

CENTRAL COAST COUNCIL

PUBLIC INQUIRY

REPORT

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1. INTRODUCTION AND TERMS OF REFERENCE

1. On 30 October 2020 the then Minister for Local Government, the Hon Shelley Hancock MP, suspended the councillors of Central Coast Council (CCC) and appointed an Administrator, Mr Dick Persson. At the time the Council was suspended by the Minister, there were thirteen elected councillors, two having resigned a short time prior. The decision to suspend the council was taken after CCC had, on 6 October 2020, informed the Office of Local Government (OLG) of a significant deterioration in its budgetary position and the possible use of restricted funds for purposes other than those for which they were restricted. The Administrator issued his final report on 15 April 2021. On 26 April 2021, the Minister announced a formal Public Inquiry into CCC and a continuation of the suspension of the councillors. The Minister appointed Mr Rik Hart as Administrator of the Council.
2. The terms of reference for this Inquiry are:

To inquire and report to the Minister for Local Government with respect to whether:

1. *In exercising its functions pursuant to sections 21, 22, 23, 23A and 24 of the LG Act, the governing body met its obligations in a manner consistent with sections 8A(1)(b), 8B(a), 8B(c) and 8B(d) of the LG Act, particularly in relation to:*
 - a. *Whether the governing body acted in a manner that maximised the success of gaining efficiencies and financial savings from the merger process,*
 - b. *Whether the governing body disregarded the financial consequences of its decisions, and*
 - c. *Whether the governing body's decisions since 2017 contributed to the financial position which the Council now finds itself in.*
2. *In exercising its functions pursuant to section 223 of the LG Act, the governing body ensured:*
 - a. *As far as possible, that decisions taken by it had regard to the financial sustainability of the council, and*
 - b. *That it kept under review the performance of the council, including that council spending was responsible and sustainable by aligning general revenue and expenses.*
3. *Any other matter that warrants mention, particularly those that may impact on the effective administration of Council's functions and responsibilities or the community's confidence in the Council being able to do so.*

The Commissioner may make recommendations as the Commissioner sees fit having regard to the outcomes of the Inquiry, including whether all civic offices at Central Coast Council should be declared vacant.

3. To aid an understanding of the Terms of Reference the particular provisions of the *Local Government Act 1993* (LG Act) referred to in the Terms of Reference are set out below.

Chapter 3 Principles for local government

8 Object of principles

The object of the principles for councils set out in this Chapter is to provide guidance to enable councils to carry out their functions in a way that facilitates local communities that are strong, healthy and prosperous.

8A Guiding principles for councils

- (1) **Exercise of functions generally** The following general principles apply to the exercise of functions by councils—
- (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
 - (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
 - (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
 - (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
 - (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
 - (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
 - (g) Councils should work with others to secure appropriate services for local community needs.
 - (h) Councils should act fairly, ethically and without bias in the interests of the local community.
 - (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.
- (2) **Decision-making** The following principles apply to decision-making by councils (subject to any other applicable law)—
- (a) Councils should recognise diverse local community needs and interests.
 - (b) Councils should consider social justice principles.

- (c) Councils should consider the long term and cumulative effects of actions on future generations.
 - (d) Councils should consider the principles of ecologically sustainable development.
 - (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.
- (3) **Community participation** Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

8B Principles of sound financial management

The following principles of sound financial management apply to councils—

- (a) Council spending should be responsible and sustainable, aligning general revenue and expenses.
- (b) Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- (c) Councils should have effective financial and asset management, including sound policies and processes for the following—
 - (i) performance management and reporting,
 - (ii) asset maintenance and enhancement,
 - (iii) funding decisions,
 - (iv) risk management practices.
- (d) Councils should have regard to achieving intergenerational equity, including ensuring the following—
 - (i) policy decisions are made after considering their financial effects on future generations,
 - (ii) the current generation funds the cost of its services.

8C Integrated planning and reporting principles that apply to councils

The following principles for strategic planning apply to the development of the integrated planning and reporting framework by councils—

- (a) Councils should identify and prioritise key local community needs and aspirations and consider regional priorities.
- (b) Councils should identify strategic goals to meet those needs and aspirations.
- (c) Councils should develop activities, and prioritise actions, to work towards the strategic goals.
- (d) Councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.

- (e) Councils should regularly review and evaluate progress towards achieving strategic goals.
- (f) Councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals.
- (g) Councils should collaborate with others to maximise achievement of strategic goals.
- (h) Councils should manage risks to the local community or area or to the council effectively and proactively.
- (i) Councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.

.....

21 Functions under this Act

A council has the functions conferred or imposed on it by or under this Act.

22 Other functions

A council has the functions conferred or imposed on it by or under any other Act or law.

23 Supplementary, incidental and consequential functions

A council may do all such things as are supplemental or incidental to, or consequential on, the exercise of its functions.

23A Departmental Chief Executive's guidelines

- (1) For the purposes of this Act, the Departmental Chief Executive may from time to time prepare, adopt or vary guidelines relating to the exercise by a council of any of its functions.
- (2) The Departmental Chief Executive may only prepare, adopt or vary guidelines relating to the exercise by a council of functions conferred or imposed on the council by or under any Act or law that is not administered by or the responsibility of the Department of Local Government if the Departmental Chief Executive has first obtained the concurrence of the Minister administering or responsible for the administration of the other Act or law.
- (3) A council must take any relevant guidelines issued under this section into consideration before exercising any of its functions.
- (4) The guidelines for the time being in force are to be made available to councils on request and, on payment of such fee (if any) as the Departmental Chief Executive may determine, to any interested person.

24 Provision of goods, services and facilities and carrying out of activities

A council may provide goods, services and facilities, and carry out activities, appropriate to the current and future needs within its local community and of the wider public, subject to this Act, the regulations and any other law.

.....

222 Who comprise the governing body?

The elected representatives, called “councillors”, comprise the **governing** body of the council.

223 Role of governing body

- (1) The role of the governing body is as follows—
- (a) to direct and control the affairs of the council in accordance with this Act,
 - (b) to provide effective civic leadership to the local community,
 - (c) to ensure as far as possible the financial sustainability of the council,
 - (d) to ensure as far as possible that the council acts in accordance with the principles set out in Chapter 3 and the plans, programs, strategies and policies of the council,
 - (e) to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council,
 - (f) to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area,
 - (g) to keep under review the performance of the council, including service delivery,
 - (h) to make decisions necessary for the proper exercise of the council's regulatory functions,
 - (i) to determine the process for appointment of the general manager by the council and to monitor the general manager's performance,
 - (j) to determine the senior staff positions within the organisation structure of the council,
 - (k) to consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities,
 - (l) to be responsible for ensuring that the council acts honestly, efficiently and appropriately.
- (2) The governing body is to consult with the general manager in directing and controlling the affairs of the council.

Structure of the Report

4. It is not possible to properly understand the events at CCC in 2020 without putting those events into their historical context.
5. Accordingly, this Report will outline the significant events and circumstances leading up to the suspension of the councillors. To the extent possible, those events and circumstances will be considered in a roughly chronological sequence, concerning the following:

2014 NSW Treasury report in council financial sustainability

Independent Local Government Review Panel (ILGRP) report
“Revitalising Local Government”

Government response

2015 Councils “Fit for the Future” proposals

Wyong Shire Council (WSC) and Gosford City Council (GCC) vote to merge

2016 WSC/GCC merger proposal

Delegate’s report

Boundaries Commission report

Merger proclamation and administration

2017 Election of the governing body

6. In an effort to be succinct, a number of acronyms are used in this report. For those less familiar with those acronyms, a glossary of them is an appendix to this report. Throughout the report reference is made to the role of General Manager (GM). That role at CCC was given the title Chief Executive Officer (CEO) and the titles are used interchangeably. For consistency with the LG Act this report will use the term GM. For ease of reference all councillors of CCC, whether currently suspended or having previously resigned, will be referred to as councillors in this report.
7. Public notice of the Inquiry was published in Central Coast Community News on 21 May 2021, the Coast Community Chronicle on 26 May 2021 and the Pelican Post on 3 June 2021. The notice included the terms of reference and invited submissions relevant to the terms of reference. The notice and an information paper were uploaded to the websites of the Inquiry and CCC. Notice of the public hearings of the Inquiry was advertised in Central Coast Community News, the Coast Community Chronicle and the Pelican Post and uploaded to the websites of the Inquiry and CCC.
8. During the Inquiry, extensive documentation was obtained from CCC and some further documentation from OLG, submissions were received from most of the witnesses summonsed to the public hearings as well as members of the

public, and submissions in reply were received following the public hearings. Due to COVID-19 restrictions the hearings were held via Zoom between 27 September and 19 October 2021. The hearings were livestreamed via YouTube and transcripts of the hearings were uploaded to the Inquiry website.

9. During the hearings, the Inquiry heard from each of the fifteen councillors. The Inquiry also heard from the former and current GMs and staff, former and current Administrators, members of CCC's Audit Risk and Improvement Committee (ARIC) and from several members of the public who had made written submissions to the Inquiry. A small number of witnesses gave their evidence in camera due to concerns about recriminations and other matters. I have not found it necessary to refer to or rely on that evidence, other than as corroboration of evidence received on the record.

2. STEPS TO AMALGAMATION

2.1 New South Wales Treasury Corporation (TCorp) Report – April 2013

10. In April 2013 TCorp published its report "Financial Sustainability of the New South Wales Local Government Sector".¹ For the purpose of the report, TCorp developed a definition of sustainability for local government being:

A local government will be financially sustainable over the long term when it is able to generate sufficient funds to provide the levels of service and infrastructure agreed with its community.²

11. TCorp developed ten key benchmarks used to measure performance on a common basis across the then one hundred and fifty two Councils in New South Wales.³ It also created a Financial Sustainability Rating (FSR) and an Outlook methodology in order to rate each individual Council.⁴ Councils were then assessed and categorised into seven rating bands ranging from Very Strong to Distressed.⁵ TCorp considered that a Council needed to be assessed at a Moderate or higher level to be acceptable in terms of its sustainability. A Council with a Moderate level FSR was on average equivalent to marginally exceeding the benchmarks used in TCorp's assessment process.
12. The Outlook was the likely movement in a Council's FSR over the short term (three years).⁶ Councils were assigned an Outlook rating of Positive, Neutral or Negative. A Positive Outlook indicating that a Council's FSR was likely to improve in the short term, a Neutral Outlook that the FSR was likely to remain unchanged and a Negative Outlook an indication that the FSR was more likely to deteriorate.
13. TCorp assessed the financial capacity of each Council which included an analysis of each Council's historical results for the 2009 – 2012 financial years. TCorp also looked at the long-term sustainability of each Council and the degree to which that Council had completed its Asset Management Plan (AMP) as part of its long-term financial plan (LTFP). The financial performance of each Council was then compared to a range of similar Councils when measured against the established benchmarks.
14. Both GCC and WSC were categorised as having a Moderate FSR.⁷ Both Councils were assessed as having a Neutral Outlook and retained a moderate FSR.⁸
15. GCC and WSC were part of "Group 7" forming part of the larger group of "Urban Councils". The members of Group 7 were then Blue Mountains City

¹ "Financial Sustainability of the New South Wales Local Government Sector" NSW Treasury Corporation April 2013

² Ibid p 5

³ Ibid pp 22-23

⁴ Ibid p 23

⁵ Ibid p 35

⁶ Ibid p 25

⁷ Ibid p 32

⁸ Ibid p 37

Council, Campbelltown City Council, GCC, Hills Shire Council, Hornsby Shire Council, Liverpool City Council, Penrith City Council and WSC.⁹

16. Some of the key findings of the TCorp report are particularly relevant to the financial position of CCC at the time its councillors were suspended in October 2020. Those relevant key findings include (adopting the numbering in the report):
1. *Operating deficits are unsustainable – the majority of Councils are reporting operating deficits and a continuation of this trend is unsustainable.*
 4. *Consultation with the community is required – addressing the expected continued deterioration of Councils' financial positions will require an extensive consultation process with the community to consider a combination of revenue increases, expenditure reductions and service level of use.*
 5. *Need to prevent further deterioration – achieving a break-even operating position for Councils is one factor that will assist in preventing further deterioration in the financial position of the local government sector.*
 8. *An asset maintenance gap exists – Councils' reported expenditure on the maintenance of their assets shows an annual shortfall in spending on the asset maintenance.¹⁰*
17. The nine key findings were part of twenty five main findings of the TCorp report. In addition to the key findings identified above, some of the main findings of the TCorp report had relevance to CCC including:
15. *Long term financial planning is improving but further work needs to be done – under the Integrated Planning & Reporting framework process, Councils are moving from a short-term budgeting focus to a longer-term financial forecasting focus. Further improvements are still needed, particularly in linking Asset Management Plans (and strategic plans) to the financial plans.*
 20. *Access to skilled staff can be an issue particularly for more remote Councils – providing assistance to Councils in respect of specialist skills such as engineering and finance needs to be considered.*
 23. *Cost shifting occurs between different levels of government – TCorp has cited examples of instances where Councils have been adversely impacted by other levels of government transferring responsibilities for certain assets without appropriate funds being provided.¹¹*

⁹ Ibid p 74

¹⁰ Ibid pp 7-8

¹¹ Ibid pp 62-63

18. The TCorp report made seven key recommendations for consideration, all of which are relevant to the 2020 financial position of CCC. Those key recommendations were:

1. **At least breakeven operating positions are essential** - Councils need to achieve at least a breakeven operating position on an on-going basis. The future sustainability of Councils is dependent upon generating sufficient funds to meet the costs of maintaining and renewing assets to deliver services. Councils who have been operating with deficits and are forecasting to continue to do so, are not generating sufficient funds to continue providing services and renewing assets at their current levels. These Councils need to develop options to correct this position. Such options will necessarily involve extensive consultation with their communities, and will need to consider options for revenue increases, reductions in expenditure, and reviews of existing service levels and standards. Surpluses generated by Councils can be used to address their Infrastructure Backlogs.
2. **Pricing paths are needed for the medium term** - IPART, DLG and Councils should work together to consider the development of a medium or long term, and achievable pricing path so that Councils can achieve at least a breakeven operating position. A clear strategy across the local government sector is needed to promote future sustainability for Councils.
3. **Rate increases must meet underlying costs** - Future increases in all rates and annual charges for Council services should be based on the underlying cost of delivering these services and the annual movement in the cost of these services. Where a decision by Council is made to increase rates and charges at a lower than required factor, the impacts of such actions must be clear in the context of each Council's sustainability.
4. **Asset management planning must be prioritised** - Councils need to prioritise the completion and validation of their AMP and Infrastructure Backlog values so that a clear picture is available as to the total funding requirements for their assets. Without this certainty, Councils cannot accurately forecast their future funding requirements and put in place appropriate strategies.
5. **Councillor and management capacity must be developed** - Councils and the DLG should continue to articulate the benefits of the IP&R process, by increasing the focus on linking long term strategies, asset management planning and long term financial forecasting to assist with decision making and promoting sustainability. Enhancing the knowledge and skills of Council management and elected officials, particularly in respect of the importance of financial and asset management, would greatly assist in this area.
6. **Improved use of restricted funds** - A review of the system and guidelines for accessing restricted funds is needed. Under the current requirements, most Councils are required to hold substantial funds in reserve for specific purposes, often for lengthy periods of time. On average 50% to 60% of funds held by

Councils are externally restricted. Being able to access more of these funds (eg through s 410 internal borrowing arrangements) could allow Councils to meet current asset renewal and maintenance requirements and be a more efficient use of funds

7. **Increased use of debt** - Debt is underutilised by some Councils and there are opportunities for more cost effective borrowing and debt management. Some Councils have low or zero debt, strong cash flows and outstanding Infrastructure Backlogs. For some of these Councils the use of debt can be an efficient means of addressing Backlog issues, enhancing intergenerational equity and improving asset quality and services. For many Councils with existing debt, overly conservative debt management practices are adopted which could be improved to deliver enhanced value and a lower cost of funds for Councils.¹²
19. The seven key recommendations were part of the twenty recommendations of the TCorp report. Of the other recommendations, recommendation eight has particular relevance to the terms of reference of this inquiry and provided:
 8. *DLG should consider developing and implementing training programs for Council staff and Councillors in financial management and planning - In particular, training in the development of effective LTFPs would promote a greater understanding of the impact of decisions made by Councils on their finances. The assessment indicates that some Councils need assistance in understanding how to approach the development of an effective LTFP. For example, the use of a base case and various scenarios with supporting data that aligns with Councils' strategic plans.*
20. It is important to understand the limitations of the benchmarking process used by TCorp in its 2013 report and which continues in use today. As noted at paragraph 3.2 of the TCorp report:

"Benchmarks do not necessarily represent a pass or fail in respect of any particular area. One-off projects or events can impact a Council's performance against a benchmark for a short period. Other factors such as the trends in results against the benchmarks are critical, as well as the overall performance against all the benchmarks. The Operating Ratio in particular has been set at a benchmark of negative 4.0%, but in TCorp's view, Councils over the long term need to achieve a breakeven position (at least 0% Operating Ratio). Small operating deficits in some years can be acceptable. Even at a breakeven position this will not generate sufficient funds for a Council to address any Infrastructure Backlog that it may have, nor any unquantified asset maintenance gap.

As Councils can have significant differences in their size and population densities, it is important to note that one benchmark does not fit all. For example, the Cash Expense Ratio should be greater for smaller Councils than larger Councils as a protection against variation in operating performance and financial shocks. In particular, the Own

¹² Ibid p 64

*Source Operating Revenue Ratio benchmark may need to be different for Rural and Urban Councils. Many Rural Councils are unlikely to achieve the same level of Own Source Operating Revenue as an Urban Council due to their limited rate base. Further, it can be argued that Urban Councils should have a much higher Own Source Operating Revenue Ratio as these Councils not only have access to a larger rate base, but also the ability to raise income from other services such as car parking. So for many Urban Councils, this Ratio benchmark should be in excess of 80% rather than the current agreed level of 60%."*¹³

21. The ten benchmark ratios were as follows:

Indicator	Quantitative Measure	Definition	Benchmark
Operating Ratio	Measures a Council's ability to contain operating expenditure within operating revenue	(Operating revenue excluding capital grants and contributions less operating expenses) / Operating revenue excluding capital grants and contributions	> (4.0%)
Own Source Operating Revenue Ratio	Measures the level of a Council's fiscal flexibility. It is the degree of reliance on external funding sources such as operating grants and contributions	Rates, utilities and charges / total operating revenue (inclusive of capital grants and contributions)	> 60%
Unrestricted Current Ratio	The Unrestricted Current Ratio is specific to local government and is designed to represent a Council's ability to meet debt payments as they fall due	Current assets less all external restrictions / current liabilities less specific purpose liabilities	> 1.5x
Capital Expenditure Ratio	Indicates the extent to which a Council is forecasting expansion of its asset base with capital expenditure spent on both new assets, and replacement and renewal of existing assets	Annual capital expenditure / annual depreciation	> 1.1x
Infrastructure Backlog Ratio	This ratio shows what proportion the backlog is against total value of a Council's infrastructure	Estimated cost to bring assets to a satisfactory condition / total infrastructure assets	< 0.2x

22. TCorp categorised the ten benchmark ratios into four broad categories and then considered the relative importance of each category in terms of a Council's financial capacity and sustainability. Weightings were then applied to the four broad categories.¹⁴ The following table sets out the weightings applied by TCorp to the benchmark categories.

¹³ Ibid p 22

¹⁴ Ibid p 23

Ratio	Benchmark	Weighting (%)	Subtotals (%)
Financial Flexibility			
Operating ratio	> (4.0%)	17.5	35.0
Own source operating revenue ratio	> 60.0%	17.5	
Liquidity			
Cash expense ratio	> 3.0 months	10.0	20.0
Unrestricted current ratio	> 1.5x	10.0	
Debt Servicing			
Debt service cover ratio (DSCR)	> 2.0x	7.5	10.0
Interest cover ratio	> 4.0x	2.5	
Asset Renewal and Capital Works			
Infrastructure backlog ratio	< 0.02x	10.0	35.0
Asset maintenance ratio	> 1.0x	7.5	
Building and infrastructure asset renewal ratio	> 1.0x	7.5	
Capital expenditure ratio	> 1.1x	10.0	
Total		100.0	

15

23. At paragraph 4.2.1 the TCorp report examined the features of a sustainable Council. The Report states at page 33:

The simple answer to the question of what makes a Good Council is:

Good management and a good Council working together with their community.

24. The Report identified a high population density and low reliance on external sources of funds as important factors for a sustainable Council but also identified quality management and staff, a responsible Council that understands its role and good reporting and budgeting, as other factors which would assist sustainability.¹⁶
25. The TCorp report was used by the Independent Local Government Review Panel (ILGRP) to develop options to improve the strength and effectiveness of local government in New South Wales, in particular in relation to financial sustainability.¹⁷

2.2 Independent Local Government Review Panel (ILGRP) Report

26. In April 2012 the NSW Government appointed the ILGRP to formulate options for governance models, structures and boundary changes in local government in order to improve the strength and effectiveness of local government and to

¹⁵ Ibid p 24

¹⁶ Ibid p 33

¹⁷ Revitalising Local Government – Final Report of the NSW Independent Local Government Review Panel 25 October 2013

help drive key strategic directions in several state plans.¹⁸ The panel comprised Graham Sansom (chair), Jude Munro and Glenn Inglis.

27. The final report entitled "Revitalising Local Government" was published on 25 October 2013. This report has been said to be a catalyst for the 2016 amalgamations, including that of GCC and WSC. The report made it clear that the recommendations comprised an integrated package of measures with the key recommendations being inter-dependent. The report cautioned that if individual recommendations were "cherry-picked" then the benefits of reform might only partially be realised or not at all.¹⁹
28. The principal recommendations of the report were:

Fiscal responsibility

- Establish an integrated Fiscal Responsibility Program, coordinated by DLG and also involving TCorp, IPART and LGNSW... (5.1 and 5.3)
- Introduce more rigorous guidelines for Delivery Programs... (5.2)
- Place local government audits under the aegis of the Auditor General (5.4)

Strengthening the Revenue Base

- Commission IPART to undertake a further review of the rating system focused on: options to reduce or remove excessive exemptions and concessions... (6.2); more equitable rating of apartments and other multi-unit dwellings... (6.3)
- Either replace rate-pegging with a new system of 'rate benchmarking' or streamline current arrangements to remove unwarranted complexity, costs, and constraints to sound financial management (6.5)
- Subject to any legal constraints, seek to redistribute federal Financial Assistance Grants and some State grants in order to channel additional support to councils and communities with the greatest needs (6.6)
- Establish a State-wide borrowing facility to enable local government to make increased use of debt where appropriate... (6.7)

Meeting Infrastructure Needs

- Maintain the Local Infrastructure Renewal Scheme (LIRS) for at least 5 years, with a focus on councils facing the most severe infrastructure problems (7.2)
- Pool a proportion of funds from the roads component of federal Financial Assistance Grants and, if possible, the Roads to Recovery program in order to establish a Strategic Projects Fund for roads and bridges... (7.2)
- Adopt a similar model to Queensland's of Regional Roads and Transport Groups... (7.4)

¹⁸ Ibid p 7

¹⁹ Ibid p 17

Improvement, Productivity and Accountability

- Commission IPART to undertake a whole-of-government review of the regulatory, compliance and reporting burden on councils (8.2)
- Amend IPR Guidelines to require councils to incorporate regular service reviews in their Delivery Programs (8.4)
- Strengthen requirements for internal and performance auditing as proposed in Box 17 (8.5)
- Political Leadership and Good Governance
- Require councils to undertake regular Representation Reviews ... (9.1)
- Amend the legislated role of councillors and mayors... and introduce mandatory professional development programs (9.2 and 9.3)
- Amend the legislated role and standard contract provisions of General Managers... (9.5)
- Develop a Good Governance Guide ...(9.7)

Advance Structural Reform

- Introduce additional options for local government structures, including regional Joint Organisations, 'Rural Councils' and Community Boards, to facilitate a better response to the needs and circumstances of different regions (10.1)
- Legislate a revised process for considering potential amalgamations and boundary changes through a re-constituted and more independent Boundaries Commission (10.3)
- Encourage voluntary mergers of councils through measures to lower barriers and provide professional and financial support (10.4)

Regional Joint Organisations

- Establish new Joint Organisations (JOs) for each of the regions shown on Map 2 ... under new provisions of the Local Government Act that replace those for County Councils (11.5)
- Establish Regional Water Alliances in each JO along the lines proposed in the 2009 Armstrong-Gellatly report (11.3)

State-Local Government Relations

- Introduce new arrangements for collaborative, whole-of-government strategic planning at a regional level (17.3)
- Amend the State Constitution to strengthen recognition of elected local government (17.4)²⁰

29. The report considered that the fundamental prerequisite for all other actions to strengthen and make local government more effective was to secure local government's financial capacity and sustainability.²¹ It recommended a medium to long term strategy combining fiscal discipline with improved financial and asset planning, accelerated increases in rates and charges, a

²⁰ Ibid p 16

²¹ Ibid p 36

redistribution of grant funding, and improved efficiency and productivity. The report recommended that Councils be required to employ an appropriate qualified Chief Financial Officer (CFO) with the role of strategic management, not simply “keeping the books”. It also recommended providing additional training programs for councillors and staff in relation to financial management.

30. In order to strengthen the revenue base, the report recommended a system of “rate benchmarking” to replace rate pegging.²² The rate benchmarking system would be based on an annual Local Government Cost Index (a CPI specific to local government) published concurrently with comparative data on rate increases and associated expenditures with the aim of permitting greater public scrutiny of Council's revenue and expenditure decisions and a heightened awareness of the need for sound financial management.
31. The report dealt extensively with political leadership and good governance. Some of its recommendations included compulsory awareness sessions for intending candidates for Councils and increased remuneration for councillors who successfully complete recognised professional development programs.²³
32. In considering the necessary structural reform for local government, the report acknowledged that amalgamations were not a panacea for local government's problems but considered them to be an essential part of a wider package of reforms.²⁴ The report acknowledged that mergers can be disruptive and that transition costs can place a heavy strain on new organisations in their early years of operation. It also noted that merging weak or unsustainable Councils would require complementary action to address underlying issues in order for efficiencies to be achieved. It recommended that amalgamation be preceded by careful analysis of the issues to be addressed and all of the options available with full community consultation, handled by an expert, independent body.
33. In terms of the Central Coast, the report acknowledged the strong socio-economic and functional linkages between the Gosford and Wyong areas and the existing level of cooperation between the Councils. It considered the options for Central Coast to be either a full amalgamation or a multi-purpose Joint Organisation, with the potential for an amalgamation warranting further investigation.²⁵
34. The report made two specific recommendations relevant to the Central Coast namely:
 47. Seek evidence-based responses from Hunter and Central Coast councils to the Panel's proposals for mergers and boundary changes, and refer both the proposals and responses to the proposed Ministerial Advisory Group (section 18.1) for review, with the possibility of subsequent referrals to the Boundaries Commission (14.1 and 14.2)

²² Ibid p 43

²³ Ibid p 62

²⁴ Ibid p 72

²⁵ Ibid p 109

48. Defer negotiations for the establishment of a Central Coast Joint Organisation pending investigation of a possible merger of Gosford and Wyong councils (14.2)²⁶

35. This Inquiry received comprehensive written submissions and oral testimony from the Chair of the ILGRP, now adjunct Professor Graham Sansom of University of Technology Sydney. Professor Sansom's submission included his report dated September 2021 entitled "Not so Simple: the origins and implications of the Central Coast Council's 'financial calamity'" which is addressed later in this report.

2.3 NSW Government Response

36. In September 2014 the NSW Government published its response to the ILGRP Report. It required all Councils to submit a proposal by 30 June 2015 outlining the reforms which would be undertaken to become financially sustainable, efficient, effectively manage infrastructure and deliver services and have the scale, resources and strategic capacity to govern effectively. To support the voluntary merger the government was providing up to \$22.5M for new Councils including the proposed Central Coast merged Council.
37. The Independent Pricing and Regulatory Tribunal (IPART) developed an assessment methodology including an assessment of the scale and capacity as a threshold criterion. The IPART methodology required that a Council submit the same proposal preferred by the ILGRP or one that was broadly consistent with it or demonstrate why an option for no structural change would be at least as good as or better than the merger option.

2.4 Council Responses

38. Both WSC and GCC submitted proposals which did not involve a merger of the two Councils. The IPART final report delivered on 16 October 2015 found that GCC and WSC were not fit for the future because they did not meet the scale and capacity criterion and that their standalone proposals were not as good as or better than the merger option. The IPART report stated:

Based on our indicative analysis, up to \$101M over 20 years in NPV²⁷ benefits could be realised from a Gosford and Wyong merger. In addition, Ernst & Young estimated NPV benefits from a merger of Gosford and Wyong is \$196M over 20 years.

39. The NSW Government subsequently encouraged GCC and WSC to voluntarily merge and offered up to \$10M in "stronger communities" funding and up to a further \$10M in merger implementation funding if the Councils agreed to a voluntary merger. That incentive funding was not to apply unless both Councils volunteered to merge. Councils were given until 18 November 2015 to decide whether they would agree to merge or face forced amalgamations.
40. On 28 October 2015 WSC voted 5:4 in favour of a merger and on 16 November 2015 GCC voted 7:3 in favour of a merger.

²⁶ Ibid p 110

²⁷ Net Present Value

41. In January 2016 the merger proposal for GCC and WSC was published. In his foreword the Minister for Local Government listed the benefits of the proposed merger including a total financial benefit of \$135M over a twenty year period, a projected 119% improvement in annual operating results, potentially reducing the reliance on rate increases through Special Rate Variations (SRV) and a greater capacity to manage and reduce the infrastructure backlog. The Minister confirmed the NSW Government funding of \$20M.²⁸

2.5 Delegate's Report

42. The function of examining and reporting on the proposal was delegated to Mr John Rayner (Delegate) who published his report on 29 March 2016 (Delegate's Report). The Delegate confidently concluded that the merger of the two Councils would result in savings based on examinations by KPMG, GCC, SGS Economics and Planning, WSC, IPART and Ernst & Young.²⁹ The Delegate noted that those savings would arise once transitional requirements were completed. In terms of employment and staffing the Delegate noted that the immediate impact of the merger would be on the GMs and senior staff. He recommended that, as far as practicable, the initial organisational structure of the Council be a composite of that of the former Councils.³⁰ He noted that non-senior staff were well protected under the LG Act and awards and that restructuring of operations would occur over time. The Delegate recommended that councillors be elected from an undivided area rather than from within wards, noting that a ward system may encourage parochialism and resource allocation prioritised on the basis of wards rather than the needs of the whole Council area.³¹
43. In relation to the financial analysis the Delegate noted the varying estimates of both the level of and the time by which savings resulting from the merger might be expected. He found however that there was consistency in that there would be savings generated through a merger of the two Councils.
44. The Delegate noted that as at 30 June 2015 GCC had \$155M in loans outstanding and WSC had \$178M in loans outstanding, both representing a debt service cover ratio (DSCR) of 3:1 against a benchmark of greater than 2:1. He concluded that the loans could be adequately serviced and represented relatively equal levels of debt being brought by each former Council into the new entities.³²
45. The Delegate noted the NSW Government policy to freeze existing rate paths for four years following the merger. He said that there needed to be meaningful change to the rating system to provide more flexibility to address growing disparity and valuations and between housing types. The Delegate noted:

In reaching conclusions on the success or otherwise of an amalgamation, the Delegate believes that there needs to be a

²⁸ Merger Proposal: Gosford City Council Wyong Shire Council NSW Government January 2016

²⁹ Examination of the Minister for Local Government's Proposal to merge Gosford City Council and Wyong Shire Council John Rayner March 2016 p 24

³⁰ Ibid p 45

³¹ Ibid p 49

³² Ibid p 20

measurement of performance, service levels and infrastructure backlog at the time of the merger to compare with performance at points in time in the future.³³

2.6 Boundaries Commission Report

46. The Delegate's Report was referred to the NSW Local Government Boundaries Commissioner for review and comment. In April 2016 the Boundaries Commission issued its report which concluded that the Delegate had adequately considered the issues required to be considered under s 263(3) of the LG Act.
47. On 12 May 2016 the *Local Government (Council Amalgamations) Proclamation 2016* (the Proclamation) was published. The Proclamation had the effect of amalgamating thirty-nine metropolitan, regional and rural Councils into seventeen Councils. Amongst them GCC and WSC were amalgamated into the new area of CCC.
48. The Proclamation set the date for the first election of councillors of a new Council on 9 September 2017, with an Administrator appointed for the initial period between the date of amalgamation and the election of the new Council. For CCC Mr Ian Reynolds was appointed as Administrator, Mr Rob Noble (GM of WSC) was appointed as Interim GM and Mr Paul Anderson (GM of GCC) was appointed as Deputy GM. The number of councillors was set at fifteen and the Council was to be divided into five wards according to areas identified on a map.
49. The Proclamation required the initial organisation structure of a new Council to be, as far as practicable, a composite of the organisation structures of each of the former Councils. The senior staff were to hold their positions until the determination of an organisation structure by the new Council.³⁴
50. The LG Act contained important provisions relating to arrangements for Council staff affected by amalgamation of Council areas. In particular, the LG Act prohibited the termination of the employment of a staff member (other than a senior staff member) on the ground of redundancy, without the staff member's agreement within three years after the amalgamation date.
51. The LG Act also contained lateral transfer provisions which required any vacancies (other than senior staff positions) to be offered to staff members who were performing substantially the same duties at the former Council. The lateral transfer provisions also applied for three years following the amalgamation. A further limitation in relation to non-senior staff was that the Council could not require staff members to transfer to a work base outside the boundaries of the former Council by whom they were employed, without written consent or if such a requirement would not cause unreasonable hardship because of the distance required to travel to the proposed work base.
52. In addition to the statutory constraints following the amalgamations the NSW Government introduced a rate path freeze policy for newly merged Councils.

³³ Ibid p 21

³⁴ cl 29 *Local Government (Council Amalgamations) Proclamation 2016*

That policy required that there be no change to existing rate paths so that rate payers in newly merged Councils would pay no more for their rates than they would have in their pre-merger Council areas for a period of four years. That did not mean that there could be no rate increases in that period, but it did limit any rate increases to those permitted under the rate pegging system and any prior Special Rate Variation (SRV).

3. COUNCIL UNDER THE FIRST ADMINISTRATOR

53. The first meeting of the newly formed CCC was held on 25 May 2016. At that meeting the quarterly budget review statement for the former GCC was considered as required under the *Local Government (General) Regulation 2005* (LG Regulation). That statement indicated that former GCC was running better than budgeted with the net operating result before grants and contributions for projected 2015-16 actual results of \$4.518M compared to an original budgeted deficit of \$9.756M. The key performance indicators relating to consolidated funds at 31 March 2016 were consistent with the financial statements of the prior financial year.

3.1 Executive Leadership Team (ELT)

54. Also, at the meeting of 25 May 2016 the interim organisation structure of CCC was established.
55. On 16 June 2016 the interim leadership team for CCC was announced. It comprised of eight positions, five filled by former WSC staff, two by former GCC staff and one position remained unfilled. Mr Anderson, the former GM of GCC who had been appointed as the Deputy GM of CCC, had taken a redundancy shortly before that announcement and Ms Judy Jaeger, who had been appointed as Group Leader Customer and Community Relationships, resigned shortly after on 22 September 2016, leaving a solitary former GCC staff member, Ms Janine McKenzie, as part of the ELT.

3.2 Operational Plan 2016-17

56. At the extraordinary meeting on 29 June 2016, the CCC Operational Plan for the 2016-17 financial year was adopted.
57. The Financial Overview of the plan forecast a net operating result (before capital grants and contributions) of \$15M with an operating income of \$555.9M. The budget included capital investment of \$183M, consistent with commitments identified in the delivery programs and four-year budgets of GCC and WSC. The plan had regard to the legislated staff protections following the merger and took account of \$10M to be received under the NSW Government Stronger Communities Fund. The plan did not make provision for estimated costs of the merger but noted that they would be included in a quarterly budget adjustment for 2016-17³⁵.
58. The details of the Operational Plan 2016-17 were contained within separate long term financial plans of GCC and WSC.

3.3 Rate Path Freeze

59. In June 2016 IPART released its interim report in relation to the freezing of existing rate paths for newly merged Councils. That report made certain recommendations about freezing existing rate paths, special variations and the

³⁵ Operational Plan 2016-17 p112-114

setting of rates during the rate path freeze period and a sunset clause for the rate path freeze period.

60. The rate path freeze period was set to run between 1 July 2016 until 30 June 2020.

3.4 Enterprise Resource Planning Upgrade

61. The Central Coast Transformation Program was launched in May 2016. Avocado Consulting was engaged in November 2016 to advise and assist CCC in the Program. It consisted of nineteen work streams. The Information Management & Technology work stream was responsible for delivering business capabilities via the implementation of seventeen “pebble” projects. On 16 December 2016 Avocado Consulting recommended that CCC select a Tier 1 Enterprise Resource Planning (ERP) product and implementation partner. The Oracle system was recommended for the ERP functions and the Infor Public Sector system for asset management, property and rating. Earlier versions of those systems were already in use by WSC.
62. On 24 January 2017 CCC selected Oracle Cloud Solutions as the preferred ERP product. Avocado Consulting was then engaged to test whether a single ERP implementation across CCC would be of better value than continuing with the separate Council systems. On 20 February 2017 Avocado Consulting reported that there was clear evidence that it would be better value to implement a single ERP system than to maintain separate systems. The models used indicated that a single ERP would provide \$21M more in net present value benefits and would break even within five years, had little difference in implementation costs and would allow cost savings of \$14.2M compared to an equivalent uplift in ERP-like capabilities. Quantitative benefits included simplifying IT contracting and service management, reducing maintenance, simplifying staff training. The ten-year real dollar costs of implementing an ERP system across CCC was estimated to be \$71M compared to the cost of upgrading the current systems to have ERP-like capabilities of \$48M. The annual operating expenses of the ERP system were estimated to be \$4.2M compared to \$2.7M for upgraded existing systems.
63. The ERP upgrade was not formally considered by CCC again before the conclusion of the first Administrator's term in September 2017.

3.5 Change in Accounting Practice

64. WSC and GCC were and CCC is now in a unique position relative to other Councils in New South Wales which also supply water and sewer services. CCC is a water supply authority under the *Water Management Act 2000* (WM Act) whereas all other Councils which supply water and sewerage services do so as part of their functions under the LG Act.
65. As a consequence, CCC is not free to set its own rates for water supply and sewerage services. Those fees and contributions are set by IPART. CCC must also prepare separate financial statements for the Central Coast Council Water Supply Authority (CCCWSA).

66. Until 2016 the consolidated financial statements of GCC and WSC had accounted for the funds collected for water supply or sewerage services as externally restricted funds. In the consolidated financial statements of WSC and GCC for the period 1 July 2015 to May 2016 that practice changed.
67. On 21 December 2016 the financial reports for the period 1 July 2015 to 12 May 2016 for the former WSC and the former Wyong Water Supply Authority (WWSA) were adopted by CCC.³⁶
68. The consolidated financial reports for the former WSC contained Note 20(d) which provided:³⁷

Note 20. Retained earnings, revaluation reserves, changes in accounting policies, changes in accounting estimates and errors (continued)

(d) Voluntary Changes in Accounting Policy

In the interest of good financial management Council will restrict funds from time-to-time to either meet external statutory obligations, such as (restrictions relating to grant funding or developer contributions), or in order to set aside funding for future commitments.

Restricted assets that are internally developed by Council to cover commitments or obligations that are expected to arise in the future and where it is prudent for Council to hold cash in restrictions to cover these obligations (despite there being no legislative requirement) are known as internally restricted assets.

On review of Council's current restrictions for its Water and Sewer operations, Council has derecognised certain cash, receivable and payable restrictions, in line with the current restriction disclosures recorded in the Financial Statements of Wyong Shire Council Water Supply Authority. This change was corrected in the prior period in accordance with AASB 108 *Accounting Policies, Changes in Accounting Estimates and Errors*.

As a result of the above disclosure changes:

- None of the financial information disclosed in the Financial Statements changed
 - The restricted and unrestricted balances within Note 6(c), Note 7 and Note 10(a) have changed such that all Wyong Water unrestricted amounts are now recorded as Unrestricted in the consolidated results
 - The Unrestricted current ratio in Note 13a(i) has improved
-
69. Notes 6(c), 7 and 10(a)³⁸ cross-referenced the change in accounting policy in Note 20(d) but no reference was made to it in the overview, the section entitled "Understanding Council's financial statements", the Statement by Management signed by the Administrator, the GM and the CFO, or the independent auditor's reports.³⁹
 70. Mr Dennis Banicevic, then of Price Waterhouse Coopers (PWC), the independent auditors for the financial statements, addressed the Council meeting on 21 December 2016. He did not refer to the change in accounting policy directly, but he did offer a caution in relation to the apparent level of working capital. Page 9 of the consolidated financial report indicated that total cash, cash equivalents and investments had improved from \$156M to \$158M. Mr Banicevic said that once the restricted components were stripped

³⁶ Minutes of Extraordinary Meeting of GCC 21 December 2016 p 3

³⁷ Consolidated Financial Reports former Wyong Shire Council 1 July 2015 – 12 May 2016 p 76

³⁸ Ibid pp 40, 42 and 47

³⁹ Ibid pp 1, 2-3, 4, 95-99

out, the actual working capital was a more modest \$48M and that would be the basis for the new Council to develop any budgets going forward.

71. Note 6(c) to the financial reports indicated that the unrestricted cash available at 12 May 2016 was \$29.283M.
72. A number of witnesses gave evidence about the effect of the change in accounting practice. Ms Natalia Cowley, the current CFO of CCC, explained that the change in accounting policy had the effect of changing the numbers in the consolidated financial statements, but it did not change how water and sewer funds were actually handled within the Council.⁴⁰ That is, they continued to be handled as restricted funds.
73. The accounting practice would, however, alter the calculation of one of the benchmarks used to assess sustainability of a Council. The Unrestricted Current Ratio compares unrestricted current assets to restricted current assets. The benchmark is 1.5 (or 155%). That is, unrestricted current assets should be at least 1.5 times the value of restricted current assets. The purpose of the ratio is to assess the adequacy of working capital and its ability to satisfy obligations in the short term for the unrestricted activities of the Council.⁴¹ By including water and sewer funds as unrestricted assets that ratio in the WSC consolidated financial statements was inflated. The ratio, if water and sewer funds were excluded from the unrestricted current assets, would have fallen considerably short of the benchmark.
74. The amalgamation Proclamation required the auditor of the new council to be the auditor of one of the former councils. PWC had been the auditor for WSC, and it was appointed as auditor for CCC. The amalgamation Proclamation also required the new council to prepare audited financial reports for the former councils by 31 December 2016.
75. The financial statements for GCC for the period 1 July 2015 to 12 May 2016 were not considered by CCC until 19 June 2017. The reasons for the delay in finalising those statements was explained by Mr Stephen Naven, who was the CFO of CCC at that time. Firstly, the fixed assets were written down by \$1.39B, comprised of write-downs for roads and drainage assets of \$720M, fixed assets in the water and sewer fund of \$595M and land under roads of \$74M⁴². In addition, the interrogation of the GCC financial system to prepare the financial statements revealed a lack of electronic access controls⁴³. The consequence of the lack of electronic access controls was that the Administrator, GM and CFO were not prepared to issue a Management Statement for the GCC financial reports in the usual form. A qualified Management Statement was issued. Due to the qualified nature of the Management Statement the auditor issued a Disclaimer of Opinion. Draft financial statements for GCC for the period 1 July 2015 to 12 May 2016 considered by CCC on 13 March 2017 and final statements were eventually signed in May 2017 and presented to CCC on 19 June 2017. Ms Caroline Mara, the author of the Disclaimer of Opinion and

⁴⁰ T442.2

⁴¹ WSC Financial Reports 1.07.15-12.05.16 p 54

⁴² T542.5

⁴³ T542.39

auditor of the statements spoke briefly at that Council meeting. She made no reference to the change in accounting practice referenced at Note 20(d).

76. Those financial statements contained the same voluntary change in accounting policy as described earlier in relation to the financial statements for WSC.
77. Note 6(c) to the financial statements indicated that the unrestricted cash available at 12 May 2016 was \$4.675M.
78. The Unrestricted Current Ratio was recorded as 2.96x⁴⁴. That ratio, if water and sewer funds were excluded from the unrestricted current assets, would have been less than the figure adopted in the financial statements but probably would have exceeded the benchmark of 1.5x.

3.6 Audit, Risk and Improvement Committee (ARIC)

79. On 24 January 2017 CCC resolved to establish an ARIC and on 26 April 2017 the Council resolved to appoint three independent external members. Dr Colin Gellatly AO (chair), Mr John Gordon and Mr Carl Millington were appointed for a period of three years. The first meeting of ARIC was held on 20 June 2017 and the committee continued to meet on a formal basis four to five times annually. Following input from ARIC, the ARIC Charter was formally adopted on 26 July 2017. The Administrator and GM filled the non-independent positions on ARIC until the election of councillors in September 2017.
80. Contrary to the perceptions of some people, ARIC did not fulfil the role of a financial auditor. Its role was to provide Council with independent oversight, objective assurance and monitoring of Council's audit processes, internal controls, external reporting, risk management activities, compliance of and with Council's policies and procedures, and performance improvement activities.⁴⁵
81. The agendas for ARIC meetings were very full. Its focus was on ensuring that appropriate structures and systems were established within the council to identify and manage risk. There were often more than ten CCC ELT or senior staff in attendance as well as several visitors such as representatives of the Auditor General or the CCC auditors. Financial management was only one aspect of CCC that ARIC was charged with keeping under review.⁴⁶ Consideration is given later in this report to the responsibility, if any, of ARIC for the financial collapse of CCC.

3.7 End of Term Report

82. On 30 August 2017 the first Administrator delivered his end of term report. He referred to the business and organisational transformation of the Council, noting that there were then still one hundred and fifty individual transformation

⁴⁴ Financial Reports for Former Gosford City Council 1 July 2015 to 12 May 2016 p 49

⁴⁵ ARIC Charter adopted 26 July 2017 p 4

⁴⁶ *Local Government Act 1993* s 428A

projects, many of which would continue for some time. In relation to the merger, he said⁴⁷:

Financial benefits of the merger are expected to come from improved efficiency of Council's back office functions and reduced expenditure on external supplies as a result of stronger bargaining power and improved procurement processes.

Council has modelled the expected benefits and costs of the merger and expects to see a net benefit of around \$70M (in present value terms) over a 10-year period....

The expected non-financial benefits of the merger program will be better, consistent, more responsive service delivery; improved infrastructure planning and maintenance and an improved ability for a single Central Coast Council to advocate for the Central Coast region with all tiers of government and business.

83. In relation to finances, the Administrator said⁴⁸:

Council undertook a thorough analysis of the finances of the former Wyong and Gosford Councils. Issues requiring remedial action were addressed. As a result Council's finances are sound and strong and the fully funded Operational Plan for 2017-18 is already rolling out.

84. The budget totalled \$756M, including record spending of \$208M on capital works and maintenance to reduce the infrastructure backlog. That capital works and maintenance figure included \$55.3M to be spent on capital road works and \$117M on road and drainage maintenance.

85. The report referred to three candidate awareness sessions conducted by the Council in May and June 2017 attended by some ninety people, though the number of elected councillors who attended those sessions is not known. Cr Pilon did attend a session and found it useful to the extent that it explained that there would be a significant time commitment and described the type of skill sets required of a councillor, but she also said⁴⁹:

I think a key part of that should have been what you were actually getting in for when it came to the position of merging both Gosford and Wyong Councils.

⁴⁷ Mayoral (Administrator) Minute - End of Term Report to Council meeting of 30 August 2017 pp 3, 4

⁴⁸ Mayoral (Administrator) Minute - End of Term Report to Council meeting of 30 August 2017 p10

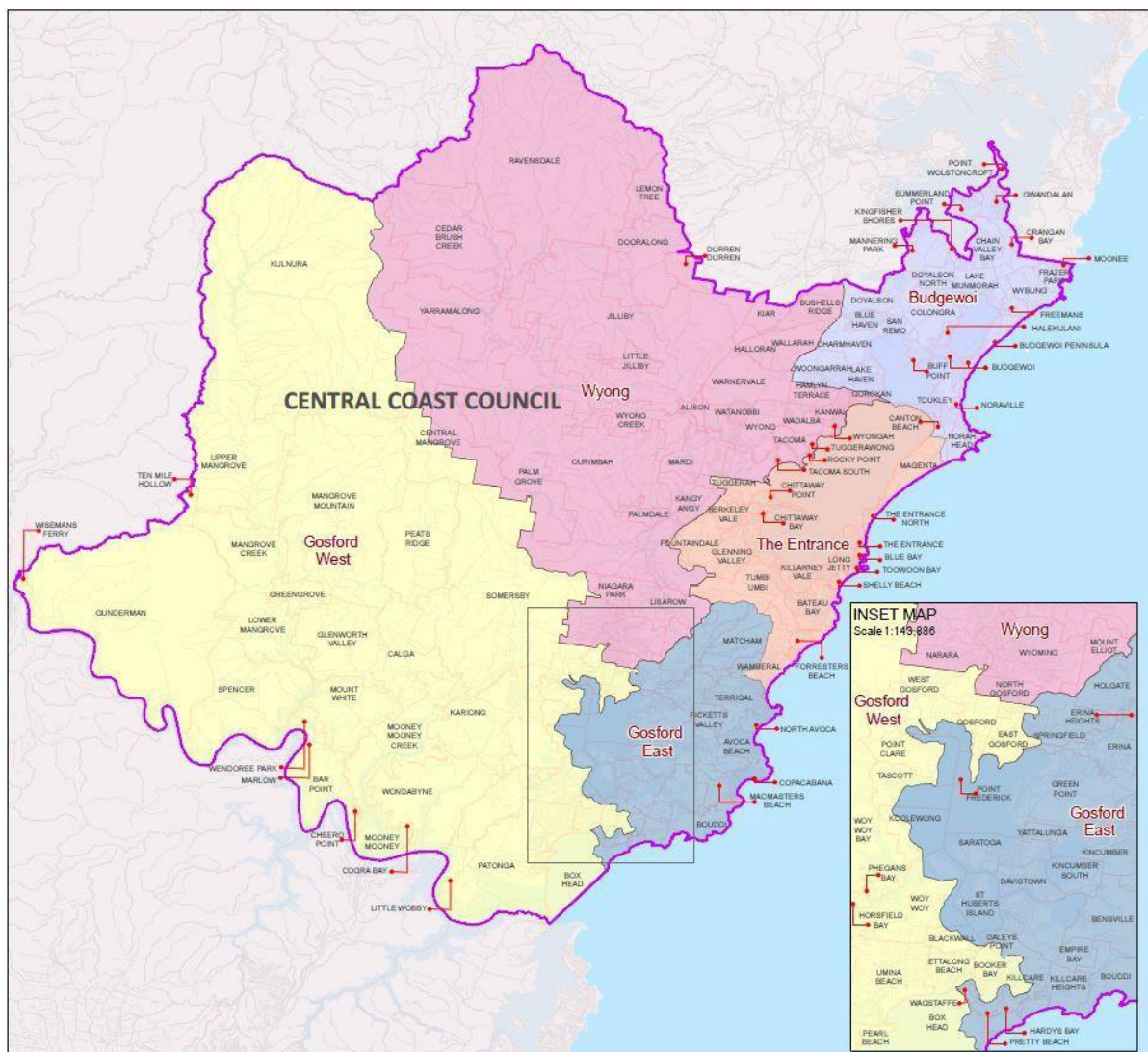
⁴⁹ T349.4

4. ELECTION OF THE GOVERNING BODY

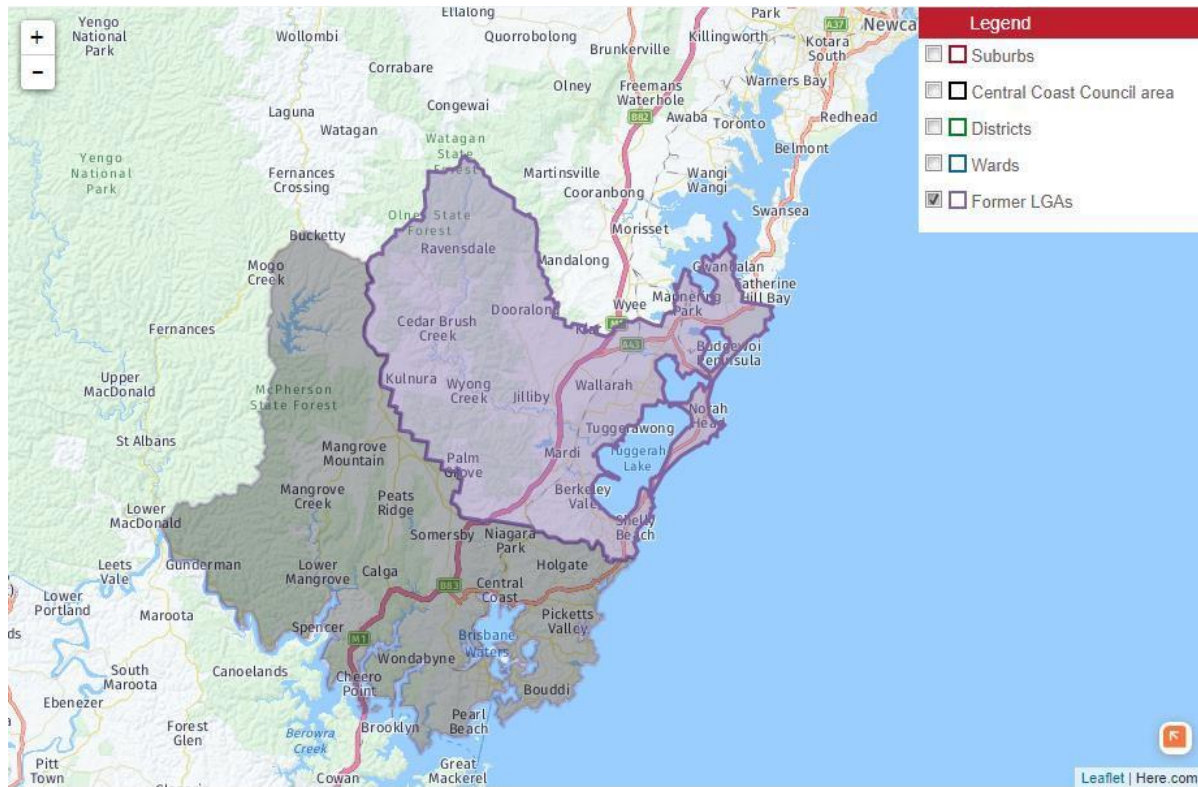
86. The election of representatives occurred on 9 September 2017 and the initial meeting of those councillors was held on 25 September 2017. The elected councillors were:

- Budgewoi Ward – Doug Vincent, Jillian Hogan and Greg Best
- Gosford East Ward – Rebecca Gale Collins, Jeff Sundstrom and Jane Smith
- Gosford West Ward – Richard Mehrtens, Troy Marquart and Chris Holstein
- The Entrance Ward – Lisa Matthews, Jilly Pilon and Bruce McLachlan
- Wyong Ward – Kyle MacGregor, Louise Greenaway and Chris Burke

87. The following map shows the Ward locations:



88. Of the new councillors, Crs Vincent, Best and Matthews had been councillors on the former WSC and Crs Burke and Holstein had been councillors on the former GCC, though in the case of Cr Holstein, not in the period immediately preceding the formation of CCC.
89. The following map shows the boundaries of the former WSC and GCC:



5. INDUCTION AND HANDOVER

90. The councillors of CCC took their oaths or affirmations of office at a public ceremony on 21 September 2017. At the Council meeting on 25 September 2017 the councillors elected Cr Jane Smith as Mayor and Cr Chris Holstein as Deputy Mayor.
91. The CEO, Council staff and external consultants conducted a series of induction briefings and workshops over the next few weeks comprising:
- Wednesday 27 September 2017 (two hours) – Briefing by the CEO and ELT about the Council structure, functional responsibilities of the ELT, baseline information about CCC and key issues and future decisions to be made.
 - Wednesday 4 October 2017 (one hour) – Workshop by CEO, Executive Manager, Governance and Governance staff about the Code of Meeting Practice, managing conflicts of interest, the role of the Chair, the Code of Conduct and equipment to be used by councillors.
 - Wednesday 4 October 2017 (two hours) – Briefing by CEO, Group Leader Environment and Planning and Environment and Planning staff providing an overview of and the councillors' role in the planning process, staff delegations and investigation of compliance matters.
 - Saturday 7 October 2017 (six hours) – Presentation and workshop by the CEO, a corporate culture consultant, the Group Leader, Connected Communities and the Executive Manager, Transformation Business and Performance about the councillors working together, the roles of the councillors, Mayor and CEO, demography and trends in the Central Coast, the requirements of the Integrated Planning & Reporting (IP&R) framework, and the Resourcing Strategy: Asset Management, Workforce Planning and Long Term Financial Plan.
 - Monday 9 October 2017 (one hour) – Mock Council meeting facilitated by the CEO and staff.
 - Tuesday 10 /Friday 13/Monday 16 October 2017 (five hours) – Post election workshop conducted by LGNSW at North Sydney/Hornsby/ Sydney CBD
 - Monday 16 October 2017 (two hours) – Briefing by the CEO, a corporate culture consultant, Group Leader, Connected Communities and the Executive Manager, Transformation Business and Performance about community engagement strategy and the community profile.
 - Tuesday 17 October 2017 (five hours) – Post election workshop conducted by LGNSW at Canterbury.
 - Wednesday 18 October 2017 (six and a half hours) – “Hit the Ground Running” workshop conducted by the Office of Local Government (OLG) at Strathfield or Raymond Terrace.

- Thursday 19 October 2017 (six and a half hours) – “Hit the Ground Running” workshop conducted by OLG at Parramatta or Sydney.
 - Monday 23 October 2017 (one hour) – Walk-through of Council chambers by staff.
 - Monday 30 October 2017 (two hours) – Code of Conduct training with an external provider.
 - Saturday 4 November 2017 (six hours) – Presentation by CEO, corporate culture consultant, community consultation expert, Executive Manager, Transformation Business and Performance, Group Leader, Assets, Infrastructure and Business, CFO and Executive Manager, People and Culture about working together, the Resourcing Strategy, how local government is financed, the rating structure, financial sustainability and the audit process.
 - Monday 6 November 2017 (two hours) – Briefing by the CEO, Executive Manager, Transformation Business and Performance, Group Leader, Assets, Infrastructure and Business and the CFO about the Delivery Program and capital works.
 - Monday 13 November 2017 (two hours) – Briefing by the CEO, a corporate culture consultant, the Executive Manager, Transformation Business and Performance and the CFO about the Operational Plan and budget.
 - Monday 20 November 2017 (two hours) – Councillor workshop to address any requests for additional briefings which arose during the induction process.
92. Although there was, reportedly, a good attendance at the CCC briefings and workshops, not all councillors attended all sessions.
93. The councillors had varying opinions about the usefulness of the induction sessions.
94. Cr Matthews said⁵⁰:
- It was a lot of psychoanalysing. And from people giving me feedback, they just said, you know, “We spent four hours in a room working out who was strong and who was weak” and, yes, really didn’t get to the nuts and bolts of what you really did need to know as a councillor, or a new councillor.
95. Cr Holstein, who had the experience of four or more Council inductions said⁵¹:
- ... this council’s induction was very regimented, it was very much about, Councillors, you speak to the ELT only”. There was a greater formality in how this progressed. In hindsight, I suppose, that may have been about some of the – two things: one, the perception of the

⁵⁰ T13.5

⁵¹ T89.14

impact the culture was having within the organisation, the lower levels of management and the amalgamation processes of bringing the two entities together; but also I think it may have been the administrator at the time's concerns were that we had been through a very rigorous election campaign. There was – "vigorous" probably was an understatement on the campaign that the council had gone through, and when the council did come together there was a certain level of animosity between certain councillors and certain factions within the councillors, the elected reps.

96. Crs Best and Vincent considered the induction to be similar to other inductions they had experienced at WSC. Cr Hogan, who was new to local government, found the induction sessions interesting but said that the personality workshop was a little alarming because she felt it identified that the councillors probably wouldn't be able to work together. Cr Greenaway found the inductions sessions effective to some extent but preferred the one-on-one session she had with the acting CFO. Crs Gale Collins and Pilon thought the induction process was useful to the extent that it provided an opportunity to get to know other councillors and staff. Cr McLachlan said the personality profiling was useful and he had used a similar process in his business. He was happy with the induction process.

97. Mr Brian Bell, the CEO from September 2017 to February 2018 was the primary architect of the induction process for CCC. He said⁵²:

I felt I had a very good relationship with the councillors in the short time that I was there. I spent a lot of time, a large amount of time, with them on organised induction processes, workshops, briefings and site tours of the council areas. We spent at least two days taking the councillors around to sites all around the council and attempting to bring them up to speed with the council circumstances, particularly for the less experienced councillors. I think we had about eight or nine of our councillors who had very little experience. So I spent a lot of time dealing with those matters. It was terrific. I kind of prided myself on the induction processes that I had done over the years, and I was particularly keen to make this one right because there were so many newly elected councillors on that.

98. In my opinion the induction process provided by CCC to the councillors was appropriate and adequate as an initial introduction to their role. The briefings and workshops covered the various functions of the council, the legislative and regulatory settings and the inter-personal relationships which councillors would encounter. The councillors who did not attend the sessions which were offered may well have benefitted from them, had they attended.
99. Whilst the induction process was well considered and delivered there was no "handover" from the former Administrator to the councillors. The former Administrator's end of term report was the extent of the handover to the councillors.

⁵² T528.15

6. THE GENERAL MANAGERS

100. Mr Noble was appointed as the interim GM for CCC pursuant to the Proclamation made on 12 May 2016. Mr Noble had been the acting GM at WSC, having been appointed in September 2015 following the departure of its GM and in a climate where the merger of WSC and GCC looked possible. Mr Noble had a home and business in Queensland, so it was not surprising that he announced his retirement as GM of CCC near the end of the initial period of administration.
101. The Administrator, Mr Reynolds, considered it important to allow the new council to select its GM and in any event, there was insufficient time at that point to recruit a permanent GM. Mr Bell, who was the then recently retired GM of Lake Macquarie City Council, was appointed as the Interim GM for twelve months. He knew he had limited time at CCC, but he was determined to continue the merger process, including facilitating the appointment of a permanent GM. He said in evidence⁵³

"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."

102. Unfortunately, at the end of December 2017 Mr Bell was diagnosed with a malignant cancer which required immediate treatment. He subsequently resigned in January 2018. The Council resolved on 15 January 2018 to appoint Mr Brian Glendenning as Acting GM for a period of four months or until a permanent GM was appointed, whichever occurred first.
103. Mr Bell had initiated the process to recruit a GM following a Council resolution on 18 December 2017. On 29 January 2018 shortlisted recruitment agencies made presentations to the full Council. The Council resolved to appoint Davidson as the recruitment agency and to appoint a selection panel comprising the Mayor, Cr Smith, the Deputy Mayor, Cr Holstein, Cr Bourke, and Cr Hogan. Those decisions were unanimous.
104. Davidson advertised the position to which there were more than one hundred applications. Davidson reviewed the applications and prepared a shortlist. On 22 March 2018 the resumes and details of shortlisted candidates were made available for all councillors to access. The same day the selection panel reviewed additional information regarding shortlisted applicants and selected five for interviews.
105. On 28 March 2018 the selection panel interviewed the five candidates and had discussions at the end of each interview and at the end of all interviews.

⁵³ T521.22

All panel members selected Mr Gary Murphy as the standout candidate with a significant separation between him and other candidates.

106. On 29 March 2018 Cr Smith sent an email to all councillors about a meeting at which the panel would provide feedback to the councillors from the interviews and identify which candidate(s) the councillors might wish to invite to provide a presentation to the full Council. On 4 April 2018 that meeting took place although not all councillors could attend. The panel members provided their reflections and comments and confirmed that Mr Murphy had been identified as the preferred candidate. Although there was discussion about the possibility of interviewing other candidates, those present at the meeting decided that the full Council would only interview Mr Murphy⁵⁴.
107. I note that the "Guidelines for the Appointment and Oversight of General Managers" (the Guidelines) provide at paragraph B.4:

4. Selection Panel Report

The selection panel is responsible for preparing a report to the council's governing body that:

- outlines the selection process
- recommends the most meritorious applicant with reasons
- recommends an eligibility list if appropriate
- recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants.

This report should be confidential and reported to a closed meeting of council.

The council's governing body must by resolution approve the position of the General Manager being offered to the successful candidate before that position is actually offered to that candidate.

108. On 11 April 2018 Mr Murphy provided a presentation and was questioned by the councillors who were present (Cr Marquart and Cr Vincent were not present). The option of calling for the presentations from other candidates was raised however the consensus of the councillors was that it was not necessary.
109. On 23 April 2018 the Council resolved unanimously to offer the position of GM to Mr Murphy. Cr Vincent was not present at that meeting. Mr Murphy commenced as GM on 2 July 2018.
110. The process to appoint Mr Murphy as a GM was in accordance with the "Guidelines for the Appointment and Oversight of General Managers" issued by the Department of Local Government in July 2011. If anything, the process followed by the selection panel gave more information and options to the councillors than strict adherence to the guidelines would have permitted.

⁵⁴ Supplementary submission to Central Coast Council Public Inquiry by Ms. Jane Smith 28 September 2021 pp 2-5

111. Despite criticism of the process for the selection of GM by a number of councillors and some members of the public, I am satisfied that the process which was followed was appropriate and fair.
112. The consequence of the events described above, however, was that CCC had four different GMs between May 2016 and July 2018. This fact contributed to a general lack of leadership and direction at CCC. It also led to the absence of a permanent CFO between August 2017 and May 2019 due to the reluctance of the Interim and Acting GMs to recruit and appoint a person for that role.
113. While the appointment process for Mr Murphy as GM was appropriate and fair, with the benefit of hindsight, he may not have been the best person for the position given the events which the Council was about to experience. His background was in engineering, and he had previously been the GM of two much smaller councils. He had no experience with a merged council and a reported dislike of conflict. His lack of financial qualifications or experience in an equivalent sized organisation, combined with the absence of a permanent CFO for most of his term, created a situation in which there was no strong financial direction or oversight.
114. The process for the appointment of the GM could perhaps have benefitted from the inclusion on the selection panel of an independent person experienced in local government. The mayor was new to local government and Cr Holstein had not been a councillor for some years prior to joining CCC. Most of the councillors were first time councillors. An independent, knowledgeable voice on the panel may have assisted the panel and the councillors to understand the experience and qualities to look for in the candidates.
115. Mr Murphy was responsible for the ill-fated appointment of Mr Craig Norman as CFO in May 2019. Mr Norman was an accountant with no background in local government who never took control of the Council's finances. It is a sad twist of fate that the current CFO, Ms Cowley, who has demonstrated an ability to re-float the sinking ship that was CCC, was looked over for the CFO position.
116. Mr Murphy relied heavily on the advice he received from Council finance staff in the drafting of the budgets, especially in the face of the May 2019 IPART determination and the rapidly deteriorating financial position thereafter. CCC's response to the financial problems it was facing was too little and far too late. Ultimately the responsibility for the fate of the Council rests with the councillors but they were not adequately supported by a GM who was able to provide strong leadership of the staff on financial matters at the time it was needed.

7. THE CHIEF FINANCIAL OFFICERS

117. On 16 June 2016 the initial ELT of CCC was announced. Mr Naven, who had been the CFO of WSC since July 2012, was appointed as CFO of CCC.
118. Mr Naven had oversight of the financial statements for GSC and WSC for the period 1 July 2015 to 12 May 2016. The Proclamation required CCC to prepare audited financial reports for those councils by 31 December 2016.
119. The WSC and WWSA audited financial reports were adopted at a CCC meeting on 21 December 2016 however due to issues relating to the GCC accounts as described earlier (see Chapter 3.5 Change in Accounting Practice), disclaimed audited financial reports for GCC and GWSA were presented at a Council meeting on 19 June 2017.
120. Mr Naven departed CCC in August 2017. Following his departure, a permanent CFO was not appointed until Mr Norman started in May 2019. It is likely that the absence of a permanent GM had contributed to the fact that no permanent CFO was appointed. In that period Ms Vivienne Louie, who was Unit Manager, Finance and later Unit Manager, Financial Performance, was appointed as Interim and Acting CFO.
121. Ms Louie gave evidence about the process employed to formulate the budgets. Paraphrasing her, it started with an aim of achieving a neutral budget with loose parameters given to the directorates within the Council. A draft budget would be prepared, and additional expenditure items would be added by staff and councillors. Attempts would then be made to reduce the projected deficit, largely by allowing for "targeted savings".
122. Recruitment of a suitable CFO proved to be difficult. Mr Glendenning, who had been Acting GM when Mr Murphy was appointed, had advertised the CFO position with a view to Mr Murphy having a pool of applicants ready for him to make an appointment once he commenced. None of those applicants was considered by Mr Murphy to be suitable and the role was advertised again.
123. Mr Norman was appointed CFO and commenced in May 2019. Mr Norman was a certified practising accountant with a background in the public service but no experience in local government or running a business. When he commenced at CCC the May 2019 IPART determination had been recently delivered and the 2019-20 budget was in its last stages of formulation. He left it to his staff to make decisions about how to adjust the budget in the light of the IPART determination. As stated elsewhere, no adjustments were made to the draft budget after the IPART determination was announced.
124. According to Mr Norman the formulation of the 2020-21 budget began in early 2020. He said that he had expressed to the councillors his preference was for a "long-term future where there would be either small surpluses or small deficits"⁵⁵. An unnamed councillor responded to that suggestion by saying words to the effect of "as government, we are here to run deficits"⁵⁶. That

⁵⁵ T587.38

⁵⁶ T587.42

exchange is emblematic of one of the problems which beset CCC. The CFO did not direct or lead the councillors in any meaningful way and at least some of the councillors behaved recklessly in the management of CCC's finances. CCC suffered from a lack of financial direction from the time of Mr Naven's departure in August 2017 until the time of the appointment of Ms Cowley in July 2020.

125. Mr Norman admitted that he ought to have known that unrestricted funds had fallen into the negative⁵⁷, that he did not know who else in CCC might have known about that fact⁵⁸, that he was aware that, due to COVID -19, cash could be an issue for CCC⁵⁹, and that local government was not a "good fit" for him⁶⁰. Mr Norman was at CCC for a relatively short but crucial period. Unfortunately, his presence did not have a beneficial impact on the management of CCC's finances and may have facilitated the lack of information flowing to councillors about the situation and lack of action to counteract the downward trend of CCC's cash position.

⁵⁷ T591.33

⁵⁸ T592.1

⁵⁹ T594.12

⁶⁰ T598.27

8. UNRESTRICTED CASH

126. Clause 212 LG Regulation provides:

212 Reports on council investments

(1) *The responsible accounting officer of a council—*

(a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented—

(i) if only one ordinary meeting of the council is held in a month, at that meeting, or

(ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and

(b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.

(2) The report must be made up to the last day of the month immediately preceding the meeting.

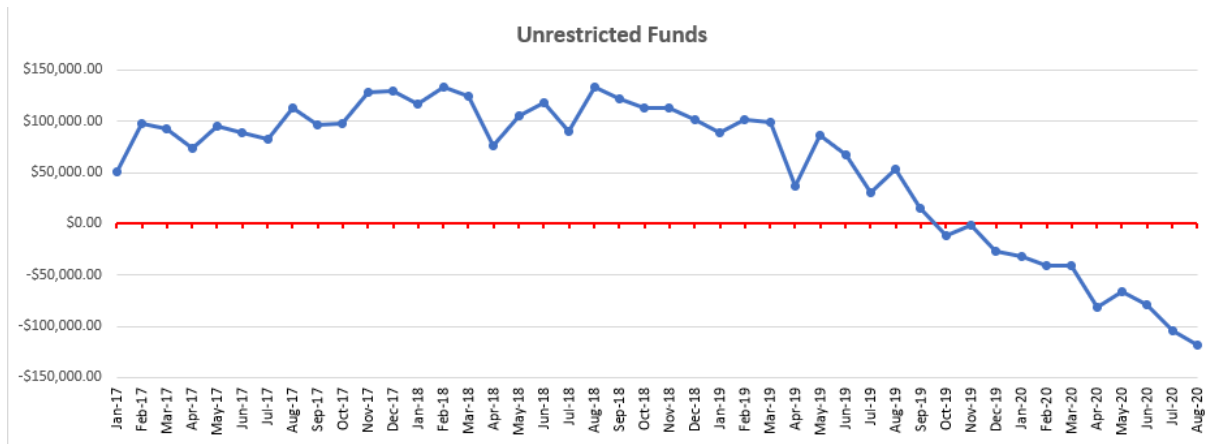
127. Since January 2017 the investment report provided to CCC included a table in the following form

Source of Funds	Value (\$'000)
Investment Portfolio	
Transactional Accounts and Cash in Hand	
Total	
Restricted Funds	
Unrestricted Funds	

128. The table was usually located in a part of the report headed "Council's Portfolio by Source of Funds". The table was preceded by a paragraph that read:

"Council is required to restrict funds received for specific purposes. Restricted funds consist of funds in the investment portfolio and in transactional accounts as follows:"

129. The unrestricted funds represented the operating capital available to Council at any given time. The investment report for October 2019 changed in format in that it no longer included a row within the table describing the value of unrestricted funds. The likely reason for its omission was that in October 2019 unrestricted funds fell into the negative. The situation with unrestricted funds can most easily be demonstrated by the following graph:



130. The investment report for October 2019 did not contain any additional comment to alert the reader to the fact that unrestricted cash was in the negative. Unrestricted cash remained negative until the Council was suspended in September 2020. At no time was any notation made in an investment report to alert the councillors to that fact.
131. Weekly briefings by Council staff were held with those councillors who wished to attend, about various matters, including upcoming reports. The councillors were never informed that the unrestricted funds had been exhausted nor were they warned about the consequences of having no unrestricted funds available.
132. The GM at the time, Mr Murphy, stated that he was unaware that the unrestricted cash position had been removed from the Investment Report for October 2019 and did not become aware of that fact until after he left CCC on 27 November 2020. He also acknowledged that as CEO he was responsible for the final agenda review for Council meetings⁶¹.
133. The author of the Investment Report for October 2019 was Mr Carlton Oldfield, Unit Manager, Financial Services. The executive responsible for that report was Mr Norman, the CFO.
134. Mr Norman had started as CFO on 27 May 2019. He had experience in government but no previous experience in local government. He frankly acknowledged that he was learning from his staff when he started and that he was not fully aware of the legislative requirements relating to restricted funds until sometime into his tenure⁶².
135. Mr Norman was not aware of the change to the format for the October 2019 Investment Report nor was he aware that the balance of unrestricted cash had slipped into the negative⁶³. In fact, he was not aware of the continued deterioration of the unrestricted cash position until after he left CCC on 24 April 2020. He did accept that the October 2019 Investment Report was signed off

⁶¹ Gary Murphy Outline of Evidence 6.10.21 4.13-4.14

⁶² T 586.30, 588.27

⁶³ T 590.42

by him⁶⁴ and that he should have known that the unrestricted cash position had fallen into the negative⁶⁵. Mr Norman could not explain why Mr Oldfield did not tell him that the unrestricted cash position had fallen into the negative, believing that Mr Oldfield had taken sick leave at that time.

136. Council records show that Mr Oldfield did not take extended sick leave until late August 2020, well after Mr Norman's departure.
137. Mr Oldfield was appointed as the acting CFO when Mr Norman left on 24 April 2020, however he relinquished that role and returned to his position as Unit Manager, Financial Services on 11 August 2020. Regrettably, this Inquiry did not have the benefit of hearing from Mr Oldfield as he was not able to be located.
138. It was at the time of Mr Oldfield's departure that Mr Murphy reluctantly took on the role of "responsible accounting officer" (RSA).
139. The RSA is the person responsible for maintaining the system of budgetary control, and providing the quarterly reports, revised budget estimates, monthly investment reports, annual financial statements and half yearly balances.⁶⁶
140. Mr David Farmer, the current GM of CCC, said of the absence of the unrestricted funds from the October 2019 Investment Report⁶⁷:

Certainly, but it's interesting, it's a line item that's missing. If you saw it turn negative, then, you know, that would be an extreme alarm bell. I always work on trends, so a number is just a number, but where are you heading?

141. This statement echoes the warning in the 2013 TCorp report "the trends in results against the benchmarks are critical, as well as the overall performance against all the benchmarks"⁶⁸. The financial information provided to councillors was not easy to read and was sadly lacking in attention to trends.
142. The information about the decline in CCC's finances and the use of restricted funds was there if one knew where and how to look. As Cr Hogan recounted in her evidence, the balance of unrestricted funds could have been calculated by deducting restricted funds from the total of cash and investments as shown in the investment reports. The investment reports from October 2019 until the financial crisis, were designed to obfuscate rather than elucidate. The staff of CCC responsible for those reports bear a significant responsibility for the lack of knowledge on the part of the councillors for the unlawful use of restricted funds.

⁶⁴ T590.37

⁶⁵ T 591.33

⁶⁶ Local Government (General) Regulation 2005 cll 202, 203, 207, 212, 215, 228

⁶⁷ T633.32

⁶⁸ Supra p22

9. THE BUDGETS

143. Since 2009 councils have been required to prepare integrated planning and reporting (IP&R) documents. The primary documents are:
- Community Strategic Plan – a high level plan to identify the community's main priorities and to plans strategies to achieve those goals
 - Resourcing Strategy – a long term plan for financial (ten year), workforce (four year) and asset management (ten year) planning
 - Delivery Program – a plan outlining the principal activities to be undertaken by the council during its term of office
 - Operational Plan - a detailed plan of individual projects and activities to be undertaken each financial year to meet the commitments made in the Delivery Program
 - Annual Report – a report outlining the achievements in implementing the Delivery Program and incorporating audited financial statements.
144. The Operational Plan is often described, including by most witnesses at the public hearings, as the “budget”. It includes a financial overview of income and expenditure as well as details of individual projects to be undertaken in the upcoming financial year.
145. Ms Louie described the budget formulation as a “bottom up” process.⁶⁹ Directorates within the Council would be given parameters which were hoped would achieve a neutral or a surplus budget, but those parameters were not always met.⁷⁰
146. Work on preparing the budget would start late in the preceding year however the draft budget was not presented to councillors until a weekend workshop closer to the time for adoption (required by 30 June each year).

9.1 2017-18

147. The 2017-18 budget for CCC was delivered during the initial period of administration on 28 June 2017. The Administrator, Mr Reynolds, described the Council's finances as strong⁷¹. The budget estimated an operating income of \$552.9M and operating expenses (before grants and contributions) of \$551.0M to give a net operating result (before grants and contributions) of \$1.9M. It proposed a significant increase in capital expenditure on the previous year of \$207.9M (up from \$183M). The largest expense category was employment benefits and on-costs at \$182M. An allowance of \$126M was made for amortisation and depreciation and spending on materials and contracts was \$124M. Notably, borrowing costs were \$20.2M. The budget included the following in relation to merger costs:

⁶⁹ T 575 1

⁷⁰ T 575 7-19

⁷¹ Central Coast Council Operational Plan 2017-18 p12

The 2017-18 estimated cost of the merger is included in the budget for 2017-18 and is significantly funded by the New Council Implementation Fund of \$10M received by Council in June 2016.

148. In June 2017 the Federal Government announced that the timing for half of the Financial Assistance Grant (FAG) to local governments for 2017-18 would be brought forward and paid in June 2017. For CCC that meant a \$12.4M boost to the profit and loss for the 2016-17 period and equivalent reduction in expected income for the 2017-18 period. No change was made to the budget at that time because of previous experience of the federal government "bringing forward" FAG payments for several consecutive years. In the May 2018 Federal budget, the timing of FAG payments was altered as expected and half of the 2018-19 FAG of \$12.8M was paid to CCC in June 2018.
149. Quarterly budget review reports were presented to Council in November 2017 and February and May 2018. All reports indicated a favourable variation to budget for the operating surpluses, excluding and including capital grants and contributions. There were, however, adjustments made at each quarter to reflect increased earnings and expenses as the year progressed.
150. The Annual Report 2017-18 was adopted by Council on 26 November 2018. Section 428 of the LG Act requires the annual report to be presented within five months of the end of the financial year and to contain a copy of the council's audited financial reports. Those reports were not finalised at the time of the annual report. The Annual Report 2017-18 contained a single page summary of the Council's financial result in 2017-2018 and showed that the actual net operating result before capital grants and contributions was \$27.9M due to an increase in income and a decrease in expenditure over the budgeted figures based on the Q3 revised budget. The information was said to have been drawn from draft unaudited financial results and was subject to change as part of the audit process⁷².
151. The audited Financial Reports for 2017-18 were adopted by Council on 10 December 2018 and showed a net operating deficit (excluding capital grants and contributions) of \$22.7M. The deficit was due to the revaluation of buildings and operational land during the 2017-18 financial year. Operational land decreased in value by \$35.2M. As there was no asset revaluation reserve balance to reflect the decrease in the land value, income was reduced by \$35.2M. If the operational land revaluation was excluded the net operating result (excluding capital grants and contributions) was \$12.5M (\$10.9M better than originally budgeted but significantly lower than reported in the Annual Report).⁷³

9.2 2018-19

152. The Council resolved on 14 May 2018 to endorse the draft Delivery Program and Operational Plan for 2018-19 for public exhibition. Following exhibition, the draft budget was discussed at five workshops or briefings of councillors, though

⁷² CCC Annual Report 2017-18 p 40

⁷³ CCC Agenda Papers 10 December 2018 Amended Item 4.2 p 6

not all councillors attended. The budget was formally adopted on 25 June 2018 with five councillors voting against the motion. The dissenting councillors had varying reasons for their dissent which included inequity of spending across wards, the slim net operating surplus (stated to be \$64,000), the increase in rates by the full amount allowed under the rate peg (2.5%) and inadequate spending in areas of lower socio-economic status.

153. The 2018-19 budget estimated a net operating income of \$561.54M and operating expenses (before grants and contributions) of \$561.47M to give a net operating result (before grants and contributions) of \$60,000. It proposed a modest decrease in capital expenditure on the previous year of \$199.8M (down from \$207.9M). The largest expense category continued to be employment benefits and on-costs at \$184M. An allowance of \$129M was made for amortisation and depreciation and spending on materials and contracts was \$131. Notably, borrowing costs were \$19M.
154. The Q1 quarterly budget review was presented to Council on 26 November 2018. It showed a favourable variance of the year-to-date (YTD) net operating result of \$13.8M, mostly attributable to an underspend on materials and contracts and other expenditure. The report noted that Council approved budget amendments and the Q1 budget adjustments would move the original operating surplus (excluding capital grants and contributions) of \$64,000 to a deficit of \$4.4M⁷⁴.
155. The Q2 quarterly budget review was presented to Council on 25 February 2019. It showed a favourable variance of YTD net operating result of \$14.5M, mostly attributable to an underspend on materials and contracts and other expenditure. The proposed Q2 budget adjustments would move the Q1 operating deficit (excluding capital grants and contributions) of \$4.4M to a deficit of \$3.8M⁷⁵.
156. The Q3 quarterly budget review was presented to Council on 27 May 2019. It showed a favourable variance of YTD net operating result of \$14.9M, mostly attributable to differences in annual charges and an underspend on materials and contracts and other expenditure. The proposed Q3 budget adjustments would move the Q2 operating deficit (excluding capital grants and contributions) of \$3.8M to a surplus of \$1.7M⁷⁶.
157. The 2018-19 Annual Report was adopted by Council on 11 November 2019. Its format was different from the 2017-18 Annual Report in that it omitted even a summary of financial performance.
158. The draft Financial Reports for 2018-19 were to have been considered at the meetings on 8 October 2019 and 11 November 2019 but the Council deferred consideration of those reports to a date prior to 29 February 2020. The draft reports were ultimately considered by Council on 24 February 2020 and referred for audit. The report which accompanied the draft Financial Reports summarised the actual operating result (excluding capital grants and

⁷⁴ CCC2018-19 Q1 Business Report p 66

⁷⁵ CCC2018-19 Q2 Business Report p 59

⁷⁶ CCC2018-19 Q3 Business Report p 62

contributions) as a deficit of \$5.1M which was attributed largely to increase in employee costs due to back pay under the Unified Salary Scale (\$1.4M) and industrial claims (\$2.8M), electricity back charges due to three and a half years of incorrect meter readings at the Mooney Water Treatment Plant (\$1.3M) and written off work in progress (\$0.9M)⁷⁷.

159. The report noted that once the 2017-18 operating result was adjusted for the revaluation decrement (see [151]) the 2018-19 operating result was a \$17.6M negative movement on the previous year.
160. The Financial Reports were audited and formally adopted by Council on 9 March 2020, more than three months later than required by s 428 of the LG Act. The report which accompanied those Reports confirmed the financial analysis of the financial performance contained in the 24 February 2020 report. It also noted a \$13.2M increase in cash restrictions to reimburse the GCC contributions funds for administrative fees incorrectly deducted, investment losses incorrectly allocated and for interest income over the period 2001-2018. The report noted that this adjustment did not affect the operating result but did reduce unrestricted cash. The Financial Report showed the unrestricted cash as \$50.9M⁷⁸, about half of what it had been the previous year.

9.3 2019-20

161. The Council resolved on 25 March 2019 to endorse the draft Delivery Program and Operational Plan for 2018-19 for public exhibition.
162. Prior to that resolution a motion in the following terms was moved by Crs Best and Marquart and lost:
 1. That Council rejects the 2019-20 Draft Budget.
 2. That Council conducts a management audit to investigate why Councils finances are deteriorating at such as rapid rate.
 3. That Council further staff report (sic) to Council around delivering a rate reduction to the rate payers of the former Wyong Shire Local Government Area to provide parity with rate payers of the former Gosford City Local Government Area.
163. The draft budget had been the subject of several briefings and a weekend workshop, although not all councillors attended that workshop. Further briefings were to be arranged in April 2019 to address the OLG benchmarks and possible rate reductions and in May 2019 to discuss the Workforce Management Strategy. The draft budget proposed an operating deficit of \$7.7M before capital grants and contributions which, it was said, reflected the Council's focus on consolidating information on a single technology platform, an increase in electricity costs (\$4M) and an adjustment to annual charges in line with Council's submission to IPART. The draft budget stated that once

⁷⁷ CCC Additional Item 2.9 Report to Meeting of 24 February 2020 p 6

⁷⁸ 2018-19 CCC Consolidated Financial Reports p 33 of 98

IPART's final report was released "appropriate adjustments will be made to the Operational Plan 2019-20 including budgets"⁷⁹.

164. On 20 May 2019 there was a councillor briefing on the draft budget. The only change then recommended was to add an increase in Emergency Services Levy of \$0.5M to the operating deficit before capital income.

9.4 2019 IPART Determination

165. On 24 May 2019 the Independent Pricing and Regulatory Tribunal (IPART) issued its determination and report for water and other services prices for CCC from 1 July 2019 to 30 June 2022.
166. As stated previously, CCC is unique among local government authorities in NSW which also provide water supply and sewerage services. Most other Councils are able to set their own rates for those services based on need and following community consultation. The water and other services prices for CCC, however, are set by IPART in much the same way as it determines prices for other water authorities under the WM Act such as Sydney Water or Hunter Water.
167. IPART released a draft determination in April 2019. CCC was in the process of finalising its 2019-2020 budget when this news arrived. The news was not totally unexpected, the Council had budgeted for a decrease in income from water supply and other services of about \$22M over three years, however the magnitude of the reduced income in the draft determination was significant.
168. Budget revisions were made at that time. Unfortunately, the nature of those revisions was to introduce "targeted savings" to various directorates within the Council without identifying how savings were to be achieved. Ms Cowley gave evidence that the 2019-20 budget included targeted savings of \$70M⁸⁰. As stated by the current GM, Mr Farmer, adjustments to the budget by introducing targeted savings "means nothing if you don't have plans to implement"⁸¹. As Ms Cowley stated, in reality, the budget deficit was more like \$83M⁸².
169. The determination in May 2019 had the effect of removing \$39M from the income of the Central Coast Council Water Supply Authority (CCCSWA) over three years. The result was that the budget, which was already planned to be a deficit budget of \$7.7M, grew to be a larger deficit budget of \$18.6M.
170. Instead of reducing capital expenditure, the Council allowed the budget deficit to increase, with the likelihood that the projected figure would not be met due to lack of planning of any proposed "targeted savings".
171. The sad irony about the May 2019 IPART decision was that the determination was made because of the accumulation of the surpluses due to higher water sales and continual underspending in relation to operational and capital expenditure for the prior determination period (2013-2018).

⁷⁹ CCC Draft Operational Plan 201-20 at 25 March 2019 p 116

⁸⁰ T449.23

⁸¹ T633.10

⁸² T449.25

172. On 27 May 2019 the Council resolved to approve water, sewerage and stormwater drainage fees and charges for 2019-20 consistent with the IPART determination. The report on the item did not mention the large difference between the revenue from water, sewerage and stormwater drainage fees and charges projected by Council's submission to IPART and the revenue available under the IPART determination.
173. On 3 June 2019 a staff presentation was given to councillors regarding the IPART determination. The briefing paper explained that the operating result before capital grants and contributions would move from the publicly exhibited deficit of \$7.7M to a projected deficit of \$18.6M.⁸³
174. The impact of the anticipated increased deficit for the 2019-20 budget was described in these terms in the briefing document:

Since Central Coast was formed on 12 May 2016 the cumulative operating surplus (before capital income) from 13 May 2016 to 30 June 2018 is \$78.0M. The **forecasted** (sic) operating surplus (before capital income) for the year ended 30 June 2019 is \$1.7M. These operating surpluses estimated to total \$79.7M will offset the proposed operating deficit of \$18.6M in 2019-20.⁸⁴

175. The briefing document did not make any recommendations for budget adjustments other than to include additional expenditure on water and sewer capital works of \$1.4M as required by the IPART determination. It somewhat unhelpfully stated in its conclusion:

Councillors must feel appropriately informed and comfortable before signing off financial reports or agreeing to financial commitments.

Councillors need to advise specifically what additional information they require in order to be appropriately informed and comfortable.⁸⁵

176. Cr Smith's evidence was that she recalled that the draft budget was adjusted in light of the IPART determination⁸⁶. There is no documentary evidence to support that recollection.
177. On 11 June 2019 CCC considered the Operational Plan for 2019-20. The report relating to the Operational Plan presented Council with three options:
1. Adoption of the Operational Plan 2019-20 with amendments as outlined in attachments 3, 4 and 5*. *This is the recommended option.*
 2. Further amend the Operational Plan 2019-20. *This is not recommended as the operational plan and capital works program have been developed based on careful consideration by Council staff, who considered Council's strategies and plans. Any changes made would have to be costed and consider the*

⁸³ Councillor Briefing – Final IPART Determination 3 June 2019 11th page

⁸⁴ Ibid 12th page

⁸⁵ Ibid 16th page

⁸⁶ T47.6

* minor adjustments to the capital works program and to the schedule of fees and charges

impact on service delivery and other projects and future capital works programs.

3. Failure to adopt an Operational Plan 2019-20 by 30 June 2019 will be a breach of s 405(1) LG Act and (in respect of the Operational Plan) leave Council without funds to operate. *This not the recommended option.*
178. The Council adopted the Operational Plan. The final part of its resolution was:

That Council notes with concern the projected deficit and general issues of ward expenditure equity.
179. The resolution was carried 13:1 with Cr Vincent against and Cr Burke was not present at the meeting.
180. The Q1 report was considered by CCC on 25 November 2019. The year to date (YTD) operating result was generally running to budget, other than due to a timing issue in relation to the receipt of grants and contributions. However, unfavourable adjustments of \$3.1M (excluding grants and contributions) were made due to reflect reduced interest on investments (\$2M), increased expenses for Holiday Parks (\$1.2M) and other factors. The Q1 budgeted deficit was adjusted accordingly to \$21.7M.⁸⁷
181. The Q2 report was considered by CCC on 24 February 2020. The YTD operating result (excluding capital grants and contributions) showed an unfavourable variance of \$10.8M. After budget adjustments the Q2 proposed operating deficit (excluding grants and contributions) worsened by \$2.8M. The adjustments proposed as part of the Q2 budget review related to increased expenses (\$2.2M). Council had resolved to allocate savings resulting from a reduction in the Emergency Services Levy (\$0.445M) to other projects. The Q2 proposed operating deficit increased to \$24.5M.⁸⁸
182. The Q3 report was considered by CCC on 25 May 2020. The YTD operating result (excluding capital grants and contributions) showed an unfavourable variance of \$19.4M. After budget adjustments the Q3 operating deficit (excluding grants and contributions) increased to \$41.6M.⁸⁹
183. The Annual Report for 2019-20, which was required to be prepared by November 2020, was not presented at that time due to the intervening financial crisis.
184. The audited financial reports for 2019-20 were included as an addendum to the Annual Report 2019-20 and were adopted by CCC on 11 May 2021. They showed that the operating result (excluding capital grants and contributions) was \$88,838M⁹⁰.

⁸⁷ Report to Council 25 November 2019 Item 3.12 – 2019-20 Q1 Business Report p 282

⁸⁸ Report to Council 24 February 2020 Item 2.10 – 2019-20 Q2 Business Report p 132

⁸⁹ Report to Council 25 May 2020 Item 2.2 – 2019-20 Q3 Business Report p 5

⁹⁰ General Purpose Financial Statements Central Coast Council 1 July 2019-30 June 2020 p5

9.5 2020-21

185. The draft budget came before Council on 23 March 2020. The Council voted unanimously and without debate to endorse the draft Delivery Program and Operational Plan for 2019-20 for public exhibition. The report which accompanied the draft budget disclosed that it proposed an operating deficit (before capital grants and depreciation) of \$32.5M. The 2019-20 Long Term Financial Plan had forecast a deficit of \$16M. The report stated that the difference arose from a decrease in development application fees, reduction in interest income, increase in emergency services levy, increase in Holiday Park management contract costs, increase in costs of the development of Coastal Management Plans and integrated water cycle strategy and costs to implement LED streetlighting⁹¹. No figures were provided to indicate the individual reduction in income or increase in expenditure relative to those items.
186. The 2020-21 budget was considered by Council on 27 July 2020. Normally the budget would have been required to have been adopted by 30 June however due to COVID-19 the time for adoption was extended to 30 July in 2020.
187. The report to Council stated:
- The draft Operational Plan 2020-21 was developed prior to the realisation of COVID-19. During exhibition and proceeding months further work was done to understand the impacts on Council's budget and operations. The Operational Plan 2020-21 presented as Attachment 1 of this report will differ to what was presented in the draft Operational Plan 2020-21. These changes are necessary and aim to ensure that Council is being fiscally responsible and 'living within its means'.⁹²
188. The main changes between the exhibited draft Operational Plan 2020-21 and that ultimately adopted by the Council were:
- decrease capital expenditure by \$23.3M from \$248.3M to \$225M
 - decrease operating expenditure by \$10.8M from \$584.1M to \$564.3M
 - decrease in projected capital grants and contributions of \$6.6M from \$45.9M to \$39.3M.
189. Somewhat surprisingly, given the known impacts of the COVID-19 on income at that time, the projected operating income was only decreased by \$0.6M from \$551.6 to \$551M.
190. The result of these measures was to reduce the net operating result (excluding capital grants and contributions) from a \$32.5M deficit to a \$13.3M deficit.
191. The Q1 report was delivered on 2 December 2020, after the suspension of the governing body. It reflected the financial status as at 30 September 2020. The year to date operating result (excluding capital grants and contributions) was

⁹¹ CCC Item 3.3 Report to Extraordinary Meeting of 23 March 2020 p 27-8

⁹² Minutes of CCC meeting 27 July 2020 Item 2.1 p 10

showing an unfavourable variance of \$1.9M. Unfavourable Q1 adjustments totalled of \$101.7M which brought the approved operating deficit (excluding capital grants and contributions) to \$115.1M. The adjustments included \$50M in employee costs for restructuring and critical recruitment, \$29.9M in depreciation due to capitalisation of major assets, \$11.2M in targeted savings in contracts and materials which would not be realised and \$9.6M in reduced interest and water and sewer charges⁹³.

192. The Q2 report was delivered on 23 February 2021. It reflected the financial status as at 31 December 2020. The year to date operating result (excluding capital grants and contributions) was showing a favourable variance of \$21.5M. Q2 adjustments totalled of \$7.7M which brought the approved operating deficit (excluding capital grants and contributions) to \$107.4M⁹⁴.
193. The Q3 report was delivered on 25 May 2021. It reflected the financial status as at 31 March 2021. The year to date operating result (excluding capital grants and contributions) was showing a favourable variance of \$52.8M. Q2 adjustments totalled of \$4.1M which brought the approved operating deficit (excluding capital grants and contributions) to \$103.3M⁹⁵.
194. Draft financial statements for 2020-21 were presented to CCC on 12 October 2021. They showed an operating result (excluding capital grants and contributions) of \$91,544M⁹⁶

⁹³ 2020-21 Q1 Business Report pp 3-5

⁹⁴ 2020-21 Q2 Business Report p 43

⁹⁵ 2020-21 Q3 Business Report p 45

⁹⁶ Attachments under separate cover to Agenda CCC meeting 12 October 2021 p 13

10. PWC REPORT – JULY 2019

195. In April 2019 the GM, Mr Murphy, engaged PricewaterhouseCoopers (PWC) to carry out a financial strategic review with the aim of developing a long-term financial strategy for the Council. That report was delivered in July 2019. The executive summary of that report described the current financial outlook in the following terms:

The current analysis shows that whilst the financial position of the Council deteriorates over time it is still sustainable, without any major external shocks, over the 10-year period.⁹⁷

196. The background to the report acknowledged certain limitations to developing rigorous Council budgets including a lack of available underlying data, a lack of consistent understanding and approach to financial planning, a lack of asset management planning beyond a twelve-month horizon and a lack of clear links between the strategic and operational outcomes tied to finances.⁹⁸
197. In relation to the Council's current financial position, the report noted the history of prudent financial performance since the formation of the Council in 2016 against a projected significant deficit for the 2019-20 financial year mainly due to an increase in capital expenditure. Although the current year performance (2018-19) showed an improvement of \$18M against the budget, the budget for 2019-20 showed a deterioration of the operational budget of \$25M from the 2018-19 projected outcomes due to two factors: the recent IPART determination reducing net operating results by \$11M and a significant increase in capital expenditure resulting in a planned deficit of \$59M. The capital expenditure of \$233M was approximately \$40M or 20% above capital expenditure of the previous two years.⁹⁹
198. The report noted that expenses were the area where Council had greater control to impact on overall financial health.¹⁰⁰ In terms of the financial outlook one of the key takeaways was that the significant investment in capital expenditure was depleting cash generated over previous years.¹⁰¹
199. In its conclusion the report said that while the accounts were in a relatively strong position it would require a number of adverse events to eventuate before the Council was faced with significant financial challenges. It noted that this view was based on an incomplete view of the full financial position.¹⁰² In relation to financial strategy the report said that there was no immediate or pressing need to implement initiatives to improve the financial position, but it would be advisable for the Council to consider initiatives including operational efficiencies, revenue maximisation and strategic initiatives¹⁰³.

⁹⁷ PWC Report July 2019 p 5

⁹⁸ PWC Report July 2019 p 8

⁹⁹ PWC Report July 2019 p 14

¹⁰⁰ PWC Report July 2019 p 15

¹⁰¹ PWC Report July 2019 p 16

¹⁰² PWC Report July 2019 p 24

¹⁰³ PWC Report July 2019 p 26

200. Perhaps most interesting from the PWC Report were its insights which it recommended be the subject of further investigation. These included:
- Failure to align the strategic and financial objectives.
 - Lack of detailed financial understanding, especially in relation to the delivery of services.
 - Recommendation to build financial understanding from councillors down through to all relevant staff.
 - Lack of detailed capital plan - the level of capital expenditure proposed for the 2019-20 financial year cannot be continued annually.
 - The business partners were not acting as financial advisors to the departments within which they worked.
201. The PWC Report was the subject of a memorandum from the GM, Mr Murphy, to the CFO, Mr Norman dated 14 October 2019. The memorandum summarised aspects of the report and noted that commentary from "the business", which is assumed to mean Council's staff, was that the report did not provide any new information or insight. The memorandum concluded:
- Notwithstanding the report's shortcomings (which feedback has been provided) the principles should be used as a guide to improve our financial management framework.
202. It does not appear from the Council meeting records that the PWC Report was formally discussed by Council although it may have been the subject of a Councillor Update.

11. AUDIT OFFICE

203. The Audit Office of NSW became the auditor for CCC and CCCWSA in 2018.
204. On 12 September 2018 the Audit Office issued its Interim Management Letter to CCC. It raised three main issues relating to Council's fixed assets register in that it was not updated for acquisitions and disposals for the prior year, not reconciled to the general ledger and that the reassessments of fair value had not been done in a timely manner. The explanation from Council's staff was that the delays were due to the delay in the auditing of the financial statements of the prior year and the implementation of the Oracle cloud financial system.
205. The Audit Office issued its Final Management Letter on 28 February 2019 and did not raise any significant matters or make any ongoing recommendations.
206. On 13 January 2020 the Audit Office issued its Interim Management Letter. A draft of its Interim Management Letter had been provided to Council management on 9 August 2019 and Council staff had responded. The Interim Management Letter raised issues of moderate risk relating to:
- risk management culture
 - legislative compliance
 - controls over
 - manual journals
 - adjustments to customer accounts
 - procurement governance
 - changes to vendor master files
 - changes to payroll master files
207. On 18 February 2020 the Audit Office issued a Closing Report which raised two significant matters. Firstly, that a \$13.2M adjustment was made to reimburse the local infrastructure contribution restricted funds due to errors dating back to 2001 relating to the use of contributions to pay for administrative expenses under forty contribution plans which did not allow for those expenses to be claimed.
208. The other significant matter raised was that the financial statements included a number of misstatements and disclosure deficiencies.¹⁰⁴ The Closing Report also noted the restricted cash investments balance of \$380.9M as at 30 June 2018 was large.¹⁰⁵

¹⁰⁴ Audit Office closing report to CCC 18 February 2020 pp 3-4

¹⁰⁵ Audit Office closing report to CCC 18 February 2020 p 7

209. On 19 March 2020 the Audit Office issued a Final Management Letter which raised two matters of high risk and consequence, those were the matters raised in its Closing Report of 18 February 2020.

12. AUDIT OFFICE REPORT – WORKFORCE REFORM IN THREE AMALGAMATED COUNCILS

210. On 1 May 2019 the Audit Office published its report entitled Workforce Reform in Three Amalgamated Councils (Workplace Reform Report). It looked at Inner West Council, Queanbeyan-Palerang Regional Council and Snowy Monaro Regional Council. Its conclusions noted that the two regional Councils did not expect to achieve material savings of efficiencies from workplace reform within the first three years of amalgamation. The report said that amalgamated Councils should be routinely reporting to their communities about the costs and benefits of amalgamation.¹⁰⁶
211. One of the key findings of the report was that progress towards an efficient structure had been slowed by the staff protections under the LG Act. Those protections limited the pace at which Councils could:
- move staff to new locations and co-locate work teams
 - divest redundant staff
 - bring salaries and work conditions into line with work value
 - recruit new skills, due to the requirement to exhaust internal recruitment options before advertising externally.
212. The staff protections did however result in little industrial action related to the amalgamations.¹⁰⁷
213. There were also administrative and logistical barriers to achieving efficiencies including the need to maintain duplicated information technology systems until an integrated enterprise system could be implemented, inconsistent policies, procedures customs and practices that needed to be aligned, and significant staff time devoted to recruitment. At the time of the report none of the Councils concerned could adequately assess the effectiveness of the changed management efforts.¹⁰⁸
214. Following the 2016 amalgamations amalgamated Councils were required to prepare benefits realisation plans for the Department of Premier and Cabinet (DPC). In mid-2017 amalgamation monitoring and support was transferred from DPC to OLG. After that time no mandatory reporting of benefits realisation was required.
215. The report noted that changes in leadership can disrupt the progress of workplace reform. The interim GMs appointed under the proclamation at two of the studied Councils departed during the protection period. Inner West Council then had a second Interim GM appointed under a series of short-term contracts and appointed a permanent third GM during the time the audit was

¹⁰⁶ Audit Office Report p 1

¹⁰⁷ Audit Office Report p 2

¹⁰⁸ Audit Office Report p 3

being conducted for the purpose of the report.¹⁰⁹ That situation is not unlike that which occurred at CCC with the permanent GM, Mr Murphy not being appointed until July 2018, being the fourth GM in two years.

216. Workplace reform in CCC was clearly affected by the protections to staff under the LG Act, the lack of an integrated enterprise system and, unlike the councils which were the subject of the Workplace Reform Report, a relatively high level of industrial disputation¹¹⁰. Mr Persson was critical in his reports of the increase in staff numbers at CCC. Some submissions asserted that a useful comparison could not be made of staff numbers of the former councils and CCC because of the different ways of measuring full time employees in those councils. Ms Cowley gave evidence that the annualised employee costs rose from \$154M to \$221M between May 2016 and November 2020¹¹¹. The conclusion is that whether employee numbers or costs of employees is considered, there was a significant increase in that period which would have contributed significantly to the expenses of CCC.

¹⁰⁹ Audit Office Report p 12

¹¹⁰ Submission to Inquiry by United Services Union dated 11 October 2021 p 2

¹¹¹ T455.9-16

13. AUDIT OFFICE REPORT – GOVERNANCE AND INTERNAL CONTROLS OVER LOCAL INFRASTRUCTURE CONTRIBUTIONS

217. On 17 August 2020 the Audit Office published a performance audit report entitled "Governance and Internal Controls Over Local Infrastructure Contributions". The audit assessed the effectiveness of governance and internal controls over local infrastructure contributions (LICs) collected by four councils during the 2017-18 and 2018-19 financial years. Those councils were Blacktown City Council, CCC, City of Sydney Council and Liverpool City Council. As at June 2018 those councils held the four highest LIC balances, each in excess of \$140M.
218. Part 6 of section 1 of the report dealt with CCC. It noted that CCC had inherited fifty-three contributions plans from the former GCC and WSC and had been working on consolidating those plans. Between June 2016 and 2019 the LIC balance for CCC doubled from \$90M to \$196M. During that period the LIC contributions (including works in kind and land) averaged \$33M per year against average expenditure of \$7M per year. The report noted that an increasing balance with relatively low expenditure represented infrastructure that developers had paid for but which the community had not received.¹¹²
219. The report also noted the need for CCC to adjust its accounts in 2018-19 by \$13.2M to repay the LIC fund for administration expenses unlawfully claimed under forty contributions plans since 2001.¹¹³
220. Each of the key findings of the report had relevance for CCC. Apart from the misuse of contributions for administration expenses, the following shortcomings were identified:
- the LIC committee did not have a sufficiently senior level of membership to be effective and did not address contributions collected for water and sewer under the LG Act
 - CCC did not report regularly to senior management or the councillors about the projected financial statement of the contributions plans or the development servicing plans (for water and sewer)
 - contributions plans were not reviewed within the past five years contrary to the 2005 practice note of the former Department of Infrastructure Planning and Natural Resources
 - weak internal controls including
 - lack of independence in valuation of works-in-kind and land
 - risks that security bonds maybe insufficient to cover the cost of undelivered or poor-quality works

¹¹² Audit Office Report – Governance and Internal Controls Over Local Infrastructure Contributions 17 August 2020 p 24

¹¹³ Ibid p 23

- outdated policies and procedures
- incomplete guidance relating to probity during negotiations with developers
- limited security over important data maintained in spreadsheets
- lack of transparency over how cash collected under voluntary planning agreements (VPAs) is spent; and
- heavy reliance on knowledge of specific staff members due to outdated procedural documentation.¹¹⁴

¹¹⁴ Ibid p 4 and 5

14. GRANT THORNTON REPORTS

14.1 Grant Thornton Phase 1 Report

221. In about April 2020 the GM, Mr Murphy, engaged Grant Thornton Australia Limited (Grant Thornton) to review the Council's COVID-19 response financial plan, its budget processes and longer-term financial planning. Grant Thornton was also asked to advise on interim role appointments within the finance directorate.
222. The terms of engagement were signed on 17 April 2020 and revised on 20 and 24 May 2020. The Financial Capacity Review – Phase 1 was received on 4 June 2020.
223. That report estimated that revenue and cash collections for 2020-21 would reduce by between \$86M - \$117M in addition to the reduction in revenue and cash collections for the last quarter of 2019-20 which would reduce by between \$15M - \$20M. It warned that there was a real risk that the collection of rates and charges would be materially impacted by a reduction in business and household income during the economic crisis, severely impacting available cash for Council.
224. The report estimated that every 1% increase in the arrears of rates equated to approximately \$4.1M of reduced cash. The report recommended an immediate reduction in operational and capital expenditure where available, and the implementation of cost saving measures including a freeze on new recruitment, limiting over time, limiting the use of contract and temporary labour, and enforcing leave to reduce excess accruals. The specific areas of operation and capital expenditure which could be reduced or deferred were to be explored in the Phase 2 Grant Thornton Report.¹¹⁵
225. In the section of the report dealing with estimated cash flow impact, the report recommended that the operating budget be adjusted to “break even” as a minimum. The exhibited budget had a projected operating loss of \$32.5M before capital grants and contributions.
226. The report also noted that the funding of more than \$205M from operation and general funds was not sustainable given the prior year's performance and the impact of COVID-19. As the result of the poor operating performance of the Council it would not be able to obtain debt funding from TCorp (due to the operating deficit) and would have to pay a higher commercial rate for funding from the banks. The report estimated that actual borrowings for 2019-20 were likely to be \$20M higher than budgeted and were proposed to be used to retire old debt and reimburse restricted funds that were accessed. The 2020-21 budget proposed a further \$50M in borrowing, most of which was to be used to replace existing debt. The report warned that restricted funds should not be used to fund general capital expenditure. The report also bore the following note:

¹¹⁵ Grant Thornton Financial Capacity Review – Phase 1 pp 5 and 8

A negative cashflow of \$2.6 million was forecast prior to COVID-19. This will be heavily impacted by COVID-19 (\$117.2 million) and the use of restricted funds (\$63.0 million). The total cash impact of \$180.2 million compares to only c. \$29.5 million of available cash. As such, it is necessary to immediately reduce operational and capital expenditure by c. \$153.3 million. We will consider this further in Phase 2 of our review.¹¹⁶

227. That note should have caused alarm bells to start ringing. The reference to the use of \$63.0M of restricted funds was well beyond the \$13.2M repayment for the wrongful deduction of administration fees from developer contributions paid under the *Environmental Planning and Assessment Act 1979* (EPA Act).

228. The draft report was circulated to the ELT by Mr Murphy on 5 June 2020 ahead of a meeting planned for 8 June 2020. Comments from Mr Murphy in the email which accompanied the draft report included:

As we have seen crs have shown a surprising tolerance for deficits and while I don't think anyone will accept a \$153m potential deficit, they may similarly be reluctant to get back to a balanced budget in 2020/21.

It is anyone's guess as to what their appetite might be, but it could potentially be a \$50m deficit?¹¹⁷

229. A councillor workshop was held on 13 June 2020 to discuss the Grant Thornton Phase 1 report. The PowerPoint presentation to that workshop repeated the findings and recommendations of the Grant Thornton Phase 1 report. It did not repeat the note warning of negative cash flow and the use of restricted funds.

230. On 15 June 2020 a councillor briefing was held to confirm the outcomes of the 13 June 2020 workshop. A further workshop was planned for 4 July 2020. In the week prior to that next workshop key information was distributed to councillors and one-on-one information sessions were provided upon request. The further workshop was then held on 4 July 2020 to present and discuss information regarding the COVID-19 impacts on the budget and operations for 2020-21. A final briefing was held with councillors on 22 July 2020 ahead of the adoption of the 2020-2021 budget on 27 July 2020.

231. Representatives of Grant Thornton also made a confidential presentation to ARIC on 17 June 2020. ARIC resolved in the following terms:

- (a) endorses the fact that the process has been undertaken by Council;
- (b) notes the thoroughness in which it has been prepared; and
- (c) recommends that there be a feedback loop within the process so the progress can be tracked.

¹¹⁶ Grant Thornton Financial Capacity Review – Phase 1 p 10

¹¹⁷ Email from Gary Murphy to Boris Bolgoff; Carlton Oldfield; Jamie Loader; Julie Vaughan; Krystie Bryant; Mark Margin; Scott Cox 5 June 2020 8.38am p 1

232. The Grant Thornton Phase 1 report had noted Council's intention not to alter its draft operational plan 2020-21 prior to adoption but to make adjustments in response to COVID-19 in the Q1 review.

14.2 Grant Thornton Phase 2 Report

233. On 17 July 2020 the draft Grant Thornton Phase 2 report dated 15 July 2020 was received by Mr Murphy. An email which accompanied the draft report noted that Mr Oldfield had already reviewed the draft report. Prior to finalising the report, Mr Murphy was asked by Grant Thornton to sign a management representation letter confirming the accuracy of the contents of the report.
234. On 3 August 2020 Mr Murphy responded to Grant Thornton with twenty-seven comments and questions. Grant Thornton responded to those comments and questions on 9 August 2020. On 13 August 2020 the draft Grant Thornton Phase 2 report and the exchange of comments and questions and responses between Mr Murphy and Grant Thornton were circulated to the ELT who were asked to keep the draft report confidential.
235. The draft (V2) Grant Thornton Phase 2 report dated 16 August 2020 was provided to Mr Murphy, apparently in the absence of a management representation letter as it remained in draft. That report contained a number of concerning observations, including:

Culturally, there lacks significant emphasis on the importance of the financial position and performance of Council. There are too many competing priorities that overshadow the need for a financially sustainable organisation. As a result, Council has reported deficits for the past three years and has severe cash constraints.

Given the past historical operational performance of Council and the lack of unrestricted cash reserves, there needs to be an immediate restructure of the cost base and a shift in culture to ensure Council is financially responsible and sustainable.¹¹⁸

236. The report made a large number of recommendations relating to better and longer-term budget formulation, ongoing reporting, better management, reporting and forecasting of cash flow, avoidance of further external debt and a reduction in expenses (particularly in relation to employee costs).
237. The report included a LTFP¹¹⁹ - Cash Flow Forecast. In a highlighted row within that forecast unrestricted cash was shown to have deteriorated from \$50.9M in 2018-19 to -\$42.7M for that current year with a continued and significant deterioration over the long term. The preamble to the notes to the forecast stated:

The summary opposite is prepared from the LTFP. While only forecast at present, should the forecast not be revised to reduce the operational loss and capital expenditure, there is expected to be insufficient available cash to fund future periods. Further, the estimated impact of

¹¹⁸ Grant Thornton Draft (V2) Phase 2 Report dated 16 August 2020 p 5

¹¹⁹ Long Term Financial Plan

COVID is not included in the forecast and needs to be accounted for.¹²⁰

238. The report identified that expenses had been increasing and revenue falling so that the cost base was unsustainable. The two main areas of increased expenses were employee costs (9% increase year on year against an annual wage increase of 2.5%) and materials (~10% increase over two years mainly in relation to consultants, labour hire and external plant hire).¹²¹
239. The report recommended better practices with respect to reporting on and segregating internally and externally restricted funds and said:

The lax practices (together with a lack of cash flow reporting) have resulted in over \$60 million of internally restricted funds being utilised for general purposes without the approval of the Councillors. Internally restricted funds appear to have been accessed from October 2019 for general operational purposes given unrestricted funds were exhausted. The cash flow forecasts in the LTFP results in negative unrestricted funds which appears to have inadvertently led to the use of internally restricted funds as part of delivering the operational and capital budgets.¹²²

240. A briefing of councillors was held 31 August 2020 for an update on the 2020-21 financial position.

¹²⁰ Grant Thornton Draft (V2) Phase 2 Report dated 16 August 2020 p 14

¹²¹ Grant Thornton Draft (V2) Phase 2 Report dated 16 August 2020 p 28

¹²² Grant Thornton Draft (V2) Phase 2 Report dated 16 August 2020 p 37

15. DMB REPORT

241. Following the Grant Thornton Phase 2 report Mr Banicevic of DMB Consulting Pty Ltd, a chartered accountant with extensive local government experience, was engaged to investigate the use of restricted funds.
242. On 3 October 2020 Mr Banicevic provided a brief confidential report to the GM (DMB Report). His report stated that as at 30 June 2020 there was insufficient cash and investments in the General Fund to cover internal and external restrictions. The shortfall was \$184M meaning that all internally restricted funds and \$75M of externally restricted funds had been spent for purposes other than purposes for which they were restricted. No approval had been obtained for the alternate use of those funds. There was also a shortfall in the Drainage Fund of \$34M. Mr Banicevic posited that those shortfalls were likely to represent breaches of Council policy and the LG Act.¹²³
243. The DMB Report went on to state:
- The position after June 2020 appears to have deteriorated further. Cash and investment levels have dropped a further \$46m – to \$314m at the end of August – without significant changes in the committed restrictions. Water Fund (sic) may also have moved into a funding deficiency for the first time.¹²⁴
244. Mr Banicevic suggested that the following factors may have contributed to the position:
- no minimum liquidity levels
 - no effective monitoring or reporting of liquidity
 - no effective control to prevent restricted monies from being accessed for the wrong purposes
 - no early warning mechanism for deteriorating liquidity or compromise of restricted funds
 - no liquidity contingency plan
 - no contingency funding
 - a large budget deficit in the 2019-20 financial year.¹²⁵
245. The DMB Report recommended that ARIC and OLG be advised of Council's position and that measures be introduced to address the causative factors listed above.

¹²³ Letter from DMB Consulting Pty Ltd to the GM 3 October 2020 p 2

¹²⁴ Ibid p 3

¹²⁵ Ibid p 4

246. On 6 October 2020 Mr Banicevic made a PowerPoint presentation to the councillors which repeated the information contained in his report of 3 October 2021.
247. Also, on 6 October 2020 Mr Murphy telephoned and wrote to the Acting Secretary, OLG regarding the DMB Report and issued a media release regarding Council's financial position.

16. DOMESTIC WASTE REVIEW

248. On 22 February 2021 KPMG and Clayton Utz published their joint review of Council's Domestic Waste system. It was a targeted review over the 2018, 2019 and 2020 financial years.
249. The review made some findings relevant to this Inquiry, including:
- The total balance of the Domestic Waste Fund (DWF) was treated by Council staff as externally restricted for the sole use of domestic waste management.
 - The Restrictions Master Sheet reported to Council via the monthly Investment Report was either not attached or was out of date, sometimes by several months, meaning that inaccurate Restricted and Unrestricted Fund balances had been reported in the Investment Reports over the review period.
 - Capital expenditure for waste was initially funded by the General Fund (GF) and later recouped from the DWF over the duration of the service. The approach is consistent with the Council Rating and Revenue Raising Manual (2007) (CRRR Manual).
250. The combined effect of these findings was that in relation to domestic waste, at any point in time, there was no clear picture of the balance of restricted funds, or the amount "owed" to the general fund.

17. CLAYTON UTZ LEGAL AND FINANCIAL FORENSIC ANALYSIS

251. On 24 February 2021 Clayton Utz published its Legal and Financial Forensic Analysis relating to the Council's liquidity crisis and the use of restricted funds. As a result of its investigations Clayton Utz found there were no reasonable grounds to suspect that the crisis or the use of restricted funds was the result of corrupt conduct, but rather it was due to:

- lack of control and transparency in the inherited financial system of GCC
- delays and problems integrating the financial systems of GCC and WSC into a single system
- a long-standing practice of reallocating funds between the General Fund and restricted funds
- mismanagement of the bank account, general poor financial management and lack of early warning systems.

18. AUDITOR-GENERAL LETTER TO MINISTER

252. On 11 May 2021 the Auditor-General wrote to the Minister for Local Government following completion of the audit of CCC's financial statements for the year ended June 2020 by the Audit Office of NSW. That letter raised matters identified by the Auditor-General as being of significance including:
- The correction of an error in a previous reporting period resulting from a change in the Council's interpretation of the relevant legislation
 - Breaches of the LG Act and Regulation
 - Extreme and high risk matters of governance including the management of cash flows and restrictions, lack of documented policy relating to restricted funds, valuation of roads, bridges and footpaths, financial statement preparation and review, reconciliations of key accounts and sub-ledgers, access controls to financial computer systems and the valuation of Community and Crown land.
253. The correction of an error in a previous reporting period related to the change in accounting policy for WSC and GCC for the period ending 12 May 2016 (see Chapter 3.5 Change in Accounting Policy), which was continued by CCC for the years ending 30 June 2017, 2018 and 2019. The Auditor-General determined, based on advice from the Solicitor-General dated 13 February 2021¹²⁶, that the change in accounting policy in 2016 was a reasonable interpretation of the relevant legislation so that the decision in 2020 to revert to the previous accounting method (to treat charges levied under the WM Act as restricted funds) was not a correction of an error but rather a voluntary change in accounting policy. The Auditor-General considered the description as an error amounted to a material disclosure deficiency in the 2020 statements.
254. As acknowledged by the Auditor-General, the opinion of the Crown Solicitor that charges levied under the WM Act could be treated as unrestricted funds by CCC, was not without doubt. That advice had generated much discussion in legal and local government circles. CCC clearly currently considers charges levied under the WM Act by CCC to be externally restricted funds and those funds are now accounted for in that manner. The Department of Planning and Environment (formerly the Department of Planning, Industry and Environment) proposes to issue guidance consistent with the preferred view of the Crown Solicitor.¹²⁷
255. The breach of the LG Act of concern to the Auditor-General related to the further change in accounting policy in 2020. That is, as CCC elected to treat monies collected under the WM Act as externally restricted, accessing those funds without the required approvals constituted a breach of sections 409 and 410 of the LG Act in the year ended 30 June 2020.

¹²⁶ Advice of Crown Solicitor dated 13 February 2021, Appendix 2 to Report on Local Government 2020, Audit Office of NSW 27 May 2021p 60

¹²⁷ Letter from Secretary, Department of Planning, Industry & Environment to the Auditor-General dated 26 May 2021, Appendix 1 to Report on Local Government 2020, Audit Office of NSW 27 May 2021p 59

256. The breach of the LG Regulation of concern to the Auditor-General related to clause 212 which requires the responsible accounting officer to provide a written report each month setting out details of all monies invested. The Investment Report was not presented within time for November 2019 and February, April, July and September 2020 resulting in a breach of the LG Regulation.

19. AUDIT OFFICE REPORT ON LOCAL GOVERNMENT 2020

257. The Auditor-General is required by section 421C of the LG Act to report annually on any local government sector-wide matters arising from the examination of financial statements of councils and the exercise by the Auditor-General of audit or other functions under that Act. On 27 May 2021 the Auditor-General published the Report on Local Government 2020.
258. That report acknowledged that Councils were significantly impacted by emergency events during 2019-20 including drought, bushfires, floods and the COVID-19 pandemic.¹²⁸ In addition to experiencing each of those emergency events CCC also experienced severe coastal erosion at Wamberal Beach in July 2020.
259. The report is useful to put into context the findings of the Auditor General summarised in the letter to the Minister dated 11 May 2021. CCC was classified as a metropolitan Council for the purpose of the Report.¹²⁹ Despite the many emergency events in 2019-20 56% of metropolitan Councils performed better than their original budget. CCC was not amongst those Councils.
260. The analysis of key audit findings for 2019-20 showed that CCC was the only NSW Council to be subject to an extreme risk finding (in relation to spending of restricted funds for unrestricted purposes). CCC was also subject to seven high risk findings in five of the nine categories of findings (governance, financial reporting, financial accounting, asset management and information technology), more than any other NSW Council.¹³⁰

¹²⁸ Report on Local Government 2020 Audit Office 27 May 2021 p 5

¹²⁹ Ibid p 73

¹³⁰ Ibid pp 32-53

20. SECOND ADMINISTRATOR'S REPORTS

261. On 30 October 2020 the councillors of CCC were suspended and Mr Persson AM was appointed as the Interim Administrator for three months. Mr Persson's tenure was subsequently extended to six months. Mr Persson issued three reports during his tenure as Interim Administrator – a 30 day report on 2 December 2020, a 3 month progress report on 3 February 2021 and a final report on 15 April 2021.

20.1 30 Day Report

262. The executive summary of the 30 day report painted an alarming picture of the state of CCC. Its operating losses for that financial year were forecast to be \$115M, following a loss in the previous financial year of \$89M. Accumulated debt, including funds to be repaid to restricted reserves was in the order of \$565M. Mr Persson said the Council (presumably referring to the councillors) did not know how much money they had from the outset and set out on a program of expanded capital works and services which they could not afford.
263. Mr Persson said much of the expenditure was funded from restricted reserves either unlawfully or without approval of the elected body.
264. Somewhat controversially, Mr Persson alleged that the former CFO, Mr Norman, and the former GM, Mr Murphy, were aware of this unlawful use of funds. In his oral testimony Mr Persson was questioned about the emails and notes he relied on to reach that conclusion. The Inquiry also heard explanations from Mr Norman and Mr Murphy as to the meaning of the somewhat cryptic notes and comments. As I am aware that this issue is likely to be determined by a Court of record, I will not venture an opinion as to the state of Mr Murphy's knowledge as to the use of restricted funds for unlawful purposes prior to his receipt of the Grant Thornton Phase 1 Report on 4 June 2020.
265. Mr Norman on the other hand, as CFO, ought to have had knowledge of the cash position of the Council and balances of restricted funds. His evidence was that he did not become aware that unrestricted cash had fallen into the negative in October 2019 until after he left CCC.¹³¹ Mr Norman resigned from CCC and his last day was 24 April 2020. It is difficult to accept that a CFO, in the role of a responsible accounting officer under the LG Act, could not have been aware of the true cash position of the Council for some six months.
266. Mr Persson put the rapid financial decline of the Council down to the substantial costs of upgrading the IT system and an industrial dispute, the impact of the IPART determination for water, sewer and drainage services and increased costs and revenue losses caused by bushfires, floods and COVID-19.
267. He said that there was no evidence that the elected body or senior management had prioritised possible savings from the merger, though he did not identify what savings might have been able to be achieved at that stage of the merger process.

¹³¹ T590.46

268. Mr Persson was critical of the increase in staff numbers by two hundred and fifty full time equivalent positions since amalgamation. He provided a graph of employee costs however the increased employee costs from 2017 to 2020 were largely due to harmonisation costs, termination payments and award increases and were not directly attributable to increased staff numbers.¹³²
269. He was also critical of the failure of the elected body and senior management to exercise fiscal restraint in the 2020-21 budget in light of the large operational loss the previous year and the other factors impacting Council finances which were known at the time the budget was formulated.

20.2 3 month progress report

270. The 3 month report did not alter the historical review of CCC's actions as described in the 30 day report but focussed on future action, including the securing of loans to maintain liquidity, reducing staff numbers, reducing capital and operational expenditure, sale of assets and a Special Rate Variation (SRV) via IPART.
271. In commenting on the behaviour of the elected body Mr Persson said the dynamic of CCC was more like a parliament, where opposing forces rarely collaborate. He said:

To be successful, councils need to operate more like a governing body of a large business enterprise [which councils are] where members collaborate and cooperate to get the best results for their residents and ratepayers. A quick view of previous council meetings confirms that this rarely occurred, with political point scoring too often on show.¹³³

272. Having viewed a large number, but by no means all, of the meetings of CCC, it is hard to disagree with Mr Persson's assessment. There was very little evidence of collaboration but plenty of grandstanding and speechmaking for the apparent benefit of the viewing public, but not for the residents and ratepayers.

20.3 Final Report

273. Mr Persson issued a final report on 15 April 2020. In this report Mr Persson was again critical of the councillors and the GM in expanding all aspects of CCC spending with little regard or understanding of the financial consequences. He said:

My investigation has concluded that by far the greatest reason CCC became insolvent was due to mismanagement of their budget over the years following the merger and leading up to their suspension.

There were unusual circumstances [IPART water pricing decision, bushfires, floods and COVID] which exacerbated and accelerated the collapse of the operating budget. Nevertheless, nothing excuses the

¹³² 30 Day Report Dick Persson 2 December 2020 p 7

¹³³ 3 Month Progress Report Dick Persson 3 February 2021 p 3

negligence of those in charge for their relative inaction, which was manifestly much too little and much too late.

The types of hard decisions/actions which Mr Hart* and I have put in place needed to have been taken immediately after the IPART decision cut \$39 million pa from water rate income. Increased costs and revenue losses from floods, fires and COVID 19 made urgent action all the more necessary.¹³⁴

274. Mr Persson said the use of restricted funds was not unimportant, but it was not the reason the budget “blew out”. He said to use those funds to prop up a rapidly deteriorating bottom line was inexcusable at best, and negligent at worst.
275. The report addressed the Council merger in a number of respects. It found that there was no evidence to support the view that the financial crisis was caused by the merger, that the merger was incomplete in September 2017 and that the elected body had little interest in gaining efficiencies or savings, though again the report did not identify what those efficiencies or saving might have been at that stage. Mr Persson acknowledged that WSC and GCC were not as “fit-for-the-future” and other merged councils and that the merger did not have strong community support at the outset.
276. Mr Persson recommended an extension of the period of administration for CCC to allow adequate time to complete the merger and re-build community confidence.

¹³⁴ Final Report Dick Persson 15 April 2021 p 4-5

* the then interim CEO/GM

21. SANSOM REPORT

277. Adjunct Professor Sansom published a research paper entitled “Not so Simple: the origins and implications of Central Coast Council's ‘financial calamity’” (the Sansom Report) on 21 September 2021. Professor Sansom had chaired the ILGRP which published its report “Revitalising Local Government” in April 2012 so he quite naturally had an interest in the subject matter of this Inquiry.
278. The objectives of the Sansom Report were:
- To explore the origins of the claimed ‘financial calamity’ and identify the factors involved.
 - To place Central Coast's experience in the broader context of the legislative and policy frameworks that regulate local government in NSW – particularly newly amalgamated councils.
 - To consider the implications for future governance and oversight of the NSW system of local government – especially the emerging group of very large municipalities with populations projected to reach 300-400,000 or more within the next decade or two.¹³⁵
279. The Sansom Report identified sixteen key issues and findings, not all of which are pertinent to this Inquiry. Those that are of relevance include (as paraphrased):
- The merger process was deficient in that it failed to properly assess the risks (infrastructure backlogs, relatively low rates) and fuelled unrealistic expectations of merger benefits
 - Underlying weaknesses in CCC were compounded by the rate path freeze and the change in accounting policy in the 2015-16 financial statements of WSC and GCC
 - There was a “revolving door” of senior executives, especially in the CEO and CFO roles
 - Significant problems emerged in 2019-20 including unbudgeted increases in employee costs, the financial impact of emergencies and the IPART determination for water, sewerage and drainage levies. The projected budget deficit of \$18.6M grew to \$41M by March 2020 and \$89M by the end of that financial year.
 - A case can be made that during 2019-20 and in setting its 2020-21 budget CCC was slow to respond to signs that its financial position was weakening
 - IPART's determination in May 2019 caught CCC unprepared

¹³⁵ Research Paper: Not So Simple: the origins and implications of Central Coast Council's ‘financial calamity’ Adjunct Professor Graham Sansom, University of Technology Sydney 21 September 2021

- CCC's serious financial situation in October 2020 concerned accounting practice not an absolute shortage of funds
 - \$317M of the \$565M of debt owed by CCC in October 2020 had been inherited from WSC and GCC and about \$200M was restricted funds which were asserted to be required to be repaid. The advice of the Crown Solicitor¹³⁶ has cast doubt on that assertion.
280. For the most part I agree with the key issues and findings of the Sansom Report. Without entering the debate about whether charges levied under the WM Act should be accounted for as restricted or unrestricted funds, there is an appealing "pub test"-type logic to the idea that money collected by a water supply authority should be used only for purposes associated with that water supply authority. Indeed, that is what occurs for other water supply authorities. I am not convinced that spending those funds for general Council operations is appropriate.
281. I depart from Professor Sansom's view in relation to the response of CCC to the IPART determination and the blow out of the 2019-20 budget.
282. CCC was not entirely unprepared for the IPART determination. It had already factored a decrease in water, sewerage and drainage charges into its draft budget, consistent with its submission to IPART. It had also received a draft determination from IPART under which its revenue would decrease more substantially than had been anticipated in the CCC submission to IPART. Despite having that knowledge, no changes were made to the draft budget. The IPART determination on 24 May 2019 almost doubled the CCC forecast decrease in revenue and again no changes were made to the draft budget, even though the projected deficit had grown from \$7.7M to \$18.6M.
283. I do not accept that it was reasonable for CCC to fail to adjust its 2019-20 budget for the significant reduction in revenue resulting from the IPART determination. The inclusion of \$70M in targeted savings which were unlikely to ever be realised only added to the risk which the large deficit presented. In addition, CCC should have kept a very close eye on each quarterly review to ensure that there was no significant departure from the budget and to make the adjustments which had been mooted when the IPART determination was announced. Instead, the 2019-20 budget deficit continued to grow unchecked without any serious action to restrain spending.

¹³⁶ Advice of Crown Solicitor dated 13 February 2021, Appendix 2 to Report on Local Government 2020, Audit Office of NSW 27 May 2021pp 60-71

22. COUNCILLOR RELATIONSHIPS AND BEHAVIOUR

284. Mr Murphy was the GM from July 2018 to November 2020. He described the culture of the councillors as suspicious and sceptical, of staff and between themselves, even those of the same political affiliation. He referred to bitter exchanges between councillors, numerous points of order about councillor behaviour, a high number of notices of motion, frequent amendments to staff recommendations and an inordinate number of councillor requests and questions on notice. In late 2019 he engaged an industrial psychologist firm, Elton Consulting, to try to improve the relationships between the councillors themselves and between the councillors and the ELT.
285. Elton Consulting provided two online surveys, one to each councillor and the other to each member of the ELT. Thirteen of the fifteen councillors and eight of the ten ELT members completed the surveys.
286. The results of the surveys were published in a report dated 28 January 2020. In terms of processes and systems the key findings from the surveys were that councillors were generally satisfied, other than with the Hub and with Council meetings and briefings. The councillors suggested stricter and stronger facilitation could improve meetings and briefings.
287. The key findings in relation to relationships and capabilities were more concerning. A key issue for councillors was the lack of respectful and collaborative efforts between councillors. Greater enforcement of behavioural and procedural expectations between councillors was suggested however most councillors had no confidence that relationships between councillors could be improved.
288. Elton Consulting then conducted individual telephone interviews with thirteen of the fifteen councillors, including the current and former mayors, and eight of the ten ELT members. The results of those interviews were published in a report dated 13 March 2020.
289. In relation to systems and processes the report identified concerns amongst councillors about unbalanced competencies in formal debate practice, unequal councillor preparation for meetings and attendance at briefings and frustration at late notices of motion.
290. In regard to relationships, management and confidence most councillors identified their experience in being part of a council as largely negative. Some councillors and ELT members felt disrespected and personally attacked in formal meetings and briefings and were frustrated by politics trumping collaboration, particularly in relation to the focus on wards. Councillors and ELT members identified a distrust amongst councillors and between some councillors and staff, which could be damaging to staff wellbeing and to the reputation of the Council. The councillors felt unsupported by management in relation to councillor behaviour, primarily in the chamber.
291. The report found that in the current climate and timing (an election was due in September 2020) investing in significant change to councillor support processes would be unproductive. It instead suggested a response of "good will"

signalling that the feedback had been heard and setting a tone of expectation for the next term of Council. For that next term the report recommended better and continued training in formal protocols, consistent and robust management to promote and maintain the values of Council as an organisation and other measures to improve knowledge and transparency.

292. An indicator of the deterioration of relationships between councillors was the number and increasing frequency of Code of Conduct complaints made by one councillor against another. Prior to June 2018 there had been no such complaints. In the 2018-19 period seven complaints were received and in the 2019-20 period thirteen complaints were received. Three of the complaints were upheld and resolved by alternate means. The balance of the complaints were dismissed at preliminary assessment or by OLG or were pending at the time the councillors were suspended. It is apparent from the nature of the complaints that the Code of Conduct procedures were weaponised in a presumed attempt to exclude, sanction or silence opponents within the governing body.
293. The TCorp report in 2013 identified what was needed for a sustainable council – good management and a good council working together with their community¹³⁷. The governing body of CCC was not a council which worked together, particularly later in its term. The council meetings were unreasonably long and characterised by lengthy and often irrelevant debate, interruptions and points of order. The behaviour of some councillors was very challenging for those chairing the meetings and often went unchecked. The absence of consensus and the constant bickering may well have distracted the governing body from its role in managing the council finances and budgets.

¹³⁷ Supra p 33

23. COUNCILLOR TRAINING

294. The LG Act imposes significant obligations on councillors in relation to the decisions which they make. A number of submissions to the Inquiry claimed that councillors were ill-equipped and insufficiently trained to properly discharge those obligations, particularly in relation to financial management.
295. Some submitters and witnesses suggested that councillors were akin to members of a company board and should be appointed based on their qualifications and experience. That notion is contrary to the democratic process and to the policy of the NSW Government which seeks diversity in age, experience, gender and background for local government councillors.
296. Given the policy to encourage diversity amongst councillors and the significant obligations on them, proper training is essential to maximise the effectiveness and success of a governing body in performing its functions.
297. The councillors were offered many and varied opportunities for further training but there was no written direction given by Council staff or the GM to councillors as to what forms of training might be most beneficial to them. The funding for councillor training was generous¹³⁸, yet this was one budget within the Council which was not blown, at least not during Mr Murphy's term as GM¹³⁹.
298. Most councillors described the difficulty in attending suitable training courses due to their life and work commitments and the fact that most courses were offered in Sydney and fewer in reasonable proximity to the Central Coast. Two particular types of courses were mentioned by several councillors as courses which might be of benefit to them in their role as a councillor.
299. One of those courses was the Executive Certificate for Elected Members offered by LGNSW through University of Technology Sydney (UTS), a course conducted over four days with a specific focus on the roles and responsibilities of councillors and the local government planning and reporting process.
300. The other course was the Australian Institute of Company Directors (AICD) company directors course. Those councillors who had completed the AICD course believed it was very helpful¹⁴⁰ and should be mandatory¹⁴¹. The current GM, Mr Farmer, said that it is not appropriate to simply set a budget for training and allow councillors to choose what courses they wished to attend. What he had found very effective at Wollongong City Council, working with a new governing body following a Council dismissal, was for all of the councillors together to complete the AICD company directors accreditation¹⁴². He described the effect of completing the course on the councillors as "really, really powerful"¹⁴³.

¹³⁸ T184.40; T304.13

¹³⁹ T185.7

¹⁴⁰ T151.6

¹⁴¹ T305.25

¹⁴² T643.10

¹⁴³ T643.18

301. The ILGRP had grappled with the need for councillor training in its report "revitalising Local Government" in 2013. Its preferred approach included a mandatory extended induction program for new councillors and update modules for re-elected councillors to be completed within three months of the election in addition to a prescribed number of optional approved professional development courses¹⁴⁴. It recommended increased remuneration for councillors who successfully completed recognised professional development programs¹⁴⁵. The government supported and expected councils to provide professional development for councillors, but it did not favour tying successful completion of programs to councillors' remuneration¹⁴⁶.
302. At CCC councillors were informed of a broad range of course, seminars and conferences which they could attend via the Councillor Updates. The take up of those opportunities varied amongst the councillors. Some councillors did no additional training at all, while others regularly attended comprehensive and/or targeted courses.
303. In terms of training relating to Council finances, a course was offered by LGNSW entitled "Understanding Local Government Finances for Councillors". This may have been the course which Cr Mehrtens said he had seen three or four times¹⁴⁷ and seemed underwhelmed by.
304. I do not subscribe to the view that councillors are akin to board members, however I do think that councillors should be supported and trained so that they develop competencies to enable them to understand their role and responsibilities, including in relation to local government finance. At least the core components of that training should be mandatory and ongoing. To properly carry out their roles, councillors should be able to read and understand council financial statements, draft budgets, quarterly budget reports, investment reports and annual reports. Mandatory professional development exists across most professions and there is no reason why councillors, some of whom might be new to the role, should not similarly be required to have specialised and ongoing training.
305. It is evident from the evidence of the councillors to the Inquiry that not all CCC councillors, and perhaps not any, possessed the knowledge and skill to analyse the information provided to them so that they understood what was happening to the Council's finances from May 2019 until the financial crisis in October 2020. The necessity for such skills was acknowledged in the 2013 TCorp¹⁴⁸ and ILGRP¹⁴⁹ Reports. While steps have been taken since then to improve councillors' financial skills, greater attention needs to be given to properly equipping councillors for the role which they assume once elected.

¹⁴⁴ ILGRP report "Revitalising Local Government" p 62

¹⁴⁵ ILGRP report "Revitalising Local Government" p 68

¹⁴⁶ Fit for the Future NSW Government Response to ILGRP recommendations p10-11

¹⁴⁷ T55.4

¹⁴⁸ Supra p 9

¹⁴⁹ Supra p 62

24. PUBLIC SUBMISSIONS

306. More than one hundred written submissions were received by the Inquiry. Ten of the thirteen suspended councillors provided submissions. One former councillor, eight former staff members and two of the CCC Administrators also provided submissions. The overwhelming majority of the submissions came from members of the public.
307. There was a general sentiment of dissatisfaction with the state of affairs concerning the finances at CCC but a marked difference of opinion as to the reasons for those circumstances. Of the submissions which expressed a position concerning the governing body, a slim majority was critical of its role in the financial crisis at CCC. The balance, while unhappy with the situation, pointed to other factors as being the root cause of that crisis.
308. Those "other factors" included:
- a de facto forced merger with legacy debt and infrastructure backlog, and high costs with inadequate grant funding
 - merger "rules" restricting staff changes and imposing a rate path freeze
 - natural disasters such as bushfires, floods, coastal erosion and COVID-19
 - poor financial management by the GM, CFO, ELT and finance staff
 - inadequate information for councillors, particularly regarding:
 - the change in accounting practice
 - change in investment report format
 - late and inadequate budget review information
 - the improper use of restricted funds
 - Wyong v Gosford (or North v South) rivalry
 - Cost-shifting to Councils including:
 - waste levies
 - Gosford CBD contributions
 - dredging of waterways
 - emergency services levies
309. Those factors did make the job of managing the finances of CCC harder than if they did not exist, but most of those were known factors when the governing

body was making budgetary decisions or at budget review phases. Their existence ought to have resulted in greater fiscal restraint than was evident, particularly in the budgetary decisions later in the term of the governing body.

310. A number of submissions raised issues or posed questions which its author desired the Inquiry to address. Many of those issues and questions are beyond the scope of this Inquiry, which is limited by its Terms of Reference. By way of example, it is not within the purview of this Inquiry to comment on individual development applications, staff issues or items of public infrastructure.
311. Similarly, it is not the role of this Inquiry to make recommendations about possible changes to the ward system or the number of councillors for CCC. Nor is it for this Inquiry to comment on the steps taken by the Administrators since the councillors were suspended to tackle the financial woes of the Council.
312. A number of submissions asserted that ARIC should take or at least share responsibility for the financial collapse of CCC. The nature of that committee, which met four to five times annually, with a full agenda addressing issues across the whole of the CCC operations, did not lend itself to a detailed knowledge or examination of the financial status of CCC. Its role in relation to financial management was, until July 2020, confined to the review of draft financial statements and audits associated with them. That is, it was a back-looking function, aimed at ensuring compliance with statutory reporting requirements. It had no role in the oversight of proposed budgets.
313. At the ARIC meeting on 17 July 2020 representatives of Grant Thornton made a presentation (see Grant Thornton Reports). That presentation related to the Grant Thornton Phase 1 Report received on 4 June 2020 as the Phase 2 Report was not published until 16 August 2020. This was the first time ARIC had been briefed on the current financial status of CCC. In relation to the Grant Thornton presentation ARIC resolved:

That the Audit, Risk and Improvement Committee:

- a. endorses the fact that the process has been undertaken by Council;
 - b. notes the thoroughness in which it has been prepared; and
 - c. recommends that there be a feedback loop within the process so the progress can be tracked.
314. Also at that meeting, ARIC received a report entitled "Finance Update". It provided a summary of the deteriorating financial position of the Council. ARIC did not meet again until after the councillors were suspended. The Finance Update thereafter became a standing item on the ARIC agenda. On 27 April 2021 the ARIC Charter was amended to expand the role of ARIC to include greater financial oversight in order to provide advice to CCC regarding its financial situation and to monitor the controls CCC has put in place to better monitor financial performance.
 315. Having regard to the nature and functions of ARIC as it existed during the tenure of the governing body, I do not regard it as having a central or even peripheral role in the financial problems at CCC.

25. FINDINGS ON TERMS OF REFERENCE

25.1 Term of Reference 1

316. Term of Reference 1 is in the following terms:

1. *In exercising its functions pursuant to sections 21, 22, 23, 23A and 24 of the LG Act, the governing body met its obligations in a manner consistent with sections 8A(1)(b), 8B(a), 8B(c) and 8B(d) of the LG Act, particularly in relation to:*
 - d. *Whether the governing body acted in a manner that maximised the success of gaining efficiencies and financial savings from the merger process,*
 - e. *Whether the governing body disregarded the financial consequences of its decisions, and*
 - f. *Whether the governing body's decisions since 2017 contributed to the financial position which the Council now finds itself in.*

Efficiencies and financial savings from the merger process

317. The forecast financial benefits of the merger of WSC and GCC were many and varied.
318. In 2014 GCC commissioned SGS Economics and Planning to undertake an analysis of the impact of a merger with WSC. That report estimated savings of about \$180M over twenty years¹⁵⁰.
319. The NSW Government stated in 2016 that CCC could achieve a total financial benefit of \$135M over twenty years (including the \$20M in merger grants) and a projected 119% improvement in operating results¹⁵¹. The savings over a twenty year period were to be achieved from streamlining senior management roles (\$112M), increased purchasing power (\$17M) and a reduced number of councillors (\$3M)¹⁵². The costs of implementing the merger (unspecified) were expected to be surpassed by net savings within a three year period¹⁵³.
320. The Government's estimates were based on an analysis prepared by KPMG which has not been made public. The methodology employed by KPMG was criticised by commentators including Professor Brian Dollery¹⁵⁴.
321. GCC undertook an analysis based on the KPMG model but using 2014-15 GCC financial data and concluded that savings of \$64M over twenty years could be expected¹⁵⁵.

¹⁵⁰ SGS Economics and Planning, Response to Revitalising Local Government Report August 2014 p 94

¹⁵¹ Foreword to Merger Proposal: Gosford City Council Wyong Shire Council NSW Government January 2016 p 2

¹⁵² Merger Proposal: Gosford City Council Wyong Shire Council NSW Government January 2016 p 8

¹⁵³ Merger Proposal: Gosford City Council Wyong Shire Council NSW Government January 2016 p 9

¹⁵⁴ Review of KPMG (2016) Outline of Financial Modelling Assumptions for Local Government Merger Proposals Technical Paper

¹⁵⁵ Gosford CC submission to the Minister's Delegate February 2016 p 9

322. IPART assessed GCC and WSC against the Fit for the Future criteria. It stated that its independent economic analysts, Ernst and Young, estimated gains from the merger of \$196M over twenty years¹⁵⁶.
323. The public, however, was sceptical. 70% of submissions to the Minister's Delegate which addressed financial considerations thought there was insufficient evidence to support the estimates of costs and benefits of the merger¹⁵⁷.
324. The Minister's Delegate himself concluded that there would be savings as a result of the merger (no quantum was specified) and those savings would arise after transitional requirements were completed (no time frame was specified). He did note that "Time must be taken to lay a solid foundation so the economic benefits will be realised over the longer term" ¹⁵⁸.
325. The governing body of CCC had been at the helm for just over three years when the councillors were suspended in October 2020. At that time the merger process was far from complete. The constraints on staff changes existed until May 2020 and the rates path freeze until June 2021. The costs of the merger, on any reckoning, far exceeded the merger grants. The Council had inherited significant infrastructure backlogs from GCC and WSC as well as significant, but manageable debt levels. It would be unrealistic and unreasonable to expect efficiencies or financial savings to have been evident by October 2020.
326. The Minister's Delegate had commented in his report on the need to measure "performance, service levels and infrastructure backlog at the time of the merger to compare with performance at points in time in the future"¹⁵⁹. The councillors and council staff, however, did not have a focus on measuring the costs and benefits of the merger or even the stage of completeness of the merger. The Project Management Office (PMO) established by the initial Administrator to implement and measure the progress of the merger was disbanded by Mr Bell following his appointment as GM in September 2017. With the support of the executive group, he reduced the number of consultants, returned seconded staff to their substantive positions and arranged for the PMO functions to be undertaken in-house by all directors, managers and key general staff¹⁶⁰. Regrettably, without the centralised role of the PMO, measurement and reporting on the progress of the merger processes at the whole of Council level no longer occurred.
327. As a consequence, when councillors did make calls for information about the costs (but not benefits or savings) and progress of the merger¹⁶¹ it took many months for staff to respond. Eventually, a report was presented to the meeting of CCC on 25 November 2019, however it deferred until early 2020 the provision of information relating to the estimate of costs of the amalgamation, the

¹⁵⁶ IPART Fit for the Future Assessments for Gosford CC and Wyong SC October 2015

¹⁵⁷ Delegate's Report March 2016 p 18

¹⁵⁸ Delegate's Report March 2016 p 6

¹⁵⁹ Supra p 21

¹⁶⁰ T521-523

¹⁶¹ Council resolutions 649/17 and 650/17 of 9 October 2017; Council resolution 813/18 of 13 August 2018 and Cr Vincent Question on Notice on 12 November 2018

expenditure of the merger grants and projected time for completion of merger processes¹⁶².

328. The report due in early 2020 did not materialise and a further call for information about the cost and progress of the merger was made via a Question with Notice to the meeting of 22 June 2020¹⁶³. The response from staff was that the information would be provided in a report to the council meeting of 27 July 2020¹⁶⁴.
329. A report was presented to the council meeting of 27 July 2020 entitled Amalgamation Progress Update. It estimated that CCC had funded to date (exclusive of government grants) almost \$40M of the total estimated amalgamation costs. As at 30 June 2020, 73% of the amalgamation projects had been completed with the remainder expected to be completed by 30 June 2022. The projects awaiting completion at that time included introduction of the new information management and technology systems, consolidating the LEPs and DCPs and rates harmonisation.
330. Given the lack of information available to councillors about the progress of and costs associated with the amalgamation it is unsurprising that the governing body did not have a primary focus on efficiencies and financial savings which might have been available from the merger process, particularly when the process was still some years away from completion.
331. In relation to Term of Reference 1(a) it is my opinion that the efficiencies and savings to be realised from the merger (if any) would not emerge until the merger processes and the spending on them were complete. Those processes were not forecast to be and were not in fact completed within the term of the governing body. The governing body did not act in a manner which would have prevented efficiencies and savings to be realised from the merger in the future. Indeed, it was continuing with the implementation and completion of the merger processes as identified by the first Administrator, albeit without the PMO managing the process.

Financial consequences of the decisions of the governing body

332. The financial crisis which befell CCC in October 2020 was not the result of the governing body being ignorant of the financial consequences of its decisions. Most reports to CCC included a paragraph on the financial impact of the subject matter of the report. Where that impact was expected to be of some significance an estimate of the cost or impact would be provided with advice about funding (for example, via budget adjustments, grants etc).
333. The decisions of the governing body which had the greatest financial consequences were those relating to the annual budgets. As outlined in Chapter 9 The Budgets, the governing body inherited a surplus budget of \$1.9M (before grants and contributions) which resulted in an actual deficit of \$22.7M (but a surplus of \$12.5M if land and building revaluations were excluded). It

¹⁶² Minutes of CCC meeting 25 November 2019

¹⁶³ Question with Notice by Cr MacGregor at CCC meeting 22 June 2020

¹⁶⁴ Amended agenda item 4.1 of CCC meeting 22 June 2020

then adopted in 2018-19 a break-even budget which resulted in an actual \$5.1M deficit, in 2019-20 it adopted a \$18.6M deficit budget which resulted in an actual \$41.6M deficit and in 2020-21 it adopted a \$13.3M deficit budget which resulted in the financial crisis at CCC.

334. The repeated deficit budgets and outcomes were a significant factor in the deterioration of the financial position of CCC. The councillors could have observed that actual results year on year were much worse than budgeted for. Instead of reigning in subsequent budgets, the deficits of subsequent budgets were increased. The absence of any rational reaction to the IPART determination in May 2019 permitted the deficit of that budget to balloon. The promised budget adjustments to take account of the decreased revenue from the determination never happened. No adequate explanation was provided to the Inquiry as to why the 2019-20 budget was not reviewed and expenditure reduced immediately upon the release of the IPART determination.
335. It must be noted that the Council finance staff actively discouraged the councillors from reviewing the budget in the presentation to the councillor briefing on 3 June 2019 and the report to Council on 11 June 2019, even though there was still time to make adjustments. Nevertheless, it was a decision for the councillors, not the staff, to adopt the budget with no significant changes.
336. The fact that the 2020-21 budget proposed a substantial deficit is hard to understand in the context of the events at that time. From the quarterly budget reports in November 2019 and February and May 2020, the councillors would, or at least should, have been aware of the blow-out of the 2019-20 budget. Fires, floods and storms had impacted the Central Coast and the state had gone into lockdown as a result of COVID-19. Grant Thornton had clearly warned the councillors of the financial risks which lay ahead. Despite all of these facts, the councillors adopted another substantial deficit budget.
337. In my view the budget decisions of the elected body did contribute, and in a significant way, to the financial crisis of CCC in 2020.
338. In addition to the annual budget, "approved budget adjustments" were regularly made and recorded in the quarterly budget reviews (see Chapter 9 The Budgets). These budget adjustments contributed significantly to the actual deficits exceeding the budgeted deficits in the 2018-19, 2019-20 and 2020-21 financial years.

25.2 Term of Reference 2

339. Term of Reference 2 is in the following terms:

2. *In exercising its functions pursuant to section 223 of the LG Act, the governing body ensured:*
 - c. *As far as possible, that decisions taken by it had regard to the financial sustainability of the council, and*
 - d. *That it kept under review the performance of the council, including that council spending was responsible and sustainable by aligning general revenue and expenses.*

340. Term of reference 2(a) overlaps to a large degree with term of reference 1 (b) and (c). The budget decisions of the governing body failed to have proper regard to the financial sustainability of the council for the reasons expressed earlier.

Review of financial performance

341. The governing body had the means at its disposal to keep the financial performance of the council under review, but it failed to do so adequately. The monthly investment reports were adopted en masse with other information reports, without comment, questions, or debate. The quarterly budget reviews were not used as opportunities to correct adverse trends.
342. The annual report summaries and the audited financial statements should have been used by the governing body to inform future budgets but did not appear to have been used to that effect. Even the warnings from the Audit Office and Grant Thornton did not appear to have been considered with the gravity they deserved.
343. The Council had resolved in 2018 for high level cash flow statements and a rolling forecast against the Operational Budget to be provided prior to the release of the Quarterly Budget Review¹⁶⁵. Those statements and forecasts appear to have been presented in briefings and did not form part of the budget reviews or other publicly available documents.

25.3 Term of Reference 3

344. Term of Reference 3 is in the following terms:

3. Any other matter that warrants mention, particularly those that may impact on the effective administration of Council's functions and responsibilities or the community's confidence in the Council being able to do so.

345. This Term of Reference must be read with and as an adjunct to Terms of Reference 1 and 2. This Inquiry has received many wide ranging submissions and evidence going beyond Terms of Reference 1 and 2 but only some of that information has sufficient connection to the primary Terms of Reference to warrant mention.
346. The amalgamation of WSC and GCC added to the financial and political complexities facing the governing body when it was elected, but it was not the cause of the financial crisis. The governing body was elected to the merged council and should have put its energies into making a success of that council. Some councillors, however, wished for the merger to be reversed and failed to act in the best interests of the merged council.
347. The costs of the merger was a topic common to many submissions and seen as a primary reason for the financial downfall of the Council. The asserted quantum of those costs varied wildly. Perhaps the most reliable estimate came

¹⁶⁵ Minutes of Council meeting 23 July 2018 – Item 6.4 Notice of Motion – Cash Flow Statements; Minutes of Council meeting 8 October 2018 – Item 4.3 – Cash Flow Statements

from Council staff in July 2020 when it was estimated that CCC had funded almost \$40M of the total estimated amalgamation costs, over and above government grants. Those costs were part of the operating expenses of the Council since 2016. While they added to the financial burden, they did not cause the failure of Council's finances.

348. Some submitters asserted that cost shifting to local government was a factor in the downfall of CCC. "Cost shifting" in this context means the transfer of responsibility for payment of certain costs or the removal of some revenue sources from local government. Some of the examples provided in the submissions included changes to waste services levies, emergency services levies and developer contributions within Gosford CBD. Whilst those changes impacted on CCC's income or expenditure, they were known quantities which were able to be and were budgeted for.
349. The knowledge and ability of the councillors to perform their functions was also a focus of several submissions. The councillors were provided with the opportunity to participate in an appropriate induction into their roles, though some councillors chose to participate in very few of the briefings on offer. Once the induction briefings were complete the councillors were given virtually free rein to choose professional development courses, or not, as they wished. This resulted in very few councillors attending professional development courses which provided any substantial benefit to the performance of their roles, and particularly so in relation to financial management.
350. A number of submissions sought to lay blame for the financial crisis at CCC at the feet of the Council's external auditors, ARIC, OLG and Council staff.
351. The external auditors (PWC initially, now the Audit Office) perform a limited role in the auditing of historical accounts. They are not involved in the formulation of budgets or the performance of the council against the budget. Similarly, as discussed in Chapter 24, ARIC's role at the time was limited to backward looking and it was not an overseer of CCC's day to day finances. OLG performs an advisory and supervisory role over councils when problems are identified. The financial strife at CCC was not brought to the attention of OLG until October 2020.
352. I do agree that some staff at CCC failed to adequately perform their duties, resulting in a situation where there was insufficient strategic financial direction and information provided to councillors. Those staff members who were most responsible have departed CCC. CCC now has a highly competent and experienced GM and CFO and appears to be on track to recover from its financial woes, albeit at great cost to the community of the Central Coast.
353. Many ratepayers of CCC and members of the Central Coast community are angry at the situation now faced by CCC, and understandably so. It is in the best interests of those people for the stability which has been brought to CCC to be allowed to continue until the election of a new council.

26. RECOMMENDATIONS

Having regard to my findings, I recommend that:

1. All civic offices at Central Coast Council be declared vacant, effective immediately.
2. An Administrator be appointed until the election for Central Coast Council scheduled for 2022.
3. The Administrator ensure the completion of the Business Recovery Plan as adopted and amended by Central Coast Council since October 2020.
4. Prior to the next ordinary Council election involving Central Coast Council, information sessions for prospective candidates be conducted to provide information about the obligations and burdens on future councillors.
5. Within three months of the next ordinary Council election involving Central Coast Council, mandatory training be provided to each councillor, including training relating to financial management specific to local government.
6. Consideration be given to introducing as a mandatory requirement for all councillors, the completion of an accredited course for company directors, or a course of equivalent rigour developed specifically for local government councillors, within the first twelve months of their election, with refresher courses for councillors who have previously completed such courses.
7. The *Local Government Act 1993* be amended to eliminate any asserted ambiguity in section 409(3) of that Act to make it clear that money received as a result of levying rate or charges under any other Act may not be used otherwise than for the purpose for which the rate or charge was levied.
8. Alternatively, consideration be given to removing Central Coast Council as a water authority under the *Water Management Act 2000* to enable it to administer its water supply and sewerage services in the same way as other NSW councils.

Glossary of Acronyms & Abbreviations

AIDC	Australian Institute of Company Directors
AMP	Asset Management Plan
ARIC	Audit, Risk and Improvement Committee
CCC	Central Coast Council
CCCWSA	Central Coast Council Water Supply Authority
CEO	Chief Executive Officer (aka General Manager)
CER	Capital Expenditure Review
CFO	Chief Financial Officer
CPI	Consumer Price Index
Cr	Councillor
CRRR Manual	Council Rating and Revenue Raising Manual (2077) Department of Local Government
DIPNR	Department of Infrastructure Planning and Natural Resources
DLG	(former NSW) Department of Local Government
DPC	Department of Premier and Cabinet
DPI	Department of Planning and Industry (formerly Department of Infrastructure Planning and Natural Resources)
DPIE	Department of Planning, Industry and Environment (formerly Department of Planning and Industry)
DSCR	Debt Service Cover Ratio
DSP	Development Servicing Plan
ELT	Executive Leadership Team
EP&A Act	Environmental Planning and Assessment Act 1979
ERP	Enterprise Resource Planning

FAG	Financial Assistance Grant
FSR	Financial Sustainability Rating
GCC	Gosford City Council
GM	General Manager (aka Chief Executive Officer)
Guidelines	Guidelines for the Appointment and Oversight of General Managers
GWSA	Gosford Water Supply Authority
ILGRP	Independent Local Government Review Panel
IM&T	Information Management and Technology
IP&R	Integrated Planning & Reporting
IPART	Independent Pricing and Regulatory Tribunal
IT	Information Technology
JO	Joint Organisation
LIC	Local Infrastructure Contribution
LG Act	Local Government Act 1993
LGCI	Local Government Cost Index
LGNSW	Local Government NSW (Formerly the Local Government and Shires Association)
LIRS	Local Infrastructure Renewal Scheme
LTFP	Long Term Financial Plan
OLG	Office of Local Government (formerly Department of Local Government)
Proclamation	Local Government (Council Amalgamations) Proclamation 2016
PWC	Price Waterhouse Coopers
TCorp	NSW Treasury Corporation
SRV	Special Rate Variation

UTS	University of Technology Sydney
VPA	Voluntary Planning Agreement
WM Act	Water Management Act 2000
WSC	Wyong Shire Council
WWSA	Wyong Water Supply Authority
YTD	Year to date