third thing I wish to disclose is that a gentleman
2 by the name of Mr Banicevic has been named as having given
3 staff training to the councillors and as also providing
4 professional advice. I met Mr Banicevic when I transferred
5 to our Parramatta office from our Sydney office in 1982.
6 Dennis was a practitioner and he specialised in local
7 government. I did commercial clients, other public sector
8 clients, and local government, but Dennis specialised in
9 local government. So I worked with Dennis on just about
10 every single client PwC had, which was 35 local government
11 clients.
12

13 I worked with Dennis on consulting assignments and
14 they include consulting to the Office of Local Government
15 and they include us working on the code of accounting
16 practice. The one that is now used to prepare the
17 accounts, our firm developed the methodology in Victoria.
18 The Department of Local Government in New South Wales
19 purchased it from Victoria and we helped modify it for
20 New South Wales. So if you like, I've had a hand in
21 developing the methodology that produces the accounts for
22 New South Wales local government.
23

24 So that's the background with Dennis. I worked with
25 him between '82 and 2008, and that's the relationship we
26 had, a professional relationship. I have no business links
27 with Dennis at all but I do see him on clients, he does
28 consulting work, and I'll see him at conferences and
29 training courses.
30

31 So I just wanted you to be fully aware of my
32 background and take that into consideration when you hear
33 my evidence. So if you're okay with that, Commissioner.
34

35 So my background is in chartered accounting and
36 corporate governance. As I've indicated, I have a career
37 of 33 years full time with PwC, PricewaterhouseCoopers, and
38 its predecessor firms. Most of my experience is in the
39 external audit, mainly listed public companies, small to
40 medium-sized commercial organisations, public sector
41 organisations, State Government, and also Local Government.
42 So a fair mix. I've also done internal audit and
43 provided professional advice.
44

45 So that career, I've wrapped that up as - I was
46 a partner, sorry, for 22 years in that firm in our Sydney,
47 Parramatta and Newcastle offices.

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My retirement came at the end of 2008 and then I proceeded to undertake what I'm calling corporate governance work. Since then I've sat on 25 Local Government New South Wales, State Government New South Wales and ACT Government public sector organisations, audit and risk committees, either as a chair or as a member.

Specifically, audit and risk committee experience with local government, I've - in the last 12 years I've sat on 15 New South Wales local government audit and risk committees. And what may be of interest for you in this inquiry is that I've sat on - or actually I've chaired the committees for three merged New South Wales local government councils as well as being on the committee for this council. So I've seen a fair bit of action in terms of the impact of mergers on a council.

So that's basically it in terms of the professional background. Qualifications, I have a bachelor of commerce with honours in accounting and financial management from the University of New South Wales. I'm a fellow of the Institute of Chartered Accountants Australia and New Zealand. I'm also a member of CPA Australia; the Institute of Internal Auditors; the Australian Governance Institute; and the Australian Institute of Company Directors. So I like to pay fees.

That's basically it for qualifications, background and experience. I hope that's enough.

Q. Yes, that's plenty, thank you. I don't know if you have had the opportunity to hear Mr Millington's evidence just before you?

A. Yes. Yes, indeed, I did. I heard Mr Millington. Yes. I've known Mr Millington for a long time.

Q. Perhaps, then, if I can just cut short some of the questions that I was going to ask you.

A. Sure.

Q. Do you agree with his description of the ARIC's role in relation to Central Coast council finances?

A. Look, in overview I agree. It depends what you mean by "finances", but in terms of - if you're talking finances in terms of what's happened and the management of cash flow and budgets, I would agree entirely with Carl. Our

1 oversight is over the entire operations of council. So it
2 as an audit and risk committee, as the name suggests, we
3 look at audit, which is internal audit and external audit.
4 That doesn't mean we're doing the internal audit or the
5 external audit, but it means we're oversighting those
6 functions. We have to be very clear about that. We are
7 oversighting, we don't get involved.
8

9 As Carl has mentioned - I'm an ex auditor, he's
10 a current auditor - it's very tempting to reach in and
11 start getting involved and reviewing the financial
12 statements and making comments. We do review them, we do
13 provide feedback, but we are not part of the process.
14

15 In terms of financial management and day-to-day
16 financial management, that is covered under risk. We have
17 an oversight of risk. So if you can manage the risks
18 facing a typical organisation, there is probably 150 risks
19 if we made a list of them. One of those risks could be
20 financial sustainability. Every council has that on their
21 risk register. So that's what we're talking about here:
22 is this council financially sustainable? We have to be
23 aware of that risk and we think, "Well, what are we doing
24 to control that?"
25

26 The other risk is compliance, which I think is
27 a factor here as well. So compliance risk, we're talking
28 about complying with legislation. You would be aware,
29 there's probably 120, 150 Acts, if not more, that would
30 relate to local government operations. So our oversight
31 simply put is: are we comfortable that there is a risk
32 management framework that manages all risks associated with
33 council, including compliance risk, to take those two
34 examples.
35

36 So, yes, we are concerned about it, but we don't get
37 involved in detail. So if you cut to the point and say,
38 "Right, what are the risks here? Was there a compliance
39 risk, as to" - yes, because based on legal advice, someone
40 has unlawfully misused internally restricted assets.
41 I entirely agree with Carl, I've audited a lot of councils
42 for a long time, and a lot of water and sewer funds of
43 councils I might add as well. And I heard Ms Cowley's
44 evidence yesterday. Muswellbrook council was one of my
45 clients for many years. So I'm very familiar with water
46 and sewer funds, and other funds for that matter.
47

1 So looking at the particular problem we've got here,
2 I believe there's a compliance risk issue and that's
3 covered within the risk management framework. The
4 compliance risk is it has mainly been there has been some
5 breach of the requirements to maintain the sanctity, if you
6 want, of the funds and that appears to have been broken.

7
8 The other risk here is, as we have mentioned,
9 sustainability. So on the basis of budgeting, on the basis
10 of poor cash flow management, we have overspent, it would
11 appear, and that we have put council into further debt that
12 wasn't planned. So you could say that risk hasn't been too
13 well handled.

14
15 But on the basis of what we look at, we say What are
16 the systems and processes in place to suggest that risk has
17 been covered? So the way we approach that is to say there
18 is a framework put in place. Carl touched on it. Since
19 2010 the Office of Local Government has produced that
20 integrated reporting framework. So you need, you know, a
21 community strategic plan, a long-term financial plan, a
22 resourcing plan, an annual budget and an operational plan.

23
24 Now, all councils - it is one size fits all - but
25 local government has worked out a long time ago, the
26 department and now the office, that if you regulate
27 something and control it strongly, you build in processes
28 to make sure that things happen.

29
30 So those processes were in place. There is an annual
31 budget process that the council is intricately involved in.
32 There is a quarterly budget review process. There is the
33 monthly statement of investments. They have been developed
34 over years because of past issues. So those things were
35 all in place, so I felt comfortable, as a member of the
36 committee, that, yes, those controls are there and we can
37 take comfort from that.

38
39 Now, what there has been is, in my opinion,
40 a breakdown in those controls, that somewhere along the
41 line, one of those controls is not working, and we
42 certainly didn't know about it, to answer the question you
43 are going to ask: we found out about it at that meeting
44 in June, okay? But that's the way we form our opinion as
45 a committee.

46
47 Now, we're looking at one risk here - one risk and one

1 piece of legislation. We as a committee have to get our
2 mind across all of the risks. Now, if you just think of
3 work health safety risk, how do we get comfortable that
4 council is protecting its workers, protecting the members
5 of the public, protecting contractors? What questions do
6 we ask, what systems do we see to get comfortable with
7 that?
8

9 I recall a comment being made by Councillor Greenaway
10 that we had a report presented to us by the internal
11 auditor about CCTV cameras and she thought that was quite
12 strange. Well, that is another risk of compliance that the
13 internal auditor had already done the job and she had been
14 reporting to us as a new committee what the outcome was.
15 But if you think about it, there is privacy issues
16 associated with CCTV. If you take CCTV footage and you
17 have to hand it over to the police, are you legally allowed
18 to do it? Now you are, but back then you weren't. So it
19 is a bit strange as someone sitting on a committee that we
20 would look at that.
21

22 But I guess the point I'm making, Commissioner, is
23 that we have a very broad brief to consider all risks as
24 they impact council, to consider whether council's assessed
25 those risks, and whether they have in place controls to
26 mitigate those risks.
27

28 Now, heaven forbid but if next week there was
29 a catastrophic failure in a piece of council's
30 infrastructure and a water main burst or, you know,
31 a bridge collapsed or something like that, or there is
32 a WHS issue, that is a risk that has to be controlled.
33 There is a system behind that. There is legislative
34 compliance. We, in theory, have to have knowledge of what
35 all the processes and systems are that cover all those
36 risks. So we are focusing on a very, very narrow area
37 here. I guess the surprise for me and the concern for me
38 is that this is something we thought we could count on.
39

40 Every council has been budgeting, for as long as I've
41 been involved in councils. Every council, for a long time,
42 for decades, has been doing quarterly reports. Every
43 council knows how to do a bank reconciliation. They know
44 how to separate restricted from unrestricted assets. That
45 is just taken as given. But this has been a breakdown. So
46 it's just something that we as the committee cannot cover
47 everything, so we took this as something that was actually

1 happening, and it obviously didn't happen.

2
3 That's just to give you a bit of a background to the
4 breadth of our vision and what we need to cover and how
5 this finance risk, which is the focus of attention now, and
6 very importantly so, is only a very small element of what
7 we have to cover, as Carl said, in four or five meetings
8 a year.

9
10 If I can explain to you maybe a little bit further,
11 Commissioner, Carl touched on the immaturity of the
12 committee. Now, the audit and risk committee works - we
13 have no power, we're just - we are obviously advisory, we
14 can't give anyone orders. All we can do is we can inquire,
15 we can inform and we may be able to influence. That is our
16 role, the three Is.

17
18 So for us to operate, we need to have a relationship
19 with internal audit, and if we are concerned about an area,
20 we would ask internal audit or we would recommend that
21 internal audit does a review and we get feedback saying,
22 "Yes, we're now comfortable that that's okay." That's one
23 way we work.

24
25 We're also responsible for external accountability and
26 the main area of that is the external audit. Fortunately
27 we have an external audit firm who does that for us but we
28 still can't just absolve responsibility; we have to look at
29 are we prepared as a client to deliver the information to
30 receive a clean audit report? We have an obligation, when
31 the auditor-general or the contract auditor comes along, to
32 produce reliable information that they can do an audit
33 with.

34
35 So we oversee that process. Fortunately with Carl and
36 myself, we've been auditing background, we know what
37 questions to ask and whether management's got their act
38 together, and then when the auditor-general comes back with
39 issues, we know what they're talking about. So we're
40 fortunate in that regard.

41
42 But there are so many other areas that we have to
43 worry about, okay? So that's the accountability side.
44 I hope I have answered that question.

45
46 Q. So there was nothing in the financial statements that
47 you reviewed that alerted you to the problems that

1 ultimately faced the council?

2 A. Without wishing to parrot what Carl said, I've
3 revisited, and I'm looking at the financial statements
4 for June '17, June '18 and June '19. I'm a bit like
5 Mr Millington, I've probably looked at thousands of
6 financial statements. I look at them. I look at the
7 indicators to see am I concerned about it or not.

8
9 Before I even joined this committee I reviewed the
10 financial statements of the old councils just to see how
11 they were running, just to make sure that my memory wasn't
12 playing tricks on me.

13
14 So in reviewing the financial statements, there has
15 been a lot of talk about deficits and, look, I certainly
16 agree with the sentiment: you cannot continue to run
17 operating budget deficits and not pay the price, but in the
18 short to medium term you can run deficits. I've got quite
19 a few clients who are running deficits at the moment.
20 They've been impacted significantly just by COVID. One by
21 COVID, bushfires and floods, like we've had here, another
22 client I'm on, their loss for the year is \$20 million.

23
24 So it's not unheard of to have a deficit, but you
25 cannot run a deficit budget. So two to three years of
26 deficit would not fuss me.

27
28 The first year we looked at was '17. That was a
29 \$65 million profit before capital amounts. That's quite
30 a strong result. The second year was a loss of 22 million,
31 not significant in an organisation with about 700 million
32 turnover. If you looked at that, within the 22 million was
33 a write-off of property. Land was overvalued somewhere as
34 33 or 35 million. So if you added that land adjustment
35 back - it's got nothing to do with cash, it's just an
36 academic accounting adjustment - we actually made a surplus
37 for 2018 as well, and 2019 was a \$5 million loss. So I'm
38 saying, as an independent person looking at it, I'm not
39 alarmed by the losses.

40
41 You have talked about the debt. There was
42 \$317 million brought in. Like Mr Millington, I've had
43 a lot of familiarity with councils and debt is not
44 uncommon, particularly a council with water and sewer and
45 drainage assets. They are what we call in the industry
46 long-lived assets - they're network assets. You build a
47 dam that has a life of 100 years. The water reticulation

1 systems, the sewerage systems and the drainage system,
2 they're all expensive, but once they're in and maintained,
3 they're 50, 70, 100, some 150 year life.
4

5 I've been to conferences, I've been on committees
6 where it is debated that it is inappropriate for
7 intergenerational equity to actually pay for those assets
8 if you have the cash to pay for them, where speakers
9 have said you actually should borrow. If an asset lasts
10 100 years, why should it be the current generation drains
11 all their cash and then can't have their parks, gardens
12 childcare centres and roads to pay for an asset that future
13 generations are going to get the benefit of free of charge?
14

15 I sat on a committee advising the Department of Local
16 Government for about 15 years, from the late 80s to the
17 early 2000s, and we advised on how to account for
18 infrastructure assets, would you believe, they weren't on
19 the balance sheet, including the backlog adjustment I think
20 that you've talked to a few people about, and also included
21 in that was on that committee was a representative,
22 a senior person from - it was Land and Water Conservation,
23 whoever the regulator was then. They made it clear that if
24 a local council wanted to expand their sewerage and water
25 network, they would be required to borrow the funds and
26 they would even orchestrate a set-up with a financier to
27 actually finance the borrowing.
28

29 So it was very much like the exception that you paid
30 for them cash; you actually borrowed. So I think you need
31 to bear that in mind, that debt is not necessarily bad if
32 it is used to fund capital assets that have a long-term
33 benefit to the community, and I think the long-lived ones
34 are particularly relevant to that case.
35

36 So our debt or council's debt was about \$288 million
37 in the first year we looked at it. I just checked another
38 client of mine, who are a third the size, with a water and
39 sewer network nowhere near as big as this one, they've got
40 about \$2 billion worth of assets. We have about \$6.8
41 billion worth of assets. They've got \$140 million in
42 loans. So I can't get excited about the loans and it is
43 not a concern.
44

45 What is a concern, though, is that the administrator
46 has had to go cap in hand to banks to borrow \$150 million
47 to bail us out in day-to-day cash so that we can leave and

1 preserve the restricted assets that should be there. That
2 is a concern. So I'm not saying I'm happy with having
3 \$500 million worth of debt, but when we came into this and
4 you are asking about the three years accounts, there is
5 nothing in those accounts in terms of the debt, in terms of
6 the operating result, that is a concern to me as an
7 independent professional.
8

9 The backlog adjustment, you've talked about that, that
10 was 140 million for most of the years, 140, 142. Then it
11 went to - I think it suddenly jumped up, I think in '21, to
12 about 200. It jumped up by about 60 million.
13

14 Now, that I think is - it is very important to take
15 that into consideration when you are assessing the
16 financial position. However, what you must be aware of is
17 that that schedule is not subject to audit. There was an
18 attempt to have it audited a while back, but there are so
19 many assumptions made in coming up with that number -
20 I think the auditors sort of couldn't come up with
21 a methodology, a consistent approach to say, yes, it is
22 140.
23

24 Having worked with engineers between 1993 and about
25 2000, when these started coming on to the balance sheet,
26 it's almost like how are they feeling on the day to
27 determine what an infrastructure asset is worth. It is
28 quite complex and it depends upon how they degrade over
29 a period of time, how they assess the carrying value, the
30 replacement cost.
31

32 Now, the audit office is looking at it and eventually
33 we may have stats to show how roads, drains, water, sewer,
34 are valued across the state, because there's wild
35 variations between one and another. The lowest council
36 I have seen is zero. The highest council I saw, 20 years
37 ago, backlog was \$300 million, and they never even had
38 a water and sewer fund.
39

40 So I'm only telling you that, Commissioner, to put
41 a bit in perspective. 140 million would not keep me awake
42 at night with \$6.8 billion worth of assets. There is no
43 way you can have no backlog. There is always something
44 that if you kick the engineer, they will find something and
45 say, "Yes, I could always upgrade that headworks. I could
46 always do something on that piece of infrastructure." So
47 you will never have zero. What the right answer for

1 council is is up for them. But - yes. So nothing of
2 concern in those three sets of accounts. Obviously things
3 changed dramatically in June.

4
5 Q. Can I take you back to before the council - the
6 accounts for the prior councils. You said you had a look
7 at those before you came on to ARIC?

8 A. Yes, for the prior councils, but not the 2016 ones,
9 not the - not the end of season ones. These were the
10 ones - because they weren't even done. I don't think they
11 were published until probably almost when I came on to the
12 ARIC. So when I got asked, I was looking at the ones,
13 would have been the 2015 accounts.

14
15 Q. So when did you become aware of the change in
16 accounting practice that occurred in those accounts?

17 A. Not until I think it was raised by Ms Cowley and
18 Mr Hart quite long after, probably late in the year. I had
19 no reason to go in and check everything in the accounts so
20 I had no idea until they told me.

21
22 So could I put --

23
24 Q. Yes, can you explain what effect that had?

25 A. I'll explain. Carl's given you a very good
26 explanation. Look, in short, this is something only
27 accountants and auditors can get excited about. It is
28 a very fine point and, as Mr Millington said, I can't go
29 against the Crown Solicitor or Clayton Utz. But I can see
30 both sides of the argument. I'll tell you what I would do
31 and I'll tell you what I have done in the past. Like
32 Mr Millington said, my view was that if something - funds
33 were raised in a water and sewer fund or water fund, sewer
34 fund, drainage fund, they belonged to that fund. So no
35 matter what, they have to be kept within that fund.

36
37 When you are presenting a set of financial statements,
38 however, it is a notional organisation. Because if you
39 think about it, this council is almost like five entities.
40 It is a water fund, a drainage fund, a sewerage fund,
41 a general fund and a domestic waste fund. They are all, if
42 you like, little jam jars, and then you throw a net over
43 it and say, "That is Central Coast Council. Let's present
44 a picture of it."

45
46 So we add all of the contents of the jars up and
47 you say, "That's the total assets, that's the total

1 liabilities, and the net worth is 7 billion", and there
2 we are.

3
4 So in this case, what has been done, from what I can
5 see, is that within each of those jars there was
6 restricted, by external regulation - externally restricted,
7 like a developer contribution like a specific purpose
8 grant; there was internally restricted, council makes up
9 their mind to do a particular work, they reserve money and
10 they put that aside - internally restricted. Unrestricted,
11 whatever you've got left over and you can spend it as long
12 as it's in that fund.

13
14 Normally, we're talking about the unrestricted part,
15 we're not talking about internally or externally, so we
16 have to be very clear: so the unrestricted part only of
17 all of those different funds, on consolidation, and you
18 come up with unrestricted cash. What Mr Millington said,
19 and what I would have done on all of my previous clients
20 would be, I would say it's still restricted, because it
21 gives the impression that it's unrestricted in total.

22
23 Now, in another sense, it is unrestricted, because the
24 total of all the unrestricted in the funds is that total,
25 right? Now, I think it's a fine point and I would have
26 said - I wouldn't agree with the treatment; I would have
27 left it as restricted. But I think you have to put it in
28 perspective. When this was first raised, it was
29 suggested - and I think early days - that as a result of
30 that supposed advice and that change in treatment, that
31 staff might have felt that it was appropriate to use
32 restricted funds and treat them all as unrestricted.

33
34 Now, I said at the time to Mr Hart and Ms Cowley that
35 only an accountant can appreciate this, but because
36 something's disclosed a certain way in the financial
37 statements, it doesn't mean it's treated in the same way
38 from an accounting books and entries, viewpoint.

39
40 Now, I remember the comment back was "That doesn't
41 pass the pub test." And it is difficult to make it pass
42 the pub test because you really have to be a practitioner
43 to understand the concepts involved. But basically, the
44 thought was that if you got the green light from the
45 auditor to say, look, you know, let's treat it as all
46 unrestricted, carte blanche, do what you like, then, hey,
47 let's dip in to the internally restricted funds and go for

1 gold. That's the impression I had and that concerned me
2 a lot because I don't agree with it.

3
4 Now, in Ms Cowley's evidence yesterday I thought she
5 was quite clear that, notwithstanding the financial
6 statement disclosure, that management internally treated
7 those as restricted assets and they were done that way.
8 And I may be mistaken but I thought that's what she said.
9 And I felt comforted by that to say that no, the system was
10 correct. Because it's disclosed a certain way in the
11 accounts doesn't mean that we then pick that up and run
12 with it.

13
14 You may wish to confirm that but that's what I thought
15 I heard Ms Cowley say, and that is my opinion, that just
16 because something's disclosed in the accounts doesn't mean
17 that is the accounting treatment. There is still the law.
18 There is still compliance. Council officers who are
19 responsible for maintaining those accounts have to comply
20 with the law. The law stands irrespective of how it's
21 presented in the financial statements.

22
23 So I hope that is clear.

24
25 Q. It's helpful. I don't know that it's clear.

26 A. Yes.

27
28 Q. Mr Gordon, I asked Mr Millington this: do you know
29 when the use of restricted funds started?

30 A. Oh, look, I guess like Mr Millington, I can't say for
31 sure. I think - I guess what I'm conscious of,
32 Commissioner, is that the person who would know the most
33 about this hasn't been interviewed yet. So I think we're
34 speculating a bit because we certainly, as a committee,
35 we're not delving into the financials that much. We don't
36 look into the ledger. We don't interview staff. So this
37 is just speculation based upon what I know as an
38 individual.

39
40 From what I can see, it must have obviously started in
41 2019, if not before. The numbers in the financials have
42 been audited. I can only assume that the audit had been
43 don't appropriately and that's all we've got to go on.
44 They are independent professional firms who have done the
45 work. They are trained staff. They spent a lot of time
46 here. I have to assume that the accounts are right and the
47 accounts showed that the restrictions were accounted for,

1 albeit with some of the internal restrictions grossed up on
2 consolidation. But the money was there. What I'm getting
3 is that there were funds in the bank on deposit. They were
4 added up and they were reconciled to what was disclosed in
5 the accounts. I have to accept that that's correct and
6 I don't have a concern about that.

7
8 But at some stage during 19/20, then we suddenly
9 tipped the balance. You've commented upon the monthly
10 investment reports. With the benefit of hindsight, having
11 flicked through those, it's quite clear that, once you get
12 to October, they go into overdrive. They go into
13 effectively negative. The removal of that line, in my
14 opinion - well, it's hard to say why it was done but it
15 certainly makes it less obvious that you've gone negative.
16 But anyone looking at that table could be under no mistake
17 that the restrictions in total exceed the cash and
18 investments.

19
20 Q. If they knew what to look for?

21 A. If they knew what to look for. Well, I mean, it's
22 a total, but what I'm saying is the removal of that line
23 item certainly didn't make it any easier for an untrained
24 person and someone else has to answer that question. So
25 I think that's most unfortunate. Just to present
26 something, as Mr Millington said, and run away and not say
27 anything about it I think is inappropriate, okay? But you
28 can say, "Yes, the information was there, but you go find
29 it."

30
31 Even if the line was on it, I still think that's the
32 same point and Mr Millington made that point. If I was in
33 a position of authority in finance and I was producing that
34 report, I think it would be my obligation to talk to -
35 well, the general manager, the CEO, and make it clear to
36 council to say, "In that 700-page document that you have,
37 that you won't have all read, and before you adopt in block
38 that section on the external audit and the quarterly review
39 and the statement of investments - before you adopt that,
40 you should be aware that our investment portfolio is
41 diminished and we've gone negative." I would have thought
42 that would happen.

43
44 Now, we haven't heard the evidence yet. It might have
45 been said. It hasn't been documented. There may be a note
46 somewhere we haven't seen. But that would be my
47 expectation as an outside professional.

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Q. But even if the investment report had disclosed that it was a negative amount - I know that's impossible, you can't have negative cash. But to show that there was in fact a use of restricted funds might have been more useful than to delete the line.

A. I agree with you, Commissioner. I say for someone who is not familiar with accounts, it probably would have made it a bit more obvious. You say you can't have negative cash. So it really needs a little bit of mental arithmetic to calculate it. You don't need to be Einstein to work it out, though, and there are some clever people on this council. I guess the issue for me is whether that was actually ever looked at.

So this is where we're talking about a control system. There is a control system in place and we, as a committee, can be comfortable that there was one in place. A trained officer in council produces that report monthly. They take information from the ledger. That's presented. Someone would have reviewed that. There's a process. Someone must have reviewed that. The person responsible for presenting to the council is the RAO, responsible accounting officer. So they would have presented it. In my opinion, that's the person who should have highlighted that. Now, we haven't heard from them yet so I can't say any more than that.

But the other thing is that that RAO also signs a statement, and that statement looks at the projections. They look at where we are at to date, the adjustments to the budget, and they project towards 30 June, the year end. They say, "This is where I think we are going to land." Now, there's a very important comment in that. It says "I believe council's position will be satisfactory", or something to that extent. So you're using your professional judgment in that role to say, taking everything into account, the operating result, the adjustments to budget, the cash flow, I'm telling the council that we will be in a satisfactory position. Now, that's a fairly general term, but I think most people would interpret it as easily explainable.

If those statements were signed unqualified, one, in my view, would have to ask why were they unqualified? If by March '20 and you were looking at - I can't recall now, it was probably November/December statements which were already in overdraft, if you want to call it that, and that

1 statement was signed unqualified, you would have to think,
2 by the time you got to June the situation's already
3 negative, it would be worse, you would have thought that
4 that would have been qualified.
5

6 Now, I haven't read that statement. I haven't got
7 a copy of it, and whether it has been signed or not I don't
8 know. But if that statement was signed unqualified,
9 I would have thought that that's an important question.
10

11 Q. And where would that statement live? Is it part of
12 the quarterly reports or --

13 A. No, it's part of the report, part of the quarterly
14 investment report. It has to be signed and it's included
15 in that. Yes, that's a very important statement in the
16 particular circumstances we have here.
17

18 Q. I think the general manager said that at some point he
19 took over the role of chief financial officer and, for that
20 matter, the reporting officer under the Local Government
21 Act. Would he have been an appropriate person to do that
22 job?

23 A. Well, just in the context of this statement being
24 signed, my understanding was that Mr Norman, I think, was
25 the incumbent at the time. I think he left in April, if
26 I can recall roughly, April '20. Then I think, when we had
27 our audit and risk committee meeting in June, that
28 Mr Oldfield was the acting RAO. Then I think it was after
29 that when Mr Oldfield left the role and went on leave,
30 I think, I think that's when the general manager took over
31 as RAO.
32

33 Q. Between August and when Ms Cowley came on in October?

34 A. Yes. So my view is this statement had to be made
35 before the general manager, the CEO, took on that role.
36 There were two RAOs, if you like, who were in the chair
37 when we were in this situation. I would have thought they
38 would be the ones.
39

40 But to answer your question about RAO, I did hear the
41 CEO's explanation of that, and that is a very difficult
42 one, because it's a fairly senior position and when his own
43 trained staff didn't want to take it on, rather than
44 emburden, say, the engineer or the environmental scientist
45 with it, one of the other directors, who had no more skills
46 than he had, I guess the only noble thing to do was to take
47 it on yourself, using advice from internal team members.

1 I thought it was a very difficult situation for the CEO to
2 be in. So, as I think he said, he took it reluctantly.

3
4 Q. Reluctantly, yes. After the Grant Thornton report,
5 was it you who had recommended Mr Banicevic to delve a bit
6 deeper into council's accounts?

7 A. Yes, it was. That's why I mentioned Mr Banicevic in
8 my disclosure.

9
10 Q. I asked some questions of Mr Millington about going
11 forward, the role that you played in helping the council
12 get back on its feet. Are you confident that the council
13 is headed in the right direction now?

14 A. Could I just come back a point?

15
16 Q. Yes.

17 A. About the Mr Banicevic point and then I will come back
18 to that one. I was looking through my documents over the
19 weekend and looking at my emails and I found an email -
20 it's a little bit of a trail and it adds a little bit more
21 substance to the appearance of Mr Banicevic and I think it
22 may be relevant to you.

23
24 We had the June meeting, June 17 meeting, of the audit
25 and risk committee. One of the governance staff,
26 Ms Sullivan, I think it was, contacted me just before the
27 meeting, literally, it was about an hour before the
28 meeting, and actually said - because I corresponded a lot
29 with governance on different matters, the committee gave
30 them a lot of advice on different things so we talked
31 a lot. She said, "Look, we're going in to the meeting and
32 will the committee support the Grant Thornton report?
33 Because we are concerned. We, the general manager, CEO and
34 I, are concerned that there'll be pushback from the
35 councillors, they won't accept it."

36
37 I said, "Well, what report? We've got business
38 papers, we've got an agenda item called 'Grant Thornton',
39 but there's nothing in the papers." And she said, "Well,
40 you haven't got the paper." So my response to Ms Sullivan
41 was that I said, "Look, the committee - I can only talk on
42 behalf of myself, I can't talk on behalf of the committee,
43 but the committee cannot endorse something they haven't
44 seen. Okay? I can understand it's all secret but we can't
45 endorse it. But what I would suggest is, if it's as
46 serious as you seem to be implying and that councillors
47 will not accept it, then my view is you need an independent

1 person who understands local government accounting", and
2 I did give Mr Banicevic's name, and I said, "They would
3 give it credibility that would then" - and Mr Banicevic is
4 very used to talking to councillors and bringing things to
5 their terms to make them understand what's going on, and
6 we've already mentioned the training. So I made that
7 comment. That was it.
8

9 We went to the meeting in June and, as Carl said, we
10 were quite surprised. We knew Grant Thornton was in there
11 and they were looking at cash flows and the impact of
12 COVID. That was a fair call. It was a good move from the
13 CEO to get them in. A lot of clients have done a big
14 assessment on the impact of COVID. It's been quite
15 significant. And I thought that was a very clever move to
16 get them in. But obviously that revealed a bigger hole
17 than any of us thought.
18

19 Now, at that stage it was 150, 180 million and I just
20 could not believe what they were telling us. And Grant
21 Thornton is a very skilled firm, two skilled operators, but
22 they are not local government accountants. The partner,
23 I can't recall his name, but he has an insolvency and
24 business reconstruction background. It's probably
25 pertinent. But some of the comments they were making
26 concerned me that they were getting confused between
27 restricted and unrestricted and the impact of depreciation
28 and that sort of thing, and I thought to myself they really
29 need - we need to get to the bottom of this.
30

31 So in the meeting again, notwithstanding what
32 Ms Sullivan asked me, I said in the meeting, "I really
33 think you need someone else in here to pull this apart and
34 translate it into local government language. Nothing to do
35 with the councillors." So I left it at that and I never
36 heard any more.
37

38 The meeting finished and I dropped a line to Carl and
39 Col to tell them what had happened. I think it was
40 probably about three weeks later that I got a call from
41 Gary, the CEO, and he indicated that - he said, "I am
42 concerned about finances. I'm concerned" - something to
43 the effect, "I'm concerned that things aren't adding up and
44 I would like someone to look under the hood", were the
45 words he used, and what was the name of that person that
46 I had recommended.
47

1 So I gave him the contact details of Mr Banicevic.
2 I phoned Mr Banicevic and said, "You're likely to hear from
3 the CEO." Then I never heard any more until Dennis was
4 actually engaged and I think that was August/September.
5 But I just thought that was relevant to think that there
6 was a concern that council would push back when management
7 presented the situation, and it was probably a good call,
8 because I think the three of us in the committee, the three
9 independents, were quite surprised and a bit incredulous
10 that this had suddenly emerged from left field.

11
12 So I think having the local government person come in
13 added credibility to it. And I think ultimately
14 Mr Banicevic presented to council and they probably didn't
15 like the news but I think he probably explained it better
16 to them and they did listen.

17
18 I just wanted to fill in that detail. I thought it
19 was relevant to actually how it sort of all came about from
20 my viewpoint and how that consulting job came up.

21
22 Q. And the council did push back on the Grant Thornton
23 report because it had a worst case scenario of a
24 \$153 million hole in the budget and they weren't accepting
25 that that was a possibility.

26 A. Yes. But I think it was some time later,
27 Commissioner, that when Mr Banicevic had been through and
28 analysed, and I think there was even maybe a little bit of
29 disbelief in the management team that this could be the
30 actual situation, which has actually turned out to be
31 roughly correct, that when the dawning came I think
32 ultimately the council accepted it.

33
34 I think that's relevant to say that the council, when
35 they did find out ultimately from someone who had analysed
36 it, they obviously had to accept it.

37
38 Q. But the process seemed to take a long time, but
39 I don't know whether that is usual or not. I think Grant
40 Thornton was engaged in May. They came back quite quickly
41 initially with a draft phase 1 report, and then they came
42 back - that was in June. Then they came back in August
43 with a draft phase 2, and there was toing-and-froing. Then
44 Mr Banicevic was engaged in September and reported later
45 that month. Is that a normal sort of time frame, do you
46 think?

47 A. I guess there's no normal in a consulting assignment.

1 The impression I got was that there was a lot of pressure
2 on the finance team. We've talked about the merger, and
3 I can go to extremes on that if you wish me to, but there
4 was a lot of pressure on the finance team, and having
5 consultants around when you are trying to finalise accounts
6 or do your day job, is very difficult, because the
7 consultants aren't familiar with your records, they're
8 asking you questions, maybe some of the questions you
9 haven't got the information you've got to scurry around and
10 find it. And obviously the consultants from Grant
11 Thornton, as good as they are, they have to get used to
12 council's systems. As I said, they are corporate
13 reconstruction people. They are not familiar with local
14 government accounting with reserves. So you have to get
15 your mind around that, so I'm not surprised it took
16 a while.

17
18 Mr Banicevic, I think he got in fairly quickly but
19 he's used to doing it. But his numbers were fairly rough.
20 I remember his report saying, "It's draft. I haven't been
21 able to get access to information."

22
23 I think Mr Millington made a point that
24 notwithstanding Grant Thornton being there for, I can only
25 assume, man weeks, Mr Banicevic being there for probably
26 two or three man weeks, KPMG doing a forensic audit for man
27 weeks, Clayton Utz doing something over the top, we maybe
28 still don't have a thorough knowledge of what actually
29 happened in the movements between those reserves, and
30 I think Clayton Utz has confirmed there's probably not much
31 point delving into it further. We know it happened and
32 I think our committee agree with that assessment.

33
34 So why did it take so long? I think the records
35 probably weren't in good shape and I'm pleased to hear what
36 Ms Cowley said yesterday, that they are in good shape now.

37
38 So I can only gesture, I suppose, Commissioner, that
39 they are the reasons why it took so long to do. And if you
40 are writing a report that has significant implications, if
41 you are an external practitioner, you want to make sure it
42 is absolutely right. I would expect Grant Thornton was
43 dotting their Is and crossing their Ts too.

44
45 Q. You said that there was a lot of pressure on the
46 finance team. Where did that come from?

47 A. Well, I guess - I don't have a profile of the finance

1 team, but I try to get to know the finance team when we're
2 reviewing the external audit. So Ms Louie was the main
3 face we saw, and I have a lot of respect for her and her
4 ability, her commitment and her honesty.

5
6 In quiet conversations I would always ask, "How is it
7 going?" And the feedback I got was that, you know, "Some
8 of the staff under me probably, maybe, could have a bit
9 more knowledge. I'm doing a lot more work than I should
10 be." And in a lot of the situation she was doing, let's
11 call it, her day job and she was also stepping up to be the
12 acting CFO. So I think that's where the pressure was
13 coming from.

14
15 How do we - how does that manifest? Well, every set
16 of accounts we have had on this council, except the last
17 set, I might say, the 2021, have been late. So if you look
18 at a barometer, you say after one year, yes, maybe two
19 years, okay, we're still settling down. But every single
20 year, we have never made the deadline of 31 October to
21 prepare the accounts, and under Ms Cowley's tutelage, it's
22 the first year we've actually made it and made it quite
23 early.

24
25 So as an outsider, it's sort of a rough and ready
26 barometer that there is something happening in finance,
27 that there is lots going on. I expect, and I did hear the
28 questions yesterday about the system and how we've
29 collapsed 18 into nine, or whatever. Just my experience on
30 other merged councils, you cannot underestimate the
31 significant effort involved in combining systems and making
32 data uniform. So there would have been a lot of
33 frustration. Even though the systems are probably working
34 well now, two or three years ago they probably weren't and
35 the feedback I was getting was it was very difficult to get
36 information out.

37
38 So if I could give you an example with one client -
39 I won't name the client, but just to give you an example -
40 they are not changing their system. They have one system,
41 I think they had three councils into one, even more
42 exciting, but one of their systems had the capacity --
43

44 Q. That gives it away.

45 A. Sorry - oh, no, I've got two with three. Okay? But
46 the point is, they could upgrade their existing system and
47 have the capacity to have two rates ledgers on it combined,

1 two payroll systems, two land information systems.

2
3 But just let's say you don't even have to spend any
4 money on your IT system. If you look at, say, your land
5 information system, the data you have on one council may
6 not be the same format as the other. So the first thing
7 you have to do is to decide what format you want. Do we
8 keep the old systems and don't make any progress or do we
9 want to improve things and have a better one? So if you
10 want to improve things and have a better one, you've got to
11 redesign the format. Then you've got to reformat both
12 files from the legacy councils and put them in and make it
13 work and test it. So that's just a very simple example.
14 You are not upgrading the system, you're not doing
15 anything.

16
17 Now, that data migration and data unification, that is
18 a huge job and lots of clients have had big issues with the
19 quality of data. So there is a lot going on in the
20 background in IT that you have no idea how complex it is.

21
22 So if you were looking at risk, financial risk was the
23 last risk on my mind, seriously. I was more concerned over
24 a catastrophe in the IT area, a data breach, a loss of
25 data, a cyber event - that is where my concern was. And
26 a job to push together two councils' systems in a very
27 short period of time, an accelerated time frame, that is
28 a lot of risk. That's where my concerns were. I was not
29 focusing on: can council budget or not, so I --

30
31 Q. You just said "an accelerated time frame." Do you
32 think there should have been a longer time frame under
33 administration, for example, before the councillors took
34 over?

35 A. Well, I was talking about accelerated in terms of IT,
36 and that's IT-speak for saying instead of taking three
37 years to implement the system, we'll accelerate it and push
38 it through in a year. And I could say, well, there is
39 merit in that, but what it means is you cut a lot of
40 corners. You have shortages of documentation and you can
41 make mistakes and there are compromises. So everything has
42 a cost. That's what I was referring to.

43
44 Looking ahead, there are things we need to look at.
45 I've talked about that in the next chapter of my response.
46 But in terms of the administration, I heard what
47 Mr Reynolds said yesterday, and I'm not an administrator,

1 but when you have pressing circumstances like this, I think
2 it probably makes it easier to have one person running the
3 council and not to have some of the issues that apparently
4 we've had.

5
6 Having said that, it's a democratic process and I can
7 recall when I was the auditor of Maitland council, I knew
8 the administrator there and you're a hero for the first two
9 years when you sort things out, and then the community
10 doesn't like you. So there is a balance to get it right
11 and then have the community representation. I think that's
12 a tricky one and I couldn't really improve on what
13 Mr Reynolds had to say. But it has been extended and
14 I think that extension's necessary to sort out the systems,
15 the processes, so that the new council coming in is not
16 going to be struggling with a legacy of half-done systems,
17 poor risk management, bungled budgets and whatever you want
18 to call it. So I think it's the best that this
19 administration has been extended, in my opinion.

20
21 Q. Do you agree with Mr Millington's assessment that one
22 of the major problems was the churn in staff, particularly
23 at higher levels in finance and even general manager?

24 A. Absolutely. As I said at the outset, we rely upon
25 external audit, internal audit, and the other thing we rely
26 upon is management representations.

27
28 So we had meetings, we have a high-powered group of
29 people in that meeting. The expectation is that they will
30 bring themselves to the meeting and be full and open, and
31 if we say, "How is it going? What's happening in your
32 patch? Are there issues that we need to discuss and
33 matters we need to control?" - we need to rely upon a full
34 and frank disclosure. Through that, we hear what's
35 happening and you might think, "Have you thought about
36 doing this, thought about doing that?" So that's what we
37 are saying: management representations, we can't prove
38 that they are correct but we are relying upon them, and
39 over a period of time you form a relationship with that
40 person, you assess their ability, you assess whether they
41 are open or not, but that takes time. That takes two or
42 three years.

43
44 Now, the issue we had with the moving feast of - I've
45 done some quick calcs - seven CEOs, I think four or five
46 CFOs, four CIOs, five governance staff, four councillors
47 and one chief audit executive, that is the most turnover

1 I've seen on any - all merged councils have had issues with
2 turnover and it's been destabilising probably for the first
3 two years. But this council relative to the others has had
4 significantly more than any of the others.
5

6 Now, each time there is a turnover there is the
7 disturbance, if you like, in the culture, particularly with
8 the CEO. Until the permanent CEO is appointed, we're just
9 marking time. There were high quality people who were in
10 the acting roles. Don't get me wrong. There were very
11 good quality people. But if you know someone is an actor,
12 you're not fully engaged as the management team. You
13 always want to say, "When does the real person come along?
14 What's their MO going to be? What's their structure?
15 Where do I fit in? What do I do? Where's my career?"
16

17 So we were really flatlining, if you like, in my view,
18 as a committee because we can't develop because we didn't
19 have full engagement, because management was waiting for
20 the big event, which was the appointment of a permanent CEO
21 which happened in mid '18. So Gary was the beginning of
22 the stable period, and we had high hopes for that period.
23

24 It's a significant issue having that much turnover.
25 Even with the same CEO performing at a high level, other
26 clients I have have the same issues. You have a CFO leave
27 or a CIO leave. Every time they leave there's a gap and
28 that knowledge is gone and the trust between that person
29 and the new person coming in, they have to then form
30 a relationship with the management team and they've got to
31 operate as a team.
32

33 A gold standard audit committee - fortunately I have
34 a couple of those - they have stability. The management
35 team knows each other, trust each other, they have
36 executive meetings and they share their issues, and they
37 bare their souls, if you like - that's how you run
38 a business.
39

40 Now, the most advanced committees I've got, those ELT
41 come to the committee and they bare their souls there and
42 say, "This is what's worrying me. What advice have you got
43 for us?"
44

45 As Mr Millington said, the impression I got was it was
46 "Ask me a question and I'll answer it but I'm not going to
47 go any further." I'm not suggesting people are being

1 deceptive, there is an issue with a new audit and risk
2 committee, they don't know us and they don't know what
3 we're up to, and so there is that issue. But I believe
4 there was an issue about - from what I can now see - the
5 cohesion in the management team that they probably weren't
6 cohesive as a management team. So if they can't work
7 together and share their inner concerns, then they are
8 certainly not going to share it with us. So that is
9 a handicap and each time it changed it is a major issue.

10
11 That is something we're going to need to work on.
12 A stable management team for a risk management framework is
13 essential. I talked about the framework. If you want to
14 control risk, you need a stable management team. Without
15 that, it's a huge exposure.

16
17 Q. I interrupted you. You were going on to something
18 else, you said, "later in my submission"?

19 A. Oh, you were asking I think, Commissioner - you asked
20 Carl a question: do you think we have turned the corner
21 and where do you think it is heading? I have to say at
22 least from a financial management viewpoint, I'm relieved
23 that we now have a new structure, that Ms Cowley is there
24 with experience, using her term, with some steel, that
25 needs to be there when you're having the hard decisions
26 with an ELT, that a CFO does need to be able to stand up
27 and say, "You don't have the budget." That CFO should be
28 there at the council saying, "Councillors, we don't have
29 the money for this project, so when we're doing the budget,
30 make up your mind what you want." I'm confident that
31 that's operating well.

32
33 Where I differ from Mr Millington is I believe we have
34 a hell of a lot of work to do to rebuild trust in the
35 council, rebuild the management team - because it has been
36 decimated by necessary retrenchments. So it takes a long
37 time to recover that. You've got the new people in. They
38 need to get to know their job; the management team needs to
39 coalesce and harmonise. They need to develop that trust.
40 The staff need to be confident that, hey, the shedding has
41 finished and we can move on. So I think when you do speak
42 to the administrator, I think you'll find that there is
43 a lot to do.

44
45 My view is I'm happy that we've got the financial
46 issue under control, but we still don't have a risk
47 register. Now, an organisation without a risk management

1 framework is still exposed to risk. And I'm sure
2 management are very well aware of that, and we've got
3 Mr Farmer in place, and I share Mr Millington's comments
4 about him, I'm very relieved that he is on board with his
5 background and experience.
6

7 So I'm very confident about where we're heading. But
8 I think we should not underestimate the amount of work
9 that's required to build that confidence, to build the risk
10 management framework, so that down the track we can have
11 a committee meeting where we are talking to the management
12 team and we are acting as trusted advisers. That's what we
13 really should be: that we can share our experience from
14 elsewhere, and then if management wants to listen, they
15 can, or they can take their own advice. But that's the
16 best way for us to work and that's the gold standard.
17

18 I believe we can get there, but the most important
19 thing is we've got financial stability and financial
20 statements produced monthly that are up on a website.
21 There aren't too many councils who do that. I know where
22 that habit came from and I think it's a great one.
23 I applaud what has been done.
24

25 So very optimistic about the future but I think we're
26 probably on a three-year plan to rebuild our systems,
27 processes, risk management framework. So this is still
28 going to be a challenging committee, in my view, going
29 forward.
30

31 Q. And any future instability in the executive leadership
32 team could affect the ability to continue to improve?

33 A. Definitely. I think that stability at the top -
34 I mean, it's often said the tone at the top, and you need
35 to have the rock, the anchor for all this, is the chief
36 executive. They must be in place. They must be stable.
37 They must have the support of the management team and then
38 the staff below that fall into place. You can get the risk
39 management culture going, and then we can start talking
40 about improvements.
41

42 Another job we have on the committee, the audit, risk
43 and improvement committee, we're meant to be overseeing
44 improvements as well, so, you know, we can achieve lots of
45 things together. I was attracted to this council. It's
46 one of the largest in the state and in my view probably the
47 most complex. If you think, Sydney city is bigger, in

1 either revenue or - not population. Canterbury-Bankstown
2 is bigger I think in terms of population. But in terms of
3 area and in terms of complexity, and have a water, sewer
4 and drainage fund, this is by far in my view the most
5 complex council in New South Wales, and that's why I want
6 to be here. So I don't want to underestimate what needs to
7 be done, but I am very positive about the future.

8
9 Q. What were your observations of the councillors who
10 were on the ARIC committee - were they useful participants?

11 A. I'm just trying to think now. We've had four. Okay,
12 the main participants were Mr Vincent, Councillor Vincent
13 and Councillor Greenaway, and they were there until
14 about May '20, I think, and then Councillor Smith and
15 Sundstrom came on board very, very briefly.

16
17 Look, in terms of my experience with councillors they
18 were, I would say, normal, they were positive, they made
19 a contribution based on their experience with committees,
20 business in general.

21
22 You know, Councillor Vincent has obviously been in
23 business and has - I think he said he's done the company
24 directors course, which made sense, but he had a grip on
25 what we were doing. We are a strange animal, an advisory
26 committee who has no power to do anything but makes all
27 sorts of suggestions. I think Councillor Vincent got it.
28 He understood what we were doing. We are like a helicopter
29 view and if we find an issue, we ask for that to be
30 investigated. That's basically - and I thought he made
31 a positive contribution.

32
33 Councillor Greenaway, I think, to the extent of her
34 knowledge of what a committee does, having not served on
35 one - and I can't recall how much experience she had in
36 local government - I think she made a positive contribution
37 as well. Both were there I think for the right reasons.

38
39 Then Councillor Smith was very engaged as well, and
40 I think Councillor Sundstrom might have only just made
41 a brief appearance. So, you know, as far as councillors
42 go, I thought it was a positive contribution, yes.

43
44 Q. Do you think it's important to continue to have
45 councillors on an ARIC?

46 A. That's a very vexed issue. I would have to say on
47 balance, after 12 years, I have probably only had three

1 experiences where I thought I would rather that the
2 councillors not be there. But for the most part,
3 councillors who are there are motivated by the right
4 reasons. They add a dimension that we can't. They are in
5 the area, they know what's going on. They can often
6 amplify what's important about a particular project that we
7 don't have a knowledge of, and they do add value. Some of
8 them have their own expertise. Some of them are finance
9 people or marketing people or have a legal background, so
10 they add another dimension to the committee. But,
11 notwithstanding that, they represent the community and it
12 gives you a dimension that you can't get.

13
14 Being independent - and I, like Mr Millington, don't
15 live in the Central Coast, I know a bit about it but
16 I don't live there - it is good to have someone on board to
17 say, "Well, these are the concerns of the community." We
18 are here to serve the community. So what are the risks
19 we're not doing that service? You do get that feedback in
20 that way.

21
22 If you could hand pick the councillors you want, in my
23 view, I would always have councillors on a committee.

24
25 As you would be aware, there are new guidelines out.
26 They came out in '19. They have been revised in '21. They
27 are still draft. You can still put a submission in if you
28 want to. But the way they are moving is to have one
29 councillor, a non-voting councillor, on the committee.
30 I guess that's better than none at all, but I have written
31 in, with some of my clients, to actually say I would prefer
32 to have the councillors there.

33
34 But there is an issue - and I did talk about
35 engagement before and I forgot to mention. I have had
36 situations in the past, and I can't say it applied here,
37 where a chief executive has sat me down and said - I said
38 to the chief executive, "I don't feel we're getting
39 engagement from your team. They're just not giving
40 everything. I know when I'm being played. I ask
41 a question, you get the answer but you don't get any
42 amplification." And the comment back to me was, "Whenever
43 those two councillors are on the committee you will never
44 get full engagement from any of my staff, because as soon
45 as they say something, they pick that up and take it back
46 to the council and raise it and use that against them." So
47 that is the extreme example of what can go wrong. It's

1 frustrating, but I still have that situation. But,
2 generally speaking, a positive experience and I guess what
3 they have come up with is a compromise.
4

5 That actually does speak to something else,
6 Commissioner, I thought might be useful raising. You
7 talked about the interface between the committee and the
8 council.
9

10 Q. Yes.

11 A. Generally there is little interface, because we are
12 independent and the interface, as my colleagues have
13 explained, is through the committee. We have two
14 representatives on the committee and the thought is, and
15 generally when it works well, they will go back to their
16 councillor colleagues to say, "The committee raised this.
17 Maybe we should think about it."
18

19 But there is a process, we write an annual report, it
20 is a summary of what we have done, and Dr Gellatly did
21 actually present to council once.
22

23 In my experience, the best way to handle that is - and
24 we've tried this every which way - is to actually present
25 that report to a closed committee meeting where all
26 councillors are invited and then the whole committee is
27 invited, and then you have a roundtable discussion, no
28 question is out of bounds, it is not minuted, so you can
29 ask whatever you want, there's no press there, there is no
30 grandstanding, and then councillors are fully informed
31 about what we do, but, most importantly, what we don't do.
32 Because there is obviously an expectation gap between what
33 the councillors think we are, as some sort of an insurance
34 underwriter, lender of last resort, an external auditor,
35 internal auditor - and that concerns me. I think obviously
36 there needs to be more upfront training and maybe have an
37 experienced audit and risk committee member attend that
38 training to actually explain to new councillors,
39 particularly, what we do and what we don't do.
40

41 But I think that interface is important. As you are
42 pulling councillors out of the process, I think it's
43 important that you have a meeting at least once a year to
44 say what have we done, what is your feeling about internal
45 controls, what is your feeling about our management team,
46 what is your feeling about our finances - I think that
47 would be valuable.

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Now, we actually offered that here. I can remember I distinctly offered it probably in '18, when we were writing our first report, and I actually said in the meeting, "The best way to do this is not only just to present a stale report, is to actually sit down and talk about what we do, so it doesn't get minuted and it is not in the public arena and there is no press there." That was never taken up.

Most councils, there's probably about a 50 per cent hit rate with that offer. So just something to think about. Otherwise, the council is going to get so removed from the audit and risk committee we will have this - I believe it is an expectation gap between, and I think that shouldn't be there. They obviously think we're doing something that we're not.

Q. They obviously do.
A. That concerns me.

Q. Dr Gellatly said he did address the council on one occasion.
A. He did.

Q. Was that by himself?
A. No, by himself, that's right. They just said, "You come. You come only." It was a briefing session and I don't know how many questions he got. But often you have those briefing sessions and not everyone turns up, either.

So you can only make an offer and that's it. As I say, 50 per cent is probably about the best rate I've had in the last 12 years, but it's the best approach I can have. If you want, you follow that by the public meeting where you actually table the audit committee report, but you obviously don't ask all those questions in public with the press there. So that way you cover the report but you also have had that detailed session. I think maybe - I don't know what you are going to write, but if something like that could be recommended it would probably help the process of interfacing what the ARIC does versus, you know, what council understands they do.

Q. Is there anything else that you want to add, Mr Gordon? I'm probably finished with my questions.
A. If you have a moment, I would just like to make

1 a comment about questions that have been asked and comments
2 that have been raised about whether the ARIC looked at the
3 quarterly budgets and whether the ARIC looked at the
4 investment reports.

5
6 Q. Certainly. Yes.

7 A. The answers have been "No." Now, ironically in this
8 situation, if we reviewed every investment report for every
9 month since we had been there, as you correctly pointed
10 out, by the time we got to October or November, we would
11 have seen those go negative, and if I had been reviewing
12 those reports or Mr Millington or Dr Gellatly, we would
13 have actually said, "What's going on here? Can you give us
14 an explanation?" So that is very appealing to say, "I think
15 the audit and risk committee should review those reports."
16 Okay? But I think there is a very fine point here and
17 there is a distinction between overviewing the control and
18 being the control.

19
20 Now, the control is there is a process in place to
21 develop those reports, they are reviewed by management,
22 signed off by management, presented by the CAO, and the
23 councillors, who are a control, are meant to review them.

24
25 Now, if they are not reviewing them and the CAO didn't
26 tell them anything, then - not the CAO, the responsible
27 accounting officer didn't tell them anything, then that's
28 a break down in the control.

29
30 If we as the committee start leaning in, looking at
31 those reports, then we're no longer independent because we
32 are part of the control system, as appealing as it sounds.

33
34 Now, I will give you another example. Councillors
35 have to produce a statement of expenses and that's
36 published on the website and it's full disclosure, and
37 that's fine. That's normally audited by the internal
38 auditor to confirm that the numbers are correct, and that
39 does happen at Central Coast.

40
41 One of my past clients wants the audit and risk
42 committee to review the schedule of councillor expenses.
43 We don't have power to approve them, so all we could do is
44 endorse them. So when we said, "What do you want us to do
45 it for?", they said, "We want to be comfortable, and we
46 want to be able to say to the community that we are squeaky
47 clean and we have had the audit and risk committee go over

1 the expenses and there is nothing to see here."
2

3 Now, that's an extension of our role. We are not
4 a control mechanism. We did it for a while and then we
5 said, "No, this is not appropriate." We can raise queries,
6 but that is not our job. Our job is to say is there
7 a control? Yes, there is an approval process by the GM or
8 by the staff. The expenses have to be valid, they are
9 documented and then they are reported. There is a control.
10 We are not the control. So it is a very simple example of
11 us getting too heavily involved, and it is a slippery slope
12 to actually get further.
13

14 So I didn't want you to walk away thinking that maybe
15 the audit and risk committees should review the quarterly
16 reports; maybe the audit and risk committees could review
17 the monthly cash budgets. We could. We could bring that
18 into our program, but it is a very fine distinction, but we
19 are then taking the place of management and that is not
20 what we should be doing.
21

22 Q. I did have a look at the changes that were made to the
23 charter in April in terms of financial management and they
24 tend to be in that flavour. They are not about the
25 information, they are about the procedures and the policies
26 that surround the information.

27 A. That's correct. You are looking at the KPIs. So you
28 would say what is the control? The control is that there
29 is a monthly investment report. So someone could give us
30 a note to say, yes, there was a monthly investment report
31 for the last quarter. There was one for each quarter.
32 That is the control. The control isn't us picking up the
33 report and doing it ourselves.
34

35 I expect if you let Dr Gellatly, Mr Millington and
36 myself loose in the council with permission to ask
37 questions and review the records, I'm sure I could find
38 a lot of things that require investigation. If I picked up
39 the 700-page business paper, I'm sure I could find things
40 in there that I would want to ask more questions on. But
41 that is not our role.
42

43 So to me, it is a very important point about the role
44 of ARICs. I believe this is a test case, in my view, on
45 what is the role of an ARIC vis-a-vis internal audit,
46 external audit and the governing body. That's why I think
47 your findings are going to be extremely important in

1 guiding not only the internal audit and risk management
2 guidelines that have been released but also the MO of audit
3 and risk committees going forward. I just wanted to make
4 that point, Commissioner.
5

6 Q. I only make recommendations too.

7 A. Yes, to the minister.
8

9 THE COMMISSIONER: Okay, Mr Gordon. I will finish my
10 questions there. I will just check with Ms Annis-Brown.
11

12 MS ANNIS-BROWN: No questions, thank you, Commissioner.
13

14 THE COMMISSIONER: Ms Bulut, any application?
15

16 MS BULUT: No application, thank you, Commissioner.
17

18 THE COMMISSIONER: Thank you.
19

20 Thank you, Mr Gordon you're very informative. That
21 concludes your evidence.
22

23 Our next witness is Mr Bell at 1.20pm. So we will
24 adjourn until then.
25

26 <THE WITNESS WITHDREW
27

28 LUNCHEON ADJOURNMENT
29

30 THE COMMISSIONER: Good afternoon. The hearings into
31 Central Coast Council will resume. I see, thank you, that
32 Mr Bell is there. Mr Bell, come on camera and off mute,
33 please. You might need to unmute your microphone, Mr Bell.
34

35 MR BELL: Is that better, Commissioner?
36

37 THE COMMISSIONER: That's it. Could I ask Ms Annis-Brown
38 to swear you in as a witness, please.
39

40 MR BELL: Yes, indeed.
41

42 <BRIAN BELL, affirmed: [1.20pm]
43

44 <EXAMINATION BY THE COMMISSION:
45

46 THE COMMISSIONER: Q. Thank you, Mr Bell. Now, you were
47 a former general manager of Central Coast Council?

1 A. Yes, for a very short period between late September
2 and about, oh, the end of December.

3
4 Q. Oh, I see. You left that year, did you?

5 A. No, I actually - I was actually diagnosed with
6 a malignant cancer at the end of December and then I left,
7 I resigned in January - I resigned and left in January.

8
9 Q. I see, okay. Yes, it was a short period, then.

10 A. Yes.

11
12 Q. So you probably won't be able to tell me too much.
13 What was your prior experience and qualifications?

14 A. Oh, right. I was for 20 years a general manager or A
15 CEO, sometimes called, in large New South Wales councils,
16 both metropolitan and regional and dealing with obviously
17 council financial matters on a daily basis in that period
18 of time.

19
20 I have a masters of science degree. I also have
21 a postgraduate diploma in environmental impact assessment.
22 I have a bachelor of applied science degree. I have TAFE
23 level diplomas in environmental engineering and public
24 health. I have obviously undertaken executive management
25 courses through the Australian Institute of Management and
26 Curtin University, various industry based financial
27 management courses via the Institute of Management and the
28 Institute of Company Directors, and I have completed the
29 Institute of Company Directors course.

30
31 Q. I see. Were any of those councils that you were the
32 general manager of merged councils?

33 A. No, not as such, no, no. But I did have a significant
34 background on council amalgamations on other work that
35 I have done. I'm happy to tell you about that a bit later,
36 if you like.

37
38 Q. Yes. Tell me now.

39 A. Okay. I have had about 20-plus years. I've got
40 notes, Commissioner, so I might sound a little bit wooden,
41 as it were, but I will do my best.

42
43 Q. It helps.

44 A. My background on amalgamations basically, I've had
45 20 years of undertaking practical research in the local
46 government industry on comparative performance of New South
47 Wales. I was actually quite a nerd about that. I had

1 a lot of data about real performance of councils on
2 a year-by-year basis over many years.

3
4 I did four years of researching the potential impact
5 of an amalgamation on Lake Macquarie City Council and the
6 Newcastle City Council. That was between 2011 and 2015.
7 I spent a lot of time on that and the results told me that
8 an amalgamation between Lake Macquarie City Council and
9 Newcastle City Council at that time would have been not
10 a good option for Lake Macquarie City Council and because
11 of the work that I did and a couple of other players in it,
12 that did not proceed. It was the only one at the time of
13 the proposed major amalgamations that did not proceed, is
14 my understanding.

15
16 Q. Can I just ask you when that was?

17 A. Yes. That was 2011 to 2015 I did that work,
18 pre-empting the sorts of things that eventually did happen.
19 We were well aware of those things and we were quite
20 concerned that no-one seemed to know what really was going
21 to happen, so I did the work over that full - over that
22 period of time.

23
24 I also undertook significant academic research on the
25 comparative performance of data for councils in New South
26 Wales that were actually amalgamated between 2000 and 2004.
27 The data was collected for a three-year period, covering
28 2012 to 2014, making that eight years after the - a minimum
29 of eight years before the three-year datasets were used to
30 compare against other similar councils who had not been
31 amalgamated. So I really did some work on that

32
33 The comparative data performance of those councils
34 that I used were the same indicators that the State
35 Government was using to roll out for the Fit for the
36 Future - you may have heard of that, the Fit for the Future
37 program - to assess which councils would be amalgamated in
38 the 2016 round of amalgamations. So they were the same,
39 and I have the list, although you probably don't want to
40 know about that at this stage. They were the same things,
41 and I did publish my academic research in 2016 in the
42 Economic Papers journal of the Economic Society of
43 Australia. And for your interest, the title of the
44 peer-reviewed paper was "Learning from experience in
45 New South Wales." It was co-authored by Professor Brian
46 Dollery and Dr Joseph Drew, and it was part of a PhD that
47 I was doing at that stage.

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That's the amalgamation, Commissioner.

Q. So, yes, you certainly had some knowledge; even though you hadn't been the general manager of a council that had undergone amalgamation, you had some idea of what problems might beset such a council?

A. Very much so. In fact, because of the circumstances with Lake Macquarie, the potential Lake Macquarie/Newcastle engagement, we did a lot of work on that, and in the end the costs to the Lake Macquarie community were just not acceptable over a 10-year period that was being suggested by the State Government of the day.

Q. So when you came to Central Coast Council, it was on the understanding that it was going to be a short-term position?

A. Yes.

Q. Did you set about trying to implement the merger as soon as you got there?

A. Oh, very much so, yes. Yes. Because of my background in it, I was of the view, the strong view, that look, this decision has been made, it's now two years in the making, or almost two years in the making. There were two very good operators in the administrator, Reynolds, and the general manager, chief executive, Rob Noble, who were dealing with that. Sadly, in my view, not enough time was given to them to allow that to happen properly. But I was very keen, in spite of the circumstances we found, to promote the proper integration of all of the services and activities within those two councils. We had to get it right for the people of the Central Coast.

Q. So when you came along, there was already set up within the council a team that was looking at implementing the merger?

A. Yes, there was. I'd like to comment on that because it was me that made the decision to disband it. I'm sure you will ask me about it at some stage, so I will tell you now.

Q. Yes, tell me.

A. Okay. It was called the project management office or the project management group. When I arrived, it appeared to be set up with around about 120 staff at the time. About roughly 50 per cent of those were consultants and

1 about 50 per cent were staff, who had been seconded from
2 their substantive positions within the council and in my
3 view, in their secondment, they were being paid
4 substantively, in my view, inflated salaries from where
5 their substantive position was. So I'm talking in the
6 region of \$10,000 to \$20,000 a year more than they were
7 getting in their substantive position.
8

9 So, moving on, after a number of meetings over about
10 the first eight weeks of my tenure, my observations were
11 that the consultants heading up the office of project
12 management were, in my view, not of the capability required
13 in the role that they were performing. One example I'll
14 give you was the IT example. IT features largely in this
15 sad circumstance.
16

17 For example, over a two-week period, our executive
18 leadership group and I were getting wildly differing
19 predictions of what the IT conversions alone would cost
20 over the period that they were putting in place with the
21 council. Now, that ranged between 40 and \$80 million,
22 which I have to tell you shocked me very much. The concern
23 we had was that that group were not able to offer
24 acceptable advice on why that might be. It was all over
25 the place. It was - you know, in a few days it would jump
26 from 40 to 60 and 50 to 80 million. No-one seemed to know
27 what was going on in that sense, which is a sad reflection
28 on the circumstance at the time I know.
29

30 But other circumstances that contributed to the
31 concerns of the executive - and there were concerns within
32 the executive, quite a lot, and me, at the time was that
33 the PMO was acting in parallel with the organisation, and
34 wasn't necessarily or sufficiently involved in keeping the
35 executive abreast of what they were doing.
36

37 I was receiving verbal complaints about this from
38 directors and managers all the time. Now, there were
39 still - there were great people in the PMO's office but it
40 was acting in parallel and it just wasn't able to involve
41 the directors and managers sufficiently in the process.
42

43 In my strong view it is the directors and managers,
44 with advice from others, who need to be in control of what
45 is happening and integrating the amalgamation effort, and
46 that simply wasn't happening sufficiently in my view.
47

1 Around this time we organised for the executive group
2 and myself, of course, to visit the Northern Beaches
3 Council to observe the in-house processes that Northern
4 Beaches Council had in place, as opposed to a lot of
5 consultants, like Central Coast Council had. We found that
6 the Northern Beaches Council were much more advanced than
7 us and at a much lower cost than what we were looking at.
8

9 Sadly - this is a pickback - I asked for advice from
10 our finance people at the time, and others, about what
11 would this PMO group be costing for us to proceed? And
12 again I was quite shocked when I heard that the prediction
13 was that if we continued along the lines that we were
14 going, that that group, and all the associated operations
15 that were going with it, would have been about \$14 million
16 a year. I just felt that was completely unsatisfactory.
17 It was way too much in my view to be doing that sort of
18 work for that cost.
19

20 So with the support of the executive group,
21 I disbanded the PMO group. I moved on the consultants who
22 did not appear to be central to our future success and
23 I returned the council staff to their substantive
24 positions. In doing this, I took advice from the
25 appropriate staff on the consultants we needed to retain to
26 help push through the various integration functions,
27 particularly the IT integration programs. That was not in
28 a good state at that point.
29

30 My intent was to return the PMO functions in-house and
31 for all directors, managers and key general staff to be
32 directly involved in the decision-making, integration
33 and implementation. In my experience over the previous
34 20 years, that is the best option by far to make things
35 work in a large council organisation.
36

37 Unfortunately, my intentions were cut short. Before
38 I was able to implement these plans, I was diagnosed with
39 a malignant cancer that required immediate treatment and
40 I had no real option but to resign my position with the
41 council, with Central Coast Council.
42

43 Just jumping forward for a moment, I had every
44 intention, though - because at that stage, prior to my
45 diagnosis, I was considering whether I would continue for
46 the full 12 months with the council, because what I really
47 wanted was a permanent CEO. That's the answer. As you

1 have heard from other people, that's the answer to get
2 them. Yes, I was a good one in my previous life but I knew
3 I wasn't going to be there for all that long. So I was
4 coming to the view that I would want to spend the 12 months
5 there to at least bed things down and mentor from the new
6 financial year of - what would that have been, 17/18?
7 18/19, to have a permanent CEO in place by the beginning of
8 that financial year.

9
10 So what I would have done - I wanted to make sure the
11 council was advised of these matters, even though it wasn't
12 a requirement for an official report to council - I would
13 have sent an information report to council to say this is
14 what my intentions were, this is why, this is my experience
15 in these matters and that I thought that it was far better
16 to be handled by an in-house, well-resourced group, at much
17 less cost and a much greater effectiveness in due course.

18
19 Q. So the work would still be done?

20 A. Very much so.

21
22 Q. But it wouldn't be done in a segregated group; it
23 would be done within the directorates by the --

24 A. Correct. Absolutely. Because that's where the
25 responsibilities lie. Their responsibilities to their
26 community and to their council lie through the permanent
27 staff who have to produce these things all the time. So
28 they had to take personal responsibility for this. They
29 wanted to. They wanted to. But at the time that
30 I arrived, it just wasn't that way.

31
32 That's not to say that there wasn't every good intent
33 in the previous group, and there was no suggestion there
34 wasn't, it was excellent intent but, you know, it just
35 wasn't going to work in the time that was needed, in my
36 view.

37
38 Q. Was there some system then set up, once the PMO had
39 been disbanded, to keep information flowing about the
40 progress of those activities?

41 A. Yes, the whole idea of that was to be - the directors,
42 their managers and all of the staff to be involved in that.
43 That was part of the process that I was going to be
44 introducing from the January onwards to make sure those
45 things happened but unfortunately, other things intervened
46 and I couldn't do that at all.

47

1 But my belief at the time that I did leave was that
2 the directors and managers were firmly of the view that
3 they would pick that up and run heavily with it, because
4 they didn't have much time.

5
6 Q. Was the intention to keep the council informed of what
7 was going on?

8 A. Oh, most definitely, yes. Most certainly. And
9 I would have started that off with an information report,
10 as I said earlier, and advised the council exactly what my
11 circumstances - my thoughts were and how it would all work,
12 and then I would have implemented that.

13
14 Q. I will just take you back a little bit. When you
15 first started, did you have a handover with Mr Noble, who
16 was the then general manager?

17 A. Not as such. It was only a few days that we crossed
18 over with each other. Mr Noble was very busy with the
19 things that he had to do at the time. There were minor
20 issues, but there was not a handover as such, no. And
21 I was also - I wasn't privy to any handovers from the
22 administrator to the newly elected council at the time, but
23 I think you might have covered that in separate
24 questioning.

25
26 Q. Yes. Was your departure influenced in any way by
27 a mayoral minute to terminate the Warnervale airport
28 contract?

29 A. No. No, it wasn't. I was concerned about that, but
30 that was just as a person, as a CEO for the council and
31 also as a person living in the society, I'd lived on the
32 Central Coast for over 20 years. I don't live there now
33 but I did at the time. Would you like me to talk about
34 that?

35
36 Q. Yes, I'd like to understand your position, yes.

37 A. Okay. My position was obviously that as a chief
38 executive officer. I was requested, and the staff were
39 requested by the new council, very early in the piece if
40 I recall, to provide all information that surrounded the
41 Warnervale airport circumstances, and staff spent a lot of
42 time, and appropriately so, a lot of time, getting that
43 information together.

44
45 My understanding was that the council in that request
46 wanted to make that information public and that they wanted
47 to say - they talked strongly about the transparency,

1 public knowledge and the public being involved so they
2 could have a say and then they could make decisions after
3 that.
4

5 The report was duly produced and presented to the
6 council. I confess that I was shocked at the time with the
7 decision of council - even though council wouldn't have
8 known that; it's not for me to be expressing those sorts of
9 things - that the council then decided not to publicly
10 expose all of the information in there. Wow. Particularly
11 after the amount of work that had been requested and
12 honestly and openly put in by the council staff, and
13 briefings of the councillors of all of the consultants that
14 had been used to prepare the information, the business
15 information for the Warnervale airport.
16

17 Q. What was your view of the way the councillors behaved
18 within the chamber?

19 A. Right. Can I just - I will just again refer to some
20 very simple notes I have made.
21

22 Q. Sure.

23 A. I have called it "Councillor division", as in
24 divisions within the council. So obviously there was the
25 political divisions, which you would expect anyway. This
26 is what public politics is all about. There was division
27 also, in my view, between the Gosford and Wyong councillors
28 and their past, and the "What about Gosford", "What about
29 Wyong" stuff. There was division on the issues and
30 significantly the first one of those to air heavily was the
31 airport issue. And sadly there were some, in my
32 observation - because I had observed this as a member of
33 the community also, there were divisions in terms of
34 long-held grievances and enmities, I suspect that would be
35 the word.
36

37 Some of that was exemplified, I guess - I could be
38 wrong on this, but exemplified by things like some
39 non-attendance at workshops and information sessions, and
40 I ran a lot of those in that three-month period that I was
41 there. Non-attendance at workshops and information
42 sessions and then waiting - certain councillors would then
43 wait for council meetings to raise questions and raise
44 issues that could have easily been dealt with earlier so
45 that the council could get on with more informed debate and
46 decision-making in the chamber. So I felt that there was
47 too much time in the chamber, for various circumstances

1 like that, where real debate could have occurred to make
2 decisions efficiently, effectively, and within a reasonable
3 time frame.
4

5 Q. Did you think the meetings were too long?

6 A. Yes. Although I have to say that the new mayor at the
7 time, Councillor Smith, was doing a sterling job at trying
8 to control that matter. I, in fact, complimented
9 Councillor Smith after her first meeting and said, "You
10 handled that extremely well for a person who has never been
11 a mayor before." It was difficult but still there were
12 ructions within the council and the behaviour probably left
13 a little bit to be desired from time to time.
14

15 Q. Did you think there was an inordinate amount of
16 notices of motion, questions on notice, mayoral minutes?

17 A. Yes. Yes. I had come from many, many years of
18 councils that really did get it together, so I was not
19 overly surprised but still, well, I guess disappointed to
20 some extent that there were so many notices of motion,
21 bringing forward issues that could have easily been
22 discussed and information given prior to the council
23 meeting.
24

25 Q. How do you think that affected the public perception
26 of the council?

27 A. Well, I think many people have read - there were many
28 vested interests in Central Coast Council, and for many
29 years it has been like that. I can particularly think of
30 the Wyong council - I don't think Gosford was so dramatic,
31 but the Wyong council for quite a few years before the
32 amalgamation had a lot of that sort of circumstance. Does
33 that make enough sense to you?
34

35 Q. I'm not sure that it's specific enough for me to
36 understand.

37 A. Would you like to ask me again?
38

39 Q. Well, I'm most interested in what you saw in the
40 chamber and whether you thought that it affected the
41 council's reputation in the community?

42 A. Yes, I did - it did affect the council's reputation in
43 the community. There was a significant public attendance
44 at council meetings. Council meetings are a meeting of
45 councillors that the public can observe, not a public
46 meeting per se, if you can see the difference. But many of
47 the public in the chamber didn't see it that way and there

1 was a lot of interjections and chortling and calling over
2 and stuff like that. So that would have interfered,
3 I guess, with a bit of the behaviour in the council
4 generally at the time. And I felt that that sort of didn't
5 augur well for council to run a clear, quick, efficient
6 process.

7
8 Q. Did you ever observe councillors geeing up the
9 gallery?

10 A. Yes, but I'm not prepared to give you circumstance.

11
12 Q. What about your interactions with the councillors
13 outside the chamber? What was your relationship with the
14 councillors like?

15 A. I had - oh, outside the council? I felt I had a very
16 good relationship with the councillors in the short time
17 that I was there. I spent a lot of time, a large amount of
18 time, with them on organised induction processes,
19 workshops, briefings and site tours of the council areas.
20 We spent at least two days taking the councillors around to
21 sites all around the council, and attempting to bring them
22 up to speed with the council circumstances, particularly
23 for the less experienced councillors. I think we had about
24 eight or nine of our councillors who had very little
25 experience. So I spent a lot of time dealing with those
26 matters.

27
28 It was terrific. I kind of prided myself on the
29 induction processes that I had done over the years, and
30 I was particularly keen to make this one right because
31 there were so many newly elected councillors on that.
32 I mean, there is no obligation on councillors to turn up,
33 of course, but I just felt my relationship was good, we
34 went through all of the processes needed, the dynamics of
35 the council, the councillors themselves - we offered all of
36 the training courses that they could do. We ensured that
37 there was a particularly good councillor support - what is
38 it, the system - resources for councillors to go off and do
39 courses and what have you. I just can't recall the name of
40 the document off the top of my head, but the councillor
41 support systems, anyway, in that sense, were all there. If
42 they chose to do that, we promoted it, and if they chose
43 not to do it, well, that was fine too. The facilities and
44 resources were there for them to do that.

45
46 Q. I guess your period at the council was too short for
47 you to properly observe the extent to which those

1 opportunities were taken up?
2 A. Quite right. Quite right. I - all I know is that
3 I was treated with respect by the councillors. I seemed to
4 have a reputation that was fine, I was very happy about
5 that, and I certainly made sure that I treated them with
6 respect. Things like I was not a fan of any staff calling
7 a councillor anything other than a councillor, I had that
8 rule for many years. If you addressed a councillor, you
9 called them councillor, you didn't call them by their first
10 name. If a councillor addressed you back, they could call
11 you what they liked, but you'd call them councillor or the
12 mayor. That's it. Bottom line.

13
14 Q. Had you put in place a process to select a new general
15 manager before you had left or --

16 A. Yes. There was a report that went to the council at
17 the last - just after my diagnosis and I couldn't make that
18 council meeting, for the selection of a new permanent
19 general manager. I think that went through in December of
20 that year, of --

21
22 Q. It seemed to take a very long time for it to actually
23 happen?

24 A. Yes. I can't give you a reason for that. Normally
25 I would expect it to be three to four months, if I was
26 there. However, bearing in mind that it was immediately
27 prior to the Christmas/New Year period and just from
28 experience alone, a lot of people are not looking at papers
29 or not looking at those sorts of systems for at least six
30 or eight weeks of the year, councils included, of course.
31 So I wouldn't have expected that to start again
32 until February. But what I did want the opportunity for
33 was to go to the council and say, "Look, let's start this
34 process off", and then during the January period - that was
35 just before me knowing I wasn't going to be there at that
36 time. Then during the January period, they could get
37 moving and at least start the selection process for
38 consultants and then councillors could select the
39 consultant.

40
41 Q. Mr Glendenning, when you left suddenly, he had to step
42 up into your role?

43 A. He did, indeed, yes.

44
45 Q. Did he still have to do his other role?

46 A. At that stage, yes. It was very, very difficult.
47 Really difficult. The job that Mr Glendenning had was

1 massive. The same, like all directors in that
2 organisation, they were very, very difficult and complex
3 jobs. So he had to do two of them. I understand that
4 Mr Glendenning might have asked one of his staff to do part
5 of the work that he was doing, but his job - he would have
6 been very, very loaded.

7
8 Q. Which might explain why it wasn't until 2019 that
9 Mr Murphy came on board ultimately?

10 A. I think Mr Murphy came in 2018, in August 2018 - July
11 2018?

12
13 Q. 2018. Sorry.

14 A. Yes, that's right. Yes. So it was - from the time of
15 that report to council, it would have been seven months
16 that he came on. But if you take away two months of that,
17 being late December and January, it would be about five
18 months, a little longer than normal. But part of that
19 would have been that, I suspect, Mr Murphy would have also
20 had to give notice at his former employer also. That would
21 have extended the time.

22
23 Q. When you came on board, was Stephen Naven still the
24 CFO then or had he left by the time you arrived?

25 A. No. I'd like to talk about that just very briefly.
26 When I came - here we go. It's in relation to the finance.
27 Not long before my arrival at the council, the head of
28 finance was moved on. There was an acting finance head,
29 Viv Louie. Ms Louie was the acting head at that stage.
30 A totally committed, hard working person, I might add, who
31 self-declared to me that she was not really wanting to be
32 the permanent head of finance. She was very happy where
33 she was at that stage, but she had to be catapulted up into
34 that position before my arrival.

35
36 If I could comment on that, whilst Viv was that, it
37 was still difficult - for whatever circumstance, it was
38 difficult to get clear, quick answers from finance on most
39 matters, and I suspect that was the result of the IT
40 non-integration of Gosford and Wyong accounts, which at
41 that stage I didn't realise how bad it was or was not.

42
43 Q. So what steps had you taken to fill the CFO role?

44 A. At that stage, I was happy for Ms Louie to be the
45 acting head of finance. I wanted to know if she basically
46 had the goods to go the longer term. I would have loved,
47 if she did, at the time, even though she'd expressed to me

1 that she wasn't really interested in the head job. If
2 I gave her a short period of time to prove her worth, then
3 I would seriously consider her for any future time.
4

5 I would have gone to the marketplace. There's no
6 point in going in December/January. I would have gone to
7 the marketplace in February for a new chief finance officer
8 or whatever the title is at the time.
9

10 Q. At some point her role was split into two. There was
11 a unit manager of finance - sorry, unit manager of
12 financial performance and a unit manager of financial
13 services. Was that after your time?

14 A. No, I have no knowledge of that at all, I'm sorry.
15

16 Q. Okay. I'll ask Ms Louie. Was there anything else
17 that you wanted to tell me? I know that you have some
18 notes on different things probably as a result of questions
19 that I've asked other witnesses?

20 A. Yes. Yes, indeed. But I did some in my own right as
21 such. A couple of things, I would like to, if you don't
22 mind, Commissioner --
23

24 Q. No, not at all.

25 A. -- as they come up in front of me. Could I talk about
26 Audit, Risk and Improvement Committee very briefly?
27

28 Q. Yes.

29 A. The external reps in particular on that. When I first
30 arrived at council I asked for a list of the external
31 members of the audit, risk and improvement committee, and
32 my memory is that I was very impressed with the names on
33 that list. There were some very big names on that list and
34 I thought, "Wow, I wish I had had these sort of people in
35 previous lives", although I did have some beauties, but
36 I was very impressed with that list. I had no reason to
37 change that view during my dealings with the ARI committee
38 in the short time that I was on the council.
39

40 One example of that, I spent some time in meetings
41 with the acting head of finance, Ms Louie, and the
42 New South Wales audit office staff and the Audit, Risk and
43 Improvement Committee and some executive staff working
44 through the circumstances at the time, and my memory is the
45 accounts were finally signed off, but that was after my
46 time at council. But what really impressed me was the
47 sophistication and questioning and positioning of the

1 Audit, Risk and Improvement Committee. I was really
2 pleased with that.

3
4 I would like to just generally talk about the staff
5 and the general culture, and staff freezes. You have asked
6 other people about staff freezes. I'll go there first, if
7 you don't mind.

8
9 Q. Yes.

10 A. You said, "What did you feel about them", to these
11 people. My view is I thought it was terrible, the staff
12 freezes. This was combined, in my view, with the State
13 Government rule that all new staff appointments had to be
14 drawn from within the existing organisation. When you did
15 that, it created - if you did take someone from another
16 part of the organisation, you created a hole in that other
17 part of the organisation. Then you had to go through the
18 same process to try to fill that hole elsewhere. So it was
19 a never-ending circle of frustration and annoyance that you
20 couldn't fill the organisation's numbers. It was like
21 you're repeating, if you had 60 staff vacancies, for
22 example, that you had to fill. You went around and around
23 in a circle because you weren't allowed to go outside, and
24 that's what was happening in the council when I arrived.

25
26 My recollection at the time is that the human
27 resources staff were despairing continually about that, and
28 they were actually having great difficulty getting on top
29 of those issues during that period.

30
31 Staff freezes also meant to me that you weren't
32 necessarily getting the best person from the marketplace
33 for the job at hand.

34
35 One other matter on that, or a couple of other
36 matters, just on the staff numbers, I was repeatedly told
37 by the directors in charge of staff, particularly the
38 outside operational staff, that the combined organisation
39 was about 400 employees less than the expected normal
40 staffing levels at any given time. This information was
41 supported by the human resources group at that time,
42 because I did ask questions about it. There was ongoing
43 concern that field staff in particular were unable to carry
44 out works programs, and this caused concern at all levels,
45 and I'm not surprised about that either.

46
47 Staff generally operated from separate locations of

1 Gosford and Wyong. I think that's something I need to talk
2 about too. They operated from separate locations between
3 Gosford and Wyong and this was mainly because of the State
4 Government moratoriums - that was three years until May
5 2019 - on staff movement away from their pre-amalgamation
6 workplaces and, in my view, this would have very much
7 hindered the integration of the two workforces.
8

9 I did find some staff division when I arrived there.
10 Whilst they were trying hard, the general staff still did
11 appear divided between Wyong and Gosford, and this was 16,
12 18 months after the amalgamation occurred. It was probably
13 mainly with Gosford feeling left out; because of State
14 Government rules, staff were transferred or were not
15 transferred from one place to the other so they couldn't
16 really integrate, and so the executive spent their days
17 jumping between two major administration buildings with
18 approximately, I don't know, 500 people each in them,
19 working three days a week at one and two days a week at the
20 other and then vice versa. That sort of thing.
21

22 It wasn't, in my view, conducive to getting staff to
23 work in together, to work forward with themselves. So
24 I did think there was a little bit of staff division at
25 that stage.
26

27 Q. So what do you think the solution would be, because
28 that was a protection that was offered to staff?

29 A. Yes. It was a deal obviously done between the unions
30 and the State Government, and that's their business,
31 there's nothing I can do. It was offered for three years.
32

33 But the requirement that staff would not be required
34 to move from their original workplace prior to amalgamation
35 for three years I thought was patently ridiculous and it
36 militated against integration of staff from the beginning.
37 You wanted it to happen but you just couldn't do it. You
38 can't blame the staff for that. It was just the decision
39 that was made. I thought it was a silly decision. Yes,
40 there would have been a few outliers, but that is
41 imminently solvable by people who have goodwill and the
42 intent, and certainly the community in mind.
43

44 Q. Was there any industrial strife while you were the
45 general manager?

46 A. No. I had a very good relationship with the unions of
47 New South Wales, the United Services Union, I think, yes,

1 the USU. And I knew the state leader of that personally,
2 we got on very well together, and we had full and frank
3 discussions about things that mattered, so I felt I got on
4 very well with them. I have also done that in my previous
5 life with Lake Macquarie City Council for the years that
6 I was there.

7
8 Q. You had another topic there?

9 A. I think I have covered it all, Commissioner. Just
10 the thought - yes, there is one thing. Just some of the
11 amalgamation costs that contributed to the problem. I am
12 neither for nor against amalgamation, but what I do require
13 is proper data and proper decision-making information
14 before it goes ahead, and there was lots of - sadly, very
15 poor of all of that going on at both state and local
16 government levels during that period.

17
18 Particularly with my background that I gave to you
19 before, I just found there was a very - a lot of ignorance
20 around about what really mattered in terms of, you know, is
21 it going to be effective; is it going to be efficient; is
22 it going to be this; is it going to be that?

23
24 Some of the amalgamation costs that contributed to the
25 problem - you'll be aware of these, Commissioner, but just
26 let me underline a few that are there: the pay
27 harmonisations. Now, that's a permanent extra ongoing cost
28 for a council, and never do you see the pay harmonisation
29 go to the lowest level; it always goes up. And for
30 a council of that size, you're talking 2,000 people, half
31 of whom might have been disadvantaged in comparison to the
32 other half recently amalgamated, and so you're talking
33 millions of dollars per year just in pay harmonisations
34 alone, and that is forever.

35
36 Staff redundancies and payouts, they are not to be
37 sneezed at. There's quite a bit in that. The type of
38 council, CBD based or a major urban council like these
39 particular ones, regional versus rural, they are all very,
40 very different in terms of the way they do their
41 comparative operating costs, operating methods and costs.

42
43 Systems harmonisation, I gave you the example of the
44 IT, between 40 and 80 million at the time. I don't
45 believe, contrary to some of the views of others, that it
46 would have cost anywhere near that in a properly integrated
47 system for the future. But that's a personal opinion only,

1 Commissioner.

2
3 The large offline project management groups
4 comparison, the Central Coast Council versus Northern
5 Beaches example I gave you, if it was 14 million - I don't
6 know if that was correct but that was information
7 I received - 14 million extrapolated out over a year versus
8 1 or 2 million, that's a very big difference in terms of
9 what you can do with that money on operating costs
10 elsewhere.

11
12 Costs of consultants. I mean, I had a case of one
13 consultant there that, for the council, I did an
14 extrapolation in my own right, if that consultant had
15 worked the full year, we would have paid that consultant
16 over \$450,000, a single person. Now, I found that
17 completely unacceptable for the level of work that that
18 person was going to be doing.

19
20 The biggest issue in addition to all of that is staff
21 engagement - disengagement, sorry, from the process, and it
22 means work schedules and time frames get pushed out and
23 costs rise alongside that. I think a combination of all of
24 those things were the perfect storm that hit Central Coast
25 Council.

26
27 Q. Just going back to the perfect storm, one of the
28 things that has come up is the 2015/16 financial
29 statements.

30 A. Yes.

31
32 Q. I'm not sure about the timing with your arrival at the
33 council.

34 A. Yes.

35
36 Q. Was that under your watch or Mr Noble's?

37 A. No, that would be - the actual accounts, the
38 statements for this 16/17 year were in Mr Noble's but the
39 actual report came through during my short tenure. I think
40 they were presented on the 27 November meeting of the
41 council. I did write something about that, but my --

42
43 Q. That's the 16/17?

44 A. That's correct. The 16/17 financial statements did
45 come through during my time, and they were - I actually
46 signed - had to sign off on those because Mr Noble had
47 departed by then, but it was all about the time in which

1 Mr Noble was operating as the general manager.

2
3 Q. Yes. So, sorry, I was referring to the accounts of
4 the previous councils, Gosford and Wyong, the 15/16 - you
5 didn't have anything to do with those?

6 A. No, nothing at all. Nothing at all.

7
8 Q. Did you have cause to look at them?

9 A. No, I didn't have time at that stage. I was more
10 concerned about the statements that were coming through -
11 well, I wasn't concerned about them at all. That was a
12 point I was going to make. At no time did I have any
13 concerns about the finances of the council as such. There
14 were quite a few reports came through at that stage, you
15 know, the draft financial report for 2016; the annual
16 report of 16/17 came through; monthly investment reports
17 came through for every month; council business activities
18 in accordance with the National Competition Policy; reports
19 relating to the Central Coast Airport aviation hub - I told
20 you about that; and the Central Coast Council operating
21 business plan report, which was the first quarterly report
22 for the year 2017/18. They all came through and I had no
23 qualms at all at that time, financially, and I think that
24 I would have picked up if there were issues that were
25 obvious to people who work in that environment. But there
26 was nothing at all that I picked up at that stage.

27
28 Hearing the evidence this morning of the audit and
29 risk committee people, I was pleased and impressed at what
30 they said. I believe that to be true, too, pretty well
31 everything they said. I had no cause at all to think there
32 were finance issues at that stage.

33
34 Q. Is there anything else you wanted to tell me, Mr Bell?

35 A. No, I think that's it, Commissioner, at this stage.
36 There may be, but if there is, am I able to submit that in
37 writing to you at some future time?

38
39 Q. There will be an opportunity for what we call
40 submissions in reply, which can be additional submissions,
41 at the conclusion of the public hearings. I will make an
42 announcement at some stage.

43 A. Thank you. At this stage there is nothing in that
44 sense, Commissioner, but thank you very much for your time.

45
46 Q. If you just wait there I will see if Ms Annis-Brown
47 has any questions for you.

1 A. Thank you.
2
3 MS ANNIS-BROWN: No questions, thank you, Commissioner.
4
5 THE COMMISSIONER: Thank you. And Ms Bulut, do you have
6 any application?
7
8 MS BULUT: No application, thank you, Commissioner.
9
10 THE COMMISSIONER: Thank you very much Mr Bell. That was
11 very useful.
12
13 THE WITNESS: Thank you Commissioner, goodbye.
14
15 <THE WITNESS WITHDREW
16
17 THE COMMISSIONER: Our next witness will be Stephen Naven
18 at 2.40pm. We will adjourn until then. Thank you.
19
20 SHORT ADJOURNMENT
21
22 THE COMMISSIONER: Good afternoon. I will try to commence
23 this afternoon's proceedings in the inquiry into the
24 Central Coast Council. I believe we're having a problem
25 with the Zoom and I don't know whether Mr Naven is there.
26 He's not showing on my screen.
27
28 Mr Naven, if you are there, could you please come on
29 camera and off mute?
30
31 I will just go off camera until we can resolve this
32 issue.
33
34 SHORT ADJOURNMENT
35
36 THE COMMISSIONER: Thank you. I believe we are ready now
37 to proceed with the hearing. Sorry about that small
38 technical difficulty. I will ask Mr Naven to come on to
39 camera and off mute.
40
41 MR NAVEN: Hello, Commissioner.
42
43 THE COMMISSIONER: Thank you, Mr Naven, and I will ask
44 Ms Annis-Brown to swear you in as a witness.
45
46 MR NAVEN: Just a moment. I'm having some trouble hearing
47 you. Good afternoon, Commissioner.

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THE COMMISSIONER: Can you hear us now, Mr Naven?

MR NAVEN: I can indeed. My apologies for that little technical hiccup.

THE COMMISSIONER: No, not at all. We've been managing them all week and the week before.

MR NAVEN: I can imagine, yes.

THE COMMISSIONER: No problem. I will have Ms Annis-Brown swear you in now.

<STEPHEN NAVEN, sworn: [2.47pm]

<EXAMINATION BY THE COMMISSIONER:

THE COMMISSIONER: Q. Thanks, Mr Naven. Now, I understand you are a former chief financial officer, CFO, of Central Coast Council?

A. That's correct, yes.

Q. Can you just tell me what your professional background and qualifications are before we get into that role?

A. Okay. My apologies if I keep looking up. I've got a bit of a weird screen set-up so if I look like I'm averting eye contact, it's just because I'm looking at my notes.

Q. I apologise to you, too. If I look like I'm looking down, I'm looking at your eyes but not the camera.

A. Yes, okay, similar set-up. So I've got around 30 years of professional accounting and commercial experience. I started my career in a public accounting firm with a big six firm, where I completed my postgraduate professional year's studies. I was admitted into the Institute of Chartered Accountants in Australia. In the interests of full disclosure, I've since let that membership lapse but I still have that background and experience with the professional year.

Following around three years at KPMG I then moved into the banking industry, and following that the telecommunications industry, before I accepted the role of CFO at Wyong Shire Council in July 2012.

1 Q. So that was your first experience in local government?
2 A. It was my first experience in local government.

3
4 Q. Was it a bit of a change from what you had seen in
5 other sectors?

6 A. The short answer is yes, but I think local government
7 was undergoing a transition into a more robust and more
8 professional type thing and had been doing for a number of
9 years before I arrived. There were still certain things
10 that needed to be fixed but, in essence, it was moving in
11 the right direction.

12
13 Q. When you took the job on, did you plan for that to be
14 a short period of time?

15 A. I guess with any career move you wait and see. I had
16 no major career ambitions to, you know, hit it and leave
17 within two years or anything; I was just waiting to see how
18 the role panned out.

19
20 Q. So it wasn't like the general manager who was
21 installed for a short period of time; you were there for
22 the long haul, ostensibly?

23 A. Yes, absolutely.

24
25 Q. Were you involved in the financial statements for the
26 previous councils, the Wyong Shire Council and the Gosford
27 Shire Council 2015/16 financial statements?

28 A. Yes, correct, yes.

29
30 Q. Those are the statements where there was a change in
31 accounting practice regarding the restricted funds?

32 A. Yes.

33
34 Q. How did that arise?

35 A. So I think the first thing to say was staff had never
36 really envisaged or contemplated changing the way that we'd
37 always accounted for restricted funds. So that's evident
38 in the fact that the financial statements that went up in
39 draft form in November 2016, for the former Wyong,
40 presented the restricted funds in the way that we'd always
41 presented restricted funds. What took place after the
42 construction of those draft accounts for referral to audit
43 was the external audit that took a different interpretation
44 on the way we should account for external funds,
45 specifically, unrestricted funds in the water and sewer
46 fund.

47

1 Q. So I heard from Ms Cowley the other day that normally
2 when there's a change in accounting practice like that it's
3 supported by maybe a legal advice or some other sort of
4 professional advice. Was there anything in this case that
5 supported that change in practice?

6 A. Look, we relied on the expertise of the external
7 auditor. Okay? What I would say is being mandated or
8 directed to change an accounting interpretation is not
9 really anything new in local government. There's probably
10 been, I think, three in the last two years that I can
11 recall, without having to think too hard. So the external
12 auditors are engaged to apply knowledge and advice and hold
13 themselves out to be experts in local government
14 accounting. So on that basis, for want of a better way to
15 put it, we didn't really see value in going out and getting
16 legal opinion over and above what we were already paying
17 the existing experts.

18
19 Q. Was there any information given to the council outside
20 the finance department about what implications that change
21 in accounting practice might have?

22 A. I think importantly, the change was disclosed clearly
23 in both the business paper for the adoption of the Wyong
24 accounts in December 2016 and also in the financial
25 statements themselves. So it was recorded in the notes to
26 that account as a prior year error, as required under the
27 accounting standards disclosure.

28
29 Q. And I heard from Ms Cowley that it wouldn't have made
30 any difference to the way those funds were treated
31 internally; it was more for the purpose of the consolidated
32 accounts that they were just going to be called
33 unrestricted funds. Is that correct? Or is my
34 interpretation of what she said correct, I should say?

35 A. Yes, look, it absolutely is. In fact, that's probably
36 the most important point here. Look, I've read a lot of
37 the submissions and there's lots of claims of confusion and
38 so forth.

39
40 What gets presented in external financial statements
41 can quite often - firstly, it is historical so it is
42 backward-looking. The second thing to say is it is quite
43 often tied up with interesting accounting interpretations.
44 So it would be foolish to rely and have to wait for the
45 construction of external financial statements. Most
46 importantly, you need an internal control environment so
47 you can keep a handle on what's happening now, and what you

1 choose to do outside of the accounting interpretations is
2 a matter for management at the time.

3
4 I can report with confidence that I directed my staff
5 that we would continue - so, firstly, we didn't necessarily
6 agree with the change for external reporting, and on that
7 basis I directed my staff to continue to monitor cash at
8 a fund-by-fund basis, which is the important piece, and
9 also that if we were presenting anything from a restricted
10 fund perspective that we should present those in the more
11 conservative traditional way that we had accounted for them
12 in the external financial statements before the change was
13 directed by the auditors.

14
15 Q. So when you were the CFO, did you have the practice of
16 providing monthly investment reports to the council?

17 A. Yes.

18
19 Q. Were they in a similar format to those that were
20 presented in 2019 to the council?

21 A. I haven't done much research on 2019. All I can say -
22 I mean, what happened after August 2017 when I left the
23 organisation is a matter for others to explain. What I can
24 say is up until that point, the monthly investment reports
25 clearly disclosed on a fund-by-fund basis what the
26 restricted balances were.

27
28 Q. And did you have a net unrestricted cash position as
29 well - sorry, an unrestricted cash position line item?

30 A. Yes.

31
32 Q. Just going back to the 2015/16 accounts, there was an
33 issue about the Gosford accounts, but more to do with asset
34 valuation.

35 A. Yes, look, Commissioner, there were a number of
36 problems with the Gosford accounts, and apologies, I'm just
37 trying to find my notes so that I can do this with some
38 logic. So we did encounter --

39
40 Q. I'm sorry, Mr Naven, I've just lost your audio for
41 a moment there. Could you just repeat what you just said?

42 A. Have you got me now, Commissioner?

43
44 Q. Yes, I do.

45 A. Terrific. Thank you. I was just saying there were
46 a number of issues that we encountered in 2015/16 financial
47 statements for the former Gosford. Please let me know if

1 you can't hear me.

2
3 Q. I'll put my hand up.

4 A. Yes. I have periodic issues with these things. So,
5 look, first of all, we had to write fixed assets down by
6 1.39 billion. That was a function of two things. Roads
7 and drainage assets were written down by 720 million, and
8 that was to correct prior year errors with unit rates that
9 were used for the valuation. So they couldn't be supported
10 so we had to acknowledge that they weren't correctly valued
11 and wrote those down by 720 million.

12
13 The second issue with fixed assets was in the water
14 and sewer fund, fixed assets were written down by
15 595 million. That was due to a previous valuation where
16 a valuation was done on the network and then they did
17 a separate valuation on the sewer manholes that were
18 already included, so effectively we double counted the
19 sewer manholes. So that was a \$595 million write-down.

20
21 Land under roads was also written down by 74 million
22 due to issues with finding evidence that those roads
23 existed or the land under those roads existed. And the
24 drainage fund hadn't historically been included in the
25 former Gosford City Council's water supply authority
26 financial reports, so what that meant was the water supply
27 authority's retained earnings were understated by around
28 147 million.

29
30 Q. Was that the limit of the problems that you had
31 identified with the Gosford accounts?

32 A. No. No.

33
34 Q. Or should I say systems?

35 A. No, we also - I mean, it's all evident in the
36 qualified management statement that we issued, which led to
37 a disclaimer of opinion for those accounts. One of the
38 more significant issues that we encountered was a lack of
39 electronic access controls around the finance system and,
40 in addition to that, creating a little bit further
41 confusion, the former Gosford had attempted to undertake
42 a general ledger restructure and, for whatever reason, that
43 didn't work too well and the balance sheet didn't balance
44 and there were numbers everywhere that needed to be
45 reconciled. So having done that and then looking at the
46 control issues around the systems, it became apparent that
47 we didn't really have a lot of confidence in the specific

1 transactions that had gone in and how those expenses and
2 incomes were classified.

3

4 Q. Is that what is referred to as the rescripting issue
5 or is that something different?

6 A. I've not heard the term "rescripting issue",
7 Commissioner.

8

9 Q. Okay.

10 A. I mean, the significant issue around the control
11 issues with Gosford's system was a number of officers and
12 also software vendors could script changes, deletions,
13 additions into the financial tables with no tracking or
14 audit trail, and that was one of the more fundamental
15 concerns we had, was people had access and we couldn't
16 actually track what they had done with that access.

17

18 Q. So that was corrected, presumably, under your watch?

19 A. Yes. We basically took all the access, user access,
20 off anybody who shouldn't have it and restricted the access
21 to that account and got auditing controls in place and --

22

23 Q. So you didn't know positively that anything had
24 happened; you just knew that there weren't controls to
25 prevent something from happening?

26 A. That's correct.

27

28 Q. With the change in the accounting practice, would that
29 have made the consolidated accounts appear more favourable
30 than if the restricted funds were shown separately?

31 A. At the consolidated level, yes. So again, I think
32 it's important to note that the change was directed by the
33 auditors and, yes, it did end up as a favourable impact to
34 the unrestricted current ratio. That itself was disclosed
35 in the business paper and also in the financial statements
36 as to what the impact of that change would be in terms of
37 the favourable nature to the unrestricted current ratio.

38

39 Q. So just back to your position, you left in - what was
40 it - August, August 2017?

41 A. That's correct, yes.

42

43 Q. Why did you leave?

44 A. The factors surrounding my departure are subject to
45 a confidential deed so I don't think I can speak further on
46 that matter.

47

1 Q. Okay, thank you. Did you take any steps - did anyone
2 take any steps while were you there to start recruiting for
3 a new chief financial officer?
4 A. No.
5
6 Q. Was there a reason for that?
7 A. I don't think I can answer that.
8
9 Q. In your time at the council, did you have an
10 opportunity to observe the councillors in the chamber?
11 A. No. I left before the councillors arrived.
12
13 Q. I don't think I have any other questions for you,
14 Mr Naven. I will just check with Ms Annis-Brown.
15 A. Sure.
16
17 MS ANNIS-BROWN: No questions, Commissioner, thank you.
18
19 THE COMMISSIONER: Thank you. And, Ms Bulut, do you have
20 any application?
21
22 MS BULUT: No applications, thank you, Commissioner.
23
24 THE COMMISSIONER: Thank you.
25
26 Well, thank you, Mr Naven. Sorry about the technical
27 problems getting you in to the hearing. That concludes
28 your evidence. Thank you.
29
30 THE WITNESS: Thank you, Commissioner. Have a nice day.
31
32 THE COMMISSIONER: Thank you. Now, that concludes the
33 public hearings for today. We will start again tomorrow at
34 10am. Thank you.
35
36 <THE WITNESS WITHDREW
37
38 AT 3.05PM THE INQUIRY WAS ADJOURNED TO WEDNESDAY,
39 13 OCTOBER 2021 AT 10AM
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