REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON STATE DEVELOPMENT

INQUIRY INTO THE ABILITY OF LOCAL GOVERNMENTS TO FUND INFRASTRUCTURE AND SERVICES

CORRECTED

At Preston Stanley Room, Parliament House, Sydney on Tuesday 30 July 2024

The Committee met at 9:15 am

PRESENT

The Hon. Emily Suvaal (Chair)

The Hon. Mark Buttigieg
Dr Amanda Cohn
The Hon. Scott Farlow

PRESENT VIA VIDEOCONFERENCE

The Hon. Sam Farraway (Deputy Chair)
The Hon. Peter Primrose

* Please note:

[inaudible] is used when audio words cannot be deciphered
[audio malfunction] is used when words are lost due to a technical malfunction
[disorder] is used when members or witnesses speak over one another.

The CHAIR: Welcome to the tenth hearing of the State Development Committee inquiry into the ability of local governments to fund infrastructure and services. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders, past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respect to any Aboriginal and Torres Strait Islander people joining us today.

My name is Emily Suvaal and I am the Chair of the Committee. I ask everyone in the room to turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today; however, it does not apply to what witnesses say outside of the hearing. I therefore urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures.

Mr GREG DOYLE, General Manager, Wollongong City Council, before the Committee via videoconference, affirmed and examined

Mr BRIAN JENKINS, Chief Financial Officer, Wollongong City Council, before the Committee via videoconference, sworn and examined

The CHAIR: I welcome our first witnesses. Would either of you like to start by making an opening statement?

GREG DOYLE: Thanks, Madam Chair. I will. I'd like to start with Acknowledgement of Country. Naganbi Yulunga (Hello Welcome) Today we come to you from Dharawal Nguru (Dharawal Country) Woolyungah (Wollongong) where the Merrigong (Escarpment) and Bubara (mountains) meet the Garrigarran (Sea). Hello and welcome virtually to Dharawal country and more specifically to Wollongong, where we are between the mountains and the sea. Thank you, Madam Chair and members of the Committee, for the opportunity. I'd also like to acknowledge the marathon you are running presently—and I apologise for the metaphor for the Olympics—with regards to the evidence and also the interviews. We note our regional colleagues' submissions and participation in the inquiry to date. You have our submission. Today, whilst I would like to talk to the submission, I'd also like the opportunity to discuss with you the diversity of local government authorities, climate change, waste management, disaster management, ageing infrastructure, tactical grant management, greenfield development, changing community expectations and engagement, volatility of funding, community affordability, duplication of accountability, and mining and industry affectation in Wollongong.

For more than 15 years, Wollongong City Council has been on a long and demanding journey to achieve financial sustainability. From 2008 to 2014, we implemented process improvements and cost-cutting initiatives to reduce an identified annual gap in financial resourcing from near $50 million to around $21 million, inclusive of additional costs experienced through that time. Our community were part of this journey. Some 18,000 of our local community participated in 2014 in extensive community consultation around this important matter. Their message was clear to us that council needed to be financially sustainable and continue to improve our services and infrastructure. Assets like our ageing nine coastal rock pools were to be protected and maintained as they were essential to social connection, sense of space and Wollongong's liveability.

Council adopted the Securing Our Future plan in 2014 and our current financial strategy in 2021. One year later, as global and Australian economic conditions became unstable and there was high inflation and supply shortages for employees, contractors and materials, council's long-term sustainability had become even more challenging. We might have met our financial sustainability targets in 2021, but the cost of delivering council services, which you are all very clear of, maintaining long-lived infrastructure and significant change in the IPART rate peg methodology meant our costs had increased well above our IPART-controlled rates revenue.

At council we have lived experience, industry knowledge and an extensive network of stakeholders, including our community, councillors and government, that permit us today to talk about the challenges we face with authority. There needs to be a fundamental change to the local government financial framework. It needs to move from the rate peg model where services and service levels are governed by a predetermined rates income. Council needs to be empowered to have honest and transparent conversations with our communities about balancing their unlimited needs, wants and desires with a willingness to pay for such services.

We need a better balance between our earning capacity and expenditure for local government. We need to address the responsibilities and access to resourcing between all three levels of government to strike a vertical balance and then address the horizontal inequities between the councils. We need to look at financial assistance grants and other revenue sharing or direct funding that clearly addresses imbalances like social service support rebates and concessions; individual councils funding non-revenue-raising assets, such as beaches and lifeguard services, with high visitor use; and geographical or topographical disadvantage.

We need to move away from the revenue constraints on services mandated from other levels of government and on developer contributions. The lack of agility in the section 7.11 contributions framework or its application means that there is at least $100 million of community infrastructure required to support major regional release areas of West Dapto that were not able to be funded by 7.11 contributions and a substantial gap created over time by shortfalls due to estimation and indexation rules. It falls to our ratepayers to bridge the gap. We need clearly defined roles, responsibilities and functions for community service within all tiers of government to avoid duplication, overlap, and shortfalls in public service and ensure efficient allocation of resources. This is of particular importance at these times of natural disasters and we've had seven natural disaster declarations in the last 4½ years here, including two this year.

Under the existing Disaster Recovery Funding Arrangement guidelines, community and open space assets are not currently eligible for funding. The guidelines only allow for like for like, as you're aware, and replacement of assets does not support emergency works on private property unless, without intervention, there is a risk to life or damage to council assets downstream. This is short-sighted when damaged 80-year-old stormwater infrastructure can't be improved to better manage the impact of climate change and in a city where about 60 per cent of the 88 kilometres of creeks travel across private land.

We have a bill of more than $5.6 million to address the immediate impact of the April 6 natural disaster. That's a challenge in itself that is made harder with other cost shifting onto local government. We support a review of cost shifting, as this practice continues to significantly impact local government. Analysis by independent consultants Morrison Low calculated the total cost shifted to Wollongong in the 2021-22 financial year was approximately $43 million. This is an increase of around 49 per cent since the 2015-16 financial year. Again, thank you for this time this morning and listening to our high-level summary. We look forward to enjoying the Q and A. Thank you, Madam Chair.

The CHAIR: I'm not sure if you're aware but we heard from Newcastle council also in this inquiry. We heard that there are a small number of grants that Wollongong is ineligible for because you are neither a metropolitan nor a regional council. Is that the case for Wollongong as it is for Newcastle? How does that affect you, if it does?

GREG DOYLE: It is, Madam Chair. One of the things for us is trying to identify where the opportunities lie. At some point, the definition of some funding arrangements means that we are excluded from that particular pool, whether that's a contestability or it's a direct grant. Then in others, our status means that we are eligible, and that level of confusion at times has affected our agility and nimbleness. We understand that if we are able to create a sound business case, potentially that status may be irrelevant, but we have not had the opportunity to test that.

The CHAIR: Do you have any suggestions for the Committee in terms of how to address that or make that clearer?

GREG DOYLE: The CFO may add to this, but I think the key for us is that diversity in local government. Through the evidence and the Q&As that we've been able to review, it appears as though the Committee has a very clear understanding that there's no homogeneous approach to local government. From our perspective, what we want to be able to do is just to have a clearer understanding of what the outcomes are of what the funding is to be delivered. A perfect example is Resources for Regions. We're a mining-affected and industry-affected community, as you all know, and that funding recently dissipated. It was removed. What that means is that we will probably need to be more competitive and even enhance our contestability when it comes to other grants. Our concern is, as a larger council that has invested time and energy in building expertise around funding management, so being tactical in terms of what we go after, that we may actually be at a disadvantage because the perception is that we're big and we have the resources to be able to deliver certain things.

I think this whole issue of whether you're regional or not actually ends up creating even a higher contestability issue. ISJO did a presentation. Our South Coast colleagues did a great job in terms of the presentation of their own evidence, but as the regional capital, Wollongong, 66 per cent of the jobs in this region are in this local government area. The issue for us is that there is a small bridge across a small body of water that is the difference between our status and being able to participate in funding that would actually address some of the regional issues that we have for our communities, as opposed to the locality issues.

The CHAIR: In terms of services and fees and charges, are there services that are outside of the rate peg that you believe councils are currently undercharging for? Could you give us examples of those, if there are?

BRIAN JENKINS: I will answer that. I believe there are many fees and charges, particularly those which have statutory limits on them, so charges for development applications, charges for animals, fines and the like. Probably there are numerous charges across a number of areas. Health inspections I think is one that we've done submissions on before, and pool inspections. A lot of those regulatory enforcement fees are at a point where, because people have to go out and deliver the service, the people cost of those far outweigh the revenue that you can receive on those. Over the last 15 years, things like development applications used to almost be a break-even service for council. Now it's costing $3 million to $4 million to run effectively. The cost and the legislative changes around the rules for development applications have made that job so much more difficult and so much more expensive, but the fees have not kept pace with that.

The CHAIR: Just so I'm clear, development applications for Wollongong council are currently costing $3 million to $4 million in terms of the loss?

BRIAN JENKINS: The net loss on that service, yes.

The CHAIR: In terms of the water and pool inspections that you described, are those things that have statutory limits or are they things that are within council's remit to control, just for the Committee's information?

BRIAN JENKINS: They would have statutory limits.

The CHAIR: What are the main opportunities that you see for council to raise revenue that is separate from, obviously, your rate-pegged income?

GREG DOYLE: The dark arts of revenue are ones that we've been exploring over a period of time and also making sure that we balance that with community sentiment and affordability. Recently we undertook some research with our local community. Every two years we do a community satisfaction survey but this year we also did a community wellbeing, just to ensure that we're across and have a contemporary understanding of what the issues are.

Whilst the council undertakes a significant amount of community engagement, it's on an issue basis. What we're able to do is understand very clearly what's important to the community in terms of our services and our facilities, but also an understanding of how community is at the present time. Some of the things that we look at is that the council is a significant landlord, so council actually, due to decisions of the past—very sound ones—does own properties throughout the city and land that's unimproved at the present time. That land is available for at-grade car parks and the city has experienced significant private investment around housing, retail and industry. Those lands are now to the point where we need to review their future and best use for community.

Then also, as a landlord, and probably one of the region's largest landlords, there have probably been two significant issues for us. The first one is COVID. Our tenants have really suffered through COVID, so rent abatement has been a significant matter for us. The council has subsidised significant community organisations and businesses to be able to see their way through this really challenging environment. The second thing is that we haven't kept abreast of investment in maintenance of those particular properties. Our ability to yield net rent or a better book portfolio hasn't actually resulted for us, because we haven't been able to afford to maintain those properties to the point where they're appealing and optimising revenue. They're probably just a couple of examples. Did you want to add others?

BRIAN JENKINS: No, I think that covers it.

The Hon. SCOTT FARLOW: Can I just pick up on that question? For Wollongong council, how much of your revenue is derived from rates, as a percentage, so to speak?

BRIAN JENKINS: In terms of total revenue?

The Hon. SCOTT FARLOW: Yes.

BRIAN JENKINS: Around 60 per cent.

The Hon. SCOTT FARLOW: It's good to get a feel of that.

BRIAN JENKINS: Sorry, I should say that's including capital contributions.

The Hon. SCOTT FARLOW: In terms of some of your other sources of revenue, I have experienced in the past that you have parking meters and the like in some areas. Are there other forms of revenue that council is exploring? You've gone through discussions about what you're able to do with your own property. Are there other mechanisms that are available to you that aren't necessarily available to some of your neighbouring councils?

GREG DOYLE: Yes. I think parking meters is an interesting one. They were introduced and they're at a very minimal rate of, say, $1 an hour with a $2 limit, so you never pay more than $2. But the community expectation here is still very much drive in and walk out of your car into your retail experience, so the community sentiment is very opposed to any increases. The city does own a range of off-street parking stations as well. We've been very mindful of ensuring that we promote employment lands in the CBD. We want people to come into work, but we also want to support public transport coordination, so it's a significant balancing act for us from that perspective.

In terms of other opportunities for revenue, we also deliver two leisure centres, but post-COVID those marketplaces are adjusting at the present time and reframing themselves. We're currently in the process of reviewing those areas of business to ensure that we futureproof ourselves in terms of the services that we deliver as well. We have a golf course that is actually part of a waste legacy issue, which we'd love to talk to you about at some stage this morning. We have a range of old waste cells that we've looked to revitalise or gentrify, and one of those is a golf course. We receive marginal income on those. At the present time, we're looking at all of our revenue opportunities, like user fees for public space. We've got a very strong outdoor fitness environment, so we've been working with those fitness providers for a period of time in terms of their use of public space and assets as well. They're probably some examples.

BRIAN JENKINS: They'd be in addition to the waste facility. We're one of probably a handful of councils that run our own waste facility. It runs both commercial and domestic waste, so it's probably our second-largest revenue source. Having said that, that's a challenging environment for us, moving forward, with changing legislation and particularly environmental issues. And then tourist parks, I guess, are the other large one which council has worked reasonably hard over the last 10 years to try to turn from loss-making to a profit-making.

The Hon. SCOTT FARLOW: You have thrown out the bait, and I will bite. Waste legacy issues—you wanted to speak to us about those this morning. Over to you.

GREG DOYLE: For us, the city has actually, sadly, not benefited from modern-day engineering. I'm trying to keep it appreciative this morning. The significant issues for us equate to the number of 60- or 70-year-old landfill sites across the city, and they were very localised. What's happened now is our Whytes Gully facility that the CFA referred to is benefiting from significant investment around—I will just give you an example and then I'll jump back to the legacy issues. A cell for us that has a seven-year life in Wollongong, that cell alone, from a construction perspective, will cost over $25 million to build—just the site—let alone operate it and make sure that it meets its regulatory requirements as well. And that only has a seven-year life span. For us, the legacy sites are ones where we've been working with the EPA, and the EPA have a very contemporary focus on those.

We are currently undertaking a process where we better understand, in perpetuity, what the cost of those legacy issues is going to be. We're looking to mine methane where we can but, as you understand, due to the lack of engineering in those periods of time, that's very difficult to undertake. We're also looking at alternate uses for some of those spaces. I mentioned the golf course, but are there opportunities for mountain biking? They are more liabilities, in regard to those legacies, than giving us any positive attributed value at the present time. So we're going through a process of discovery at the present time, and management with EPA. We're talking in excess of tens of millions of dollars to be able to manage that in perpetuity on behalf of the community.

The Hon. SCOTT FARLOW: You also outline in your submission some of the challenges you have, particularly in your new growth land release areas, with infrastructure funding. I am just interested in the council's approach to that and what support you are getting from the State Government to address some of those issues as well.

GREG DOYLE: I might kick off on that one. We've got a greenfield development site at West Dapto—just to give you all some context—which will be home for about 55,000 people. That's the size of Wagga Wagga or Port Macquarie Hastings, so a significant-sized community. That particular community is being built, effectively, on a flood plain—old farmland. It's going to require over 50 bridges and culverts for movement. A community that originally, when the design and planning process was in play, say 10 to 15 years ago, was looking at new entries to home affordability in the marketplace—that definitely is not the case now with build costs and sales in excess of $1.1 million for a four-bedroom house out there, which is quite significant.

We don't have a piece of road infrastructure out there that is State owned or controlled at the present time, which you would normally have when you're building another city of, say, 55,000 people. We have a plan for an orbital. We've been working with the New South Wales Government to get funding in that space, but we have a significant infrastructure gap in regard to the development, the planning and the delivery of that, understanding that we also have a huge responsibility in the housing targets that the planning Minister has recently provided us with as well. Council owns land in West Dapto. We've recently sold a parcel of land on the basis that we want to push for housing development. We've also bought land at West Dapto on the basis that we see ourselves as playing a key role in moving the development of the enterprise corridor, one of the villages, more quickly.

BRIAN JENKINS: I think, probably from my perspective, the challenges with the management of 7.11 contributions plans is one that is creating a financial gap at West Dapto. As Greg said, the orbital road there is about $700 million worth of road. Our view is that probably should be a State road rather than a local road. That would make a large difference. But West Dapto has developed reasonably slowly. We started in 2010 and, while it's 55,000 houses, it's got about a 50-year development lifespan. It's more sporadic and it's got lots of individual owners out there, so the developments are happening, not necessarily sequentially, from one direction to the other. So the challenge with infrastructure in that space means that some of the significant roads have to be built well in advance of their optimum usage, just to provide access.

I guess the way the contribution plan is working, we've created significant gaps over time. So as the costs of those works increase we're not able to recapture that cost from the owners that are already there. I think we're at about 10 per cent developed at the moment. So every time the costs increase, there is a 10 per cent gap in every new, increasing cost that is created. As well as that, the community infrastructure which we're estimating at over

$100 million at the moment for a city effectively the size of 55,000 people, we can't collect any of that money through the contributions plan. As Greg was saying, some of the land sales will go towards that. But we will still be left with a significant gap in community infrastructure that will need to be met by the rest of the community.

The Hon. SCOTT FARLOW: The Government has introduced the Housing and Productivity Contribution. That would apply, I imagine, $10,000 to each of those properties in West Dapto. Have you had any discussions with the Government about any of that funding from the Housing and Productivity Contribution being hypothecated to supporting Wollongong council with West Dapto or any of the other initiatives?

GREG DOYLE: We've been strongly advocating to the Minister and officers with regards to ensuring that the collection and allocation of those funds is localised as well. So, yes, we have.

The Hon. SCOTT FARLOW: What's the feedback been? Is there any evidence of that being the case?

GREG DOYLE: At this point it is probably too early to say, other than that the ministry is very open to discussions with us, and that it has been constructive. We haven't seen anything of significance at this stage.

The CHAIR: In terms of your waste operations that you mentioned, just so I'm clear, you're completely recovering the costs of your waste operations? And did I infer that is it a revenue raiser for you, the waste management facility?

BRIAN JENKINS: Correct. It would be cost recovery. Having said that, there is probably a little bit of uncertainty still at the moment around the rehabilitation costs, the end-of-life costs of that facility, that we are doing a reasonable amount of work on at the moment. Obviously, as the legislation changes around that and the environmental issues with gas and methane, there are some additional costs coming in to that service that we haven't factored in at this point in time.

The CHAIR: In terms of those end-of-life costs and them changing, is that as a result of changes to Government policy and legislation?

BRIAN JENKINS: I think that space is changing continuously. I'm not across it 100 per cent, but that and the costs of those services, particularly capping and the like is, historically—I guess, the cost of dirt, particularly. It's not something that's cheap anymore.

GREG DOYLE: It's got to be the right dirt as well. It just can't be any dirt. I think a range of us have learnt that in the last couple of years.

The CHAIR: I suppose I'm asking to try and understand the extent of the issue, whether it's localised to Wollongong or if it's a broader issue?

BRIAN JENKINS: It's probably general.

GREG DOYLE: I would say that it's an issue for a range of local government authorities. However, I'm unsure whether or not many of my colleagues want to turn their mind to it because of the more immediate issues surrounding financial sustainability. But because of the significant number of legacy sites—and I'd probably just add, in terms of your question, that community sentiment has changed. Community is much better educated and community wants to know that [audio malfunction].

The CHAIR: We've just lost the audiovisual stream from Wollongong.

GREG DOYLE: If they're living alongside or they're [audio malfunction].

The CHAIR: We're having issues with the stream dropping out from Wollongong council. Can you hear us?

GREG DOYLE: We can, yes.

The CHAIR: We just had issues with the feed dropping out momentarily, so we lost that response. Can just repeat that?

GREG DOYLE: I will be really quick. It was more around sentiment change as well. So not only has there been public policy change, but community interest in this particular space has increased too.

The CHAIR: How much does council currently have in restricted funds?

BRIAN JENKINS: I might need to take that one on notice, I'm afraid.

The CHAIR: You may then need to take some of the next couple on notice as well. How much of that is allocated to existing or future projects?

GREG DOYLE: I would be happy to take those questions on notice, Chair.

The CHAIR: How much is unallocated? Our Committee secretariat will get in touch with you in terms of the specific questions. In the next five years—and this is obviously a hypothetical—do you see the balances of restricted funds increasing or decreasing?

BRIAN JENKINS: From our planning perspective, it would be decreasing. Our most significant restricted funds would be around West Dapto—the contributions restrictions. Then we also have some restrictions around our waste facility, which are internal restrictions. The waste facility will actually go to zero in terms of our capacity to have spare cash from that operation, due to the construction that Greg spoke about. The developer contributions have a fairly significant expenditure over the next four to five years in infrastructure. We're building some significant roadways now, which provide access to new housing fronts. I would forecast that that would be decreasing over the next couple of years, or basically in our four-year profile.

GREG DOYLE: I concur with the status of those accounts. I would see them reducing, particularly on the basis of a really ambitious program that our council has requested of us in regard to capital and also maintenance. But, in particular, our capital program over the next four to six years will be in excess of $700 million alone, just in capital, and then our operations and maintenance would probably be a further $600 million. We're talking a very, very ambitious program in regard to stormwater, roads, our community infrastructure and then, as Brian said, our waste services area in terms of our cell preparation and management. West Dapto alone will go through another growth spike in regard to what's required, based on the housing targets and then the planning proposals that we're seeing at the present time for West Dapto coming through.

The CHAIR: In terms of the West Dapto development that you mentioned, and obviously the need to build some of that essential social infrastructure that you also talked about, is there a reason that council wasn't able to establish agreement with the developer at the time to be providing that?

GREG DOYLE: The challenge with West Dapto is that at one stage I think there were over 20 owners of land. In your typical greenfield development, what you normally have is one to three owners and developers that may end up with a planning agreement between parties, who work together from a planning proposal process all the way through. That hasn't been the case here. We continue to work at that level where we're looking to work collaboratively and collectively with a small group of owners but, unfortunately for us, that horse did bolt about 10 or 15 years ago around ownership. It's quite fragmented. That's the challenge for us.

The CHAIR: That's very useful to know. In terms of the natural disasters you mentioned in your opening statement, are there examples of unforeseen events where their costs are never fully recovered and your council is forever playing catch-up, if you like?

GREG DOYLE: I'll probably start with something that I know you and the Committee have been really focused on, and that's betterment. Working in reverse, when you have infrastructure that's already ageing and you're investing in its renewal and maintenance on a very disciplined basis around asset management, when you have a critical incident like a storm cell or a declaration, what you don't want to be doing is really having that infrastructure reappear at the same level of service at which it was. What we're seeing is not only the washing away of infrastructure that we've been repairing and replacing, but a more sustained damage to maybe the basin or the catchment area, and the same thing with our community facilities.

That's having a significant impact financially, but it's also having a real impact on community resilience because their perception is that we didn't fix it in the first place, hence it's broken again. Or, secondly, why would I and the team and the councillors be so stupid as to actually rebuild it as is? The issue is that the funding arrangements—as you know, NEMA doesn't enable us at the present time. This is the same issue for State infrastructure as well. We were actually advocating for our Transport colleagues recently on some road infrastructure at Coalcliff that we're pretty confident, sadly, will fail. That has impacts and concerns for not only other assets and facilities, but potentially impacts the lives of other people and their private property as well. Betterment is a significant issue for us.

Adaptation—just the opportunity to have pre-prepared panels of contractors that are able to go out in the middle of the night. As we all know, these events happen either on a weekend, a public holiday or during the evening. The real issue for us is that our staff are leaving their own homes that are at risk—and they've got water running through them—to attempt to pick up equipment to be able to go and help other community members that are at risk. That ends up having, ultimately, significant impact on BAU. Whilst I mentioned the $5.8 million, the impact is also on the delivery of a very ambitious capital program for community, or a maintenance program. You get the double-edged sword, or the double whammy, in regard to that. We've been advocating to Reconstruction Authority and we've been working really well with them, but it's beyond them—it's into Treasury—around a model and a pilot for adaptation for New South Wales that we believe that we can support.

Wollongong's got, sadly, all of the 11 herbs and spices of natural disasters. The water catchment area for Sydney—for any of you that live in Sydney—actually sits in Wollongong. Everybody thinks that Wollongong is the urban area on the flood plain, but the dams actually sit within our local government area. The reason they're there is because it rains a lot. Unfortunately, the rain doesn't always go to the west; sometimes it comes to the east. We have that, we have fire, we have coastal inundation, we have a very complex estuary management system. The last thing is that our industry is one of the most significant industries to the New South Wales Government from a Treasury point of view. The threat of an industrial incident or disaster is high and it needs to be managed too.

It's the 11 herbs and spices of disaster management here that we think that what we can do is support. We've got the geotechnical issues here—which, unfortunately, Madam Chair, I probably could speak about this too much. I will wind myself up. One of the key issues for us is that the policies are about limiting 12-week repairs. The problem, from a geotechnical perspective, is that, whilst you continue to get rainfall, the issues for us are continuous movement six months down the track and then we get a dry spell. They're some of the issues, let alone drainage of sports fields affecting the mental health of children and families as well, which I know you've also heard about. Sorry, I could talk about this for days, and I won't.

The CHAIR: I have a final question in regard to that infrastructure, specifically around ageing pool infrastructure. We've heard from a number of councils about the number of pools that they are looking after. Could you afford to replace your ageing pools as they currently stand?

GREG DOYLE: No, we couldn't, Madam Chair. We have over 30 pool shells. Often people talk about pool complexes. Our city also has 17 beaches. We have one of Australia's most significant aquatic services programs. We have rock pools, chlorinated pools and saltwater tide pools as well. At the present time, in terms of that infrastructure and that service, we wouldn't have the funds, if they all failed at the same time, to repair those to modern service levels.

The Hon. SAM FARRAWAY: I've been really impressed, gentlemen, with your contribution today because it sounds like you're right across it. I want to touch on the betterment stuff. It really is a no-brainer, especially in the road space. I just wanted to ask how you manage community expectations locally when you have disaster recovery funding arrangements from a natural disaster and you have to tell the community that we are rebuilding this same piece of infrastructure exactly the same way because the criteria that comes out of Canberra administered by the State is just so out of date and is not meeting community expectations. I want to know how you manage that expectation. Secondly, would you agree that a lot of betterment in road funding is actually drainage, road raising and new culverts? It's very practical betterment solutions, not gold plating like some in Canberra would think.

GREG DOYLE: Thank you for the question. The first thing is that the expectation of the community is taking a toll on the councillors and the staff. We have a very strong focus of making sure we front community and work with community, particularly when you're working with a community that is really tired, upset and emotional, and rightfully so. We ensure that we actually are there and we don't send out circulars only or do media or whatever. But that, I can honestly tell you, has taken a toll on our councillors, who have been amazing and who are really taking this very personally on board. And so have our staff—our customer service staff and our stormwater staff.

The key issue for us is about education and working as quickly as we can, particularly across multi languages as well in our city because we have a diverse community. For us it's about making sure that our community information that we do provide is engaging and actually gets the information across. But I can't honestly say to you that we are managing the expectation. We're doing everything we possibly can to constantly be available, do the work we can and really stretch as hard as we can into spaces and places that really we're limited to work in.

For that private land issue, we've been strongly advocating with the Reconstruction Authority and the EPA and we've had Minister Dib here as well just trying to explain this issue, when you've got 88 kilometres of waterways. Nobody thinks that Wollongong has 88 kilometres of waterway, and 62 kilometres of that is privately owned. They might have a big rock or a bridge in their backyard that in the next natural disaster could have risk of life issues. We were very fortunate in April not to lose lives. That community expectation, I can tell you, is like holding a tiger by its tail at the present time—and our executive team personally being out there too.

From a betterment perspective, you nailed it. The issue from our perspective is that we don't want gold-plated. We believe we've got the expertise in house here. We've got our asset management information and we're happy to share that with anybody to be able to demonstrate that we've got a level of expertise in credibility to ensure that we don't end up with something that is gold-plated. But I can tell you now that if we were given the opportunity to redesign some of the infrastructure that we're being required to immediately replace with our own money and then have to chase the money afterwards, it would be much easier. The community outcome around expectations would be different as well, because what we're doing is I'm just turning back up to that same street every time it rains, after we've had 20 mils, talking to the same people who are handing me my backside again and again and again. Sorry, that probably shouldn't be in *Hansard*.

The CHAIR: Well, it is now. On that note, that's all we have time for. I thank you both so much for making time to give evidence to this really important inquiry. As I mentioned, our Committee secretary will be in touch for questions that were taken on notice.

(The witnesses withdrew.)

Ms YVONNE LINGUA, Executive Officer, Riverina and Murray Joint Organisation, affirmed and examined

Mr GEORGE COWAN, Chair, Riverina and Murray Joint Organisation, Energy Security Sub-committee, and General Manager, Narrandera Shire Council, sworn and examined

The CHAIR: I welcome our next witnesses. Thank you so much for making the time to be here in person and to give evidence to this inquiry today. Would either of you like to start by making a short statement?

YVONNE LINGUA: Good morning. Before we begin I would like to recognise and pay my respect to the First Nations people of the land on which we meet today, to Elders past, present and emerging, and to any First Nations people in the room today or watching on the live stream. Thank you to the Chair and panel members for giving us the opportunity to be here today.

RAMJO does very much appreciate this opportunity to share our knowledge and concerns to this important inquiry for the financial sustainability of our organisation and how that relates to our 11-member council as well. Although the New South Wales Government did provide some initial start-up funding for joint organisations, we do largely exist on the contributions of our member councils and also on specific grant funding and our ability to be able to charge administration and project management fees where they are allowed for certain programs and projects.

We do have limited opportunities to raise funds and since our inception as a JO in 2018, the cost of operations has progressively and steadily increased. To some extent, that has been as a result of meeting the Office of Local Government's various requirements and others. Most recently, and most significantly, it has been the requirement for the joint organisations to have audit, risk and improvement committees and also to undertake internal audits as part of that process. A number of provisions under the Local Government Act that apply to councils have been equally applied to joint organisations as well, although they may not always be fit for purpose for the work of the joint organisation.

As mentioned before, JOs were proclaimed in 2018 and do sit under the Local Government Act. I want to highlight what the joint organisations are tasked with doing, which is intergovernmental cooperation, leadership and regional prioritisation, and advocacy as well. RAMJO does view these three focus areas as being very intrinsically linked. They do provide the Federal and State governments—and, of course, by extension, our communities, whom we all serve—with opportunities to address the challenges that we collectively face by building upon and strengthening the existing assets that we do have and can leverage off, such as the JO model and the vast and deep knowledge and expertise of its member councils.

Per our submission, we do accept the term "financial sustainability" to mean a local government that is financially sustainable over the long term and one that is able to generate sufficient funds to provide levels of service and infrastructure as agreed to with its communities. In terms of our member councils, we did provide commentary on the long-term financial implications of rate pegging, specifically focused grants and also the financial assistance grants. It is important also to note that as the pressure continues to mount on our member councils, that does also have an impact on their ability to not only engage with the JO and participate in some of the broader things that it's trying to achieve, but also to financially continue to contribute to the JOs. A bit later I will share with you some examples of some of the work that we are doing and are well positioned to be able to continue delivering.

Just briefly, these challenges that we speak of are also not made easier by some of the impacts of State government programs, most recently one being the announcement from the Reconstruction Authority for local councils to develop disaster adaptation plans. I'm sure you would heard have about this a little bit, perhaps in some of your other evidences, but this is just a prime example of some of that administrative duplication. It is also an example of something that is imposed on our member councils where there is already a lot of activity that can be built upon there.

Just a few more points before closing, if I may. Going back to the audit, risk and improvement committee comment that we made before, joint organisations, unlike other collectives of councils across the State, are subject to and must operate in accordance with good governance structures, such as the ARICs, although the joint organisations currently, alongside the Office of Local Government, are looking at ways to ensure that these practices are more fit for purpose for our JOs. That is a piece of work that is evolving and is very important to us. If it isn't looked at in a bit more detail and rectified soon, it could pose more of a threat to joint organisations and their ability to continue helping their member councils and communities for the region.

Very quickly, I have some positive examples of what our JO has done and can continue to do, with support. Our joint organisation has a regional energy strategy and was the first JO to develop one. We have heard some feedback from the small team within sustainable councils, who are a division of the Department of Climate

Change, Energy, the Environment and Water. They have said that a joint organisation and others developing these regional strategies are very useful for them to able to do their broader-picture work.

Just as an example, this department has invested around $200,000 worth of direct and non-competitive funding to the joint organisation. Over the space of roughly 2½ to three years, that has resulted in at least $1.9 million worth of savings for our member councils and has also helped to reduce a significant number of greenhouse gas emissions. That is just under a pilot program as well. Obviously there is a lot of potential there perhaps to replicate those sorts of models across other areas, such as management of local water utilities, land assessment plans and whatnot, and also disaster resilience.

Our joint organisation is also very much looking at aggregated procurement at a regional level and looking for the opportunities that present themselves under these sorts of arrangements. A number of other JOs also are undertaking that work and have been doing so for a number of years. We have spoken a little bit about our work with the Reconstruction Authority and how that will continue and where we will really be helping the State to make sure that those disaster adaption plans are completed by our member councils while trying to limit the amount of duplication of work. Lastly, we also do a lot of work with the Environment Protection Authority in the regional resource recovery space as well and run quite a number of projects, such as infrastructure planning, setting collective targets for the region, and most recently we will be doing a lot of work in the circular economy space with them as a partner and for our member councils.

The Hon. SAM FARRAWAY: Thank you to RAMJO for appearing today. I want to pick up on the theme that we left on with our former witnesses, if you managed to see that or not, and that was around road funding and betterment. I'm sure RAMJO member councils have all, like so many across the State, been impacted over the last few years with natural disasters. My first question is around betterment funding, in particular for the repair of road infrastructure.

Firstly, how do you manage community expectations when rebuilding this infrastructure using DRFA funding when you can't repair that piece of infrastructure to withstand future weather events more often? How do you manage that because of the rigid criteria set by the Commonwealth and administered by the State? How do you manage the expectations? Secondly, do you feel as if betterment is not gold plating, it's very operational—nuts and bolts, like drainage, road raising, culverts—and that betterment should be included in all DRFA road funding programs into the future?

YVONNE LINGUA: Thank you for the question. I will pass over to Mr Cowan to speak specifically to how his council manages those community expectations. But in response to your question, the JO does play a significant role there when it is working with the Reconstruction Authority in trying to highlight those challenges because it is a narrative that we hear collectively from a lot of our member councils. From a joint organisation perspective, that is a role that we play, and we do often hear what those challenges are very loud and clear. I might pass to Mr Cowan to speak to the community expectations.

GEORGE COWAN: Thanks, Yvonne. Madam Chair, just in terms of this issue from the perspective of Narrandera council and our road system, we have about 980 kilometres of gravel in unformed roads—rural roads, mostly—and about 600 kilometres of sealed road, and betterment is a real issue. I know when I first joined Narrandera in 2017, we had a particular creek crossing on the Canola Way just out of Grong Grong, and I think within the first two or three years it was washed out several times. We had to close the road and go back and rebuild it. Since then, we have been able to get funds to put a proper culvert in there, so that is just an example.

In terms of the most recent floods, I have to say that the situation now is an improvement on what it used to be. Some emergencies ago, years ago, it was very, very difficult to get flood damage claims approved to start with. Technology is helping us a lot in that we now have good information about pre-flood condition and post-flood condition. Most councils have done fairly detailed surveys of their road system. You can have some of those surveys based in photography so you can prove the pre-flood condition. The attitude of organisations like the RA is certainly much better than it used to be years ago, but we've still got this issue of betterment. I guess there's a limit to what can be afforded. I think it's reasonable to say that most of our 950 kilometres of gravel and unformed road would have had some damage during the flood events, not necessarily riverine flooding but stormwater flooding damage. We're trying to address that. The State Government, via probably the Feds, have provided some really strong funding to back those reinstatements.

We have a road budget, of course. I'm not quite sure off the top of my head how much that is, but let's say it's a million dollars. We're taking some of that fund out and we're using it to improve the standard of some of the key pieces of infrastructure. We're using the flood damage money to get it back to where it was and then we're using our own money to improve it. A good example of that is we've got a gravel road at the top end of our shire. We're completely rebuilding that under the flood damage claim and then we're going to use our money to seal it.

The Hon. SAM FARRAWAY: Mr Cowan, I suppose that's a very good point and good on Narrandera for doing that, but should the local government really be the ones having to use really hard-earned ratepayers' money to be supplementing those claims when, really, we should be looking more holistically about how State and Federal Governments fund disaster recovery and that infrastructure for the future? Shouldn't it be part of the DRFA? That's really my question. Shouldn't there be a component of DRFA funding that is included for betterment so that you're not having to drag ratepayers' funding in to do that, to meet community expectation, so you can fund other pieces of infrastructure?

GEORGE COWAN: I agree 100 per cent with what you're saying. I think that it's just money for old rope when you've got to go back every three or four or five years and reinstate a road back to the condition it was in prior to the flood damage occurring. Certainly, even though that's a really good example I gave you about our approach, that's very limited. Out of the 900 kilometres of damaged road, we can probably fix 5 kay or 8 kay, maybe. Yes, certainly; if we could have the system changed—and the flood damage process was changed a few years ago. As I said, it used to be really tough to get the money to start with but now it's a little bit easier. I think that if the issue of betterment was included in that review, we'd all be better off in the long run because, instead of having all of the lower-level damage to repair every time there was a flood, at least some of that would be protected.

The Hon. SAM FARRAWAY: Following on about road funding—before I do that, well done to Narrandera for doing what you're doing and I'm not being critical of it—I just think that you shouldn't have to use your own ratepayers' funds to do that. But, nevertheless, with regard to road funding, I note in your submission you talk about proposed solutions. You talk about support for innovative funding models. Some of the stuff you've included is great but specifically around roads, which is one of the big-ticket items for any local government to be able to manage, we have seen the former Coalition Government of New South Wales introduce road funding based on size of road network and give local councils the autonomy to allocate that funding how they see fit around their priorities with the road network. We saw the unsealed road network included in that funding for the first time, I think, in the State's history.

The current New South Wales Government has continued that so far. My question is, around funding models, do you believe that that is a funding model that should be continued annually in every New South Wales budget to allow certainty for councils that, one, they know how much funding from that funding pool will be coming and it allows greater certainty in pre-planning as usual, or ongoing maintenance for roads outside of disaster funding arrangements?

GEORGE COWAN: Through you, Chair, I would say it is likely that 90 per cent of the submissions that this Committee have received would include the thought that fixed grant programs are limited in their capacity to solve problems generally, and the grant programs that are based on a general allocation to each council where there is no competition between the councils to win the funding and some flexibility about where those funds are allocated definitely would be something that the industry would welcome. There are good examples of how that has worked in the past in terms of community facilities—we know about those. I think that that is a model that could be adapted into the road funding area so that the council doesn't have to—Narrandera council shouldn't have to compete with Leeton council for funds for roads. Proving things like a business case on a rural road is next to impossible. We don't have the traffic volumes to even get to 1 per cent, I don't think, so that's not going to provide a solution. So some sort of general allocation to councils that can be allocated to road funds, based on road length, we would certainly welcome that.

The Hon. SAM FARRAWAY: You have touched on some of where my next question is. It goes broader than road funding and it is more about equity. It is about how government distributes funding from programs. The former Coalition Government had programs in place that have now have been discontinued, like the Stronger Country Communities Fund. I am sure you are both aware of that program, but it delivered a set amount of funding per local government area. To your point before, Mr Cowan, that Narrandera shouldn't have to compete with Murrumbidgee or Hay or Leeton or Griffith in a beauty contest, especially around critical community infrastructure and community groups and sporting groups, is that a program that you believe should be looked at again by the current New South Wales Government around delivering per local government area the same fixed amount that you and your community groups know is coming, that they can apply for, that doesn't have a BCR?

Because, as you say, whether it is a road or whether it is a toilet block or a skate park, or whatever it might be that the community needs, it is very hard in regional New South Wales to justify a BCR, so it is about equity. Would you agree that we should be looking at programs that deliver per local government area, that deliver without a BCR and that are a fixed amount per local government area so it can be managed by the communities when applying for those grants, and evenly distributed?

GEORGE COWAN: Yes. Without getting into too much detail, absolutely, I agree with that. Some of the benefits that accrue to communities out of programs of that nature are obvious. I can give you a list of community facilities that have been rebuilt, improved, reinstated over the last eight to 10 years using that particular funding model, both from the State Government and the Federal Government. I am sure that that work was simply unaffordable by the local council and the community groups that were involved in that prior to the emergence of those grant programs. The benefit in shires like mine is obvious and is very significant. Having said that, Narrandera can't compete with the regional centres. The regional centres get the big cheques for their sporting facilities and that is to everyone's benefit. It is great to have a regional facility within an hour's drive. But we have got to have the sporting field for the local junior soccer team as well, and they deserve to have a modern toilet block, change rooms, all those things that go with life in the country. Having that untied capacity to access those grants is really a key to that success.

The Hon. SAM FARRAWAY: I have a follow-up question for you, Yvonne. With regard to your member councils, firstly, have they offered feedback to RAMJO that there have been fewer grants available to apply for over the last 18 months? And, secondly, of the grants that your member councils have applied for, has there been a decline in the success rate of those grants?

YVONNE LINGUA: We do definitely hear a lot of commentary around how this landscape is changing and, if I can, I may speak to what is giving rise, perhaps, to some of those challenges at the moment. Anyone's ability to be able to pursue any opportunity very much depends on their ability to the tell the story and to tell a narrative of their current position. Say, for example, you're a council and you have very limited resources. You're facing less staff and you're competing for these staff with your fellow councils. It can get very difficult to tell that story and to have the data to be able to substantiate that story as well. So we're certainly hearing that there are a lot of challenges in that space.

We are definitely hearing that the whole process is becoming a lot more competitive as well. That can be really challenging for an organisation like RAMJO to hear, across the board, from a lot of the member councils. It would make sense to me, when I'm hearing some of these challenges, that more of a proactive approach to meeting those similar challenges and collective challenges that the member councils are facing would be required. What that could look like, to me, is having a mechanism like a joint organisation to be able to pool all of that knowledge together and tell that story collectively, but also still having the opportunity to come forth and speak individually to each member council's individual and unique needs. I think our joint organisation certainly provides an opportunity for that.

Some examples that I can think of are the local water utility alliance by our fellow Central New South Wales joint organisation. I do believe that they have very recently completed a pilot program for that. That speaks really well to this model of the certain department that funded that pilot having a real commitment to listening and deeply understanding what those collective challenges were for that region and, rather than putting them through this competitive funding round, giving them autonomy to be able to design a program that is going to address those needs and also address other issues that they have in that space, such as limited access to training of local water utility operators and all those sorts of things.

Again, I am highlighting that there is a bit of a precedent here that could be replicated elsewhere and wanting to look at what is out there and what can be built upon, rather than wanting to reinvent the wheel, because the challenges that we all face are becoming more pronounced. Things are moving a lot more quickly. An example that comes to mind is, previously, when we were talking about the disaster recovery space, we talk a lot about big events like floods and fires, but even things like a round of consecutive hot days can have major impacts on critical infrastructure. This is the sort of level of knowledge that our member councils have that can be shared and addressed through the right model.

Dr AMANDA COHN: Thank you for coming all the way to Sydney to give evidence today. I appreciate you've travelled quite a long way. My first question relates to your written submission where you raised the issue of regulatory duplication from State government departments. That would obviously have a really high resourcing cost for your member councils to meet. My question is whether you have any specific recommendations for the Committee to consider for how to reduce that duplication for you.

YVONNE LINGUA: Thank you for the question. The example that keeps coming to mind—and a good one, which I'm sure you've heard about—is the disaster adaptation plan. That is a really fantastic example of a task that is being imposed on councils to be able to collect that information and to embark on this new process. In terms of how we could minimise the negative risks associated with that, I think, again, the joint organisation model is trying to address that at the moment. How we do that is by working closely with the Reconstruction Authority. We've been attending workshops, providing commentary on their draft guidelines. That is just a small way that we can help to alleviate some of the pressure off our member councils in them not having to do that themselves. They can collect that. That comes back to the joint organisation and we feed that back.

Second to that as well is trying to highlight what some of the underlying issues are that will eventually be highlighted in those disaster adaptation plans—so kind of trying to bring that information to the attention of whoever needs to hear it before having to go through that whole process of developing a disaster adaptation plan in the first place. That's obviously very time consuming and very resource intensive as well for the State and for the Feds, who I know are partially funding that process as well—things like building upon existing frameworks like the IP&R framework that local councils are very heavily involved in and a lot are going through right now. There is a lot of scope to be able to connect to community and really understand their concerns in that space and have that be fed back.

Dr AMANDA COHN: My second question is about the breadth of services that your member councils are providing. We've heard from a number of rural and regional councils about local government stepping in to fill gaps in a whole variety of sectors. I was particularly interested that RAMJO has a health subcommittee and has been working towards a health strategy for the region. Could you speak to some of the work that RAMJO and/or the member councils are doing?

YVONNE LINGUA: Yes, absolutely. This is a topic that we would really love to be able to invest more time and energy and resources in because, again, I think it's a really great example of how the JO model can really be of benefit, obviously, to its wider membership. At the moment we are having some issues in the Albury-Wodonga region with regard to the redevelopment of a hospital there. But our focus is obviously on supporting that process to make sure that we can have the services that we need well into the future, but also how that's going to impact our member councils. We are in the process of trying to replicate some of the work that we did with our regional energy strategy in writing a document that really highlights the challenges that our region has, but really wanting to embed in that some of the solutions to meeting a lot of those needs.

Unfortunately our joint organisation is very understaffed, so there are challenges there in being able to prioritise that. We also have focus areas in housing and in energy security. Actually, disaster resilience and betterment and all these issues were not clearly defined in our statement of strategic priorities at the moment, but it is something that we focus our attention to because it's so timely and it's so pressing. So we do try to be flexible there and be responsive to what our member councils' communities are saying is important to them. That is an example of something that has come in.

With regard to the development of the health paper for RAMJO as well, our ability to really have success in that also depends on the member councils' ability to be able to provide commentary and data, and their time, to that. We're very lucky that our members do prioritise this where they can. But, as we've heard, I'm sure, throughout a lot of these hearings, their ability to partake in those sorts of activities, especially for our smaller rural councils, is very, very difficult in prioritising where the energy of general managers and their staff goes to. It's hugely important and they acknowledge that, but being able to allocate that time can be difficult. The JO has to be very mindful of that, and we are always looking for ways that we can support them to get that work done.

Dr AMANDA COHN: For those really important pieces of regional strategy and regional advocacy on the issues that your communities are concerned about, if local government wasn't taking that leadership role, what are the alternatives? Who would do that work if local government wasn't?

YVONNE LINGUA: That's a really good question. I don't know the answer to that. What I do know, or what I have seen in my experience, is that when you do have gaps, that obviously creates a lot of disharmony within community—when people aren't clear on what the approach is and when communities feel like they may not be getting leadership. In this instance, if I use the example of the development of the RAMJO health paper, on the surface it may appear that that isn't something that is progressing fast enough and people may try to fill in the blanks, but we know that is something that is really important to our member councils and does come up in our meetings. It is something that is discussed. Again, it's literally just not having the resources and the time to be able to give it that energy.

Dr AMANDA COHN: I have one more question for Mr Cowan, if you don't mind, with your Narrandera council hat on. I understand that you recently went through the special rate variation process. The Committee has certainly heard that that's a very challenging and resource-intensive process. I'm hoping you could speak to the experience at Narrandera and if you have any recommendations for us about how we could make that process more straightforward.

GEORGE COWAN: Yes, we have. Narrandera council was successful in getting approval from IPART for a special rate variation, which the first year of has just commenced. We have implemented that in 2024-25. There is a second increase to occur in 2025-26. It's quite a complex and expensive process, the special variation.

The Office of Local Government set, I think, six criteria for applications, and you've got to meet those. They vary from substantiating the need for the thing, community consultation—those types of criteria.

We started the process over two years ago, and we did engage consultants to help us. One of the core requirements that we needed the consultants for was to improve our documentation around the asset management systems to improve the accuracy of that and the reliability of it. The condition of the assets and the variations, all of those things have to be really accurate because they have a big impact on the council's financial position. We've got to prove the need for the increase. As it turned out, when we started the process, by comparison to other councils, our rates were relatively low. In fact, after the increase, some of our rates are still low—not as low as some of our neighbours. I take my hat off to some of my neighbouring general managers who manage to survive on very low levels.

The aspect of the SV that I found the most challenging was the community consultation. Essentially, what you've got to do is prove to the community that you need the increase in the rates. The automatic allegation that comes back from the community to the council is "You've messed this up. You're poor managers. Why should we contribute extra money to fix up the problems that you've created?" It's fairly raw when you stand in front of a room full off 80 or 90 people and you've got to convince them that what you're doing is the right thing to do for their community. It doesn't matter what it is; people don't want to pay any more money. The average residential increase that we were talking about was $300. The big impact was on our farming community, and we believed that they could manage that okay. So $300 is not a lot of money for most people, but it was enough to trigger quite a significant and strong response. I think we got about 160 submissions. Probably 100 of those were in opposition. There were about 40 supporting and about 20 neutral submissions, and we had good attendance at our public meetings, which we ran over quite a length of time. We tried to make sure everyone knew what was going on, and we were able to get through that.

I am now part of the reference group for IPART, but I am not authorised to speak on behalf of them. But I have got some ideas around how the SV process could be improved, and I think there is an opportunity for the Government, as a whole, to rely on the work of the Audit Office. Years ago, councils were audited by their own public-private audit companies. Now that is run by the Audit Office of New South Wales. They use contractors, but I think it is fair to say or reasonable to expect that the standard of that auditing has improved. Whilst there are still some sections of our financial reports that are not subject to audit, which I think is an oversight, nevertheless, I think that the general condition and presentation of the financial reports of councils is better than it used to be, and it should be able to be relied upon by the Government in allowing councils to qualify for additional rate increases—not necessarily a big SV, but in the same or similar principle to the population component of the rate peg. You could have—I don't know—a need component or a capacity component or some other that would allow a council to access an additional amount without having to go through the SV process.

The CHAIR: I might follow on from that. You mentioned that parts of your reports are not subject to the Audit Office, which you thought was an oversight. For the Committee's information, are you able to let us know a bit more about what those are?

GEORGE COWAN: The asset accounting, essentially. It is really quite a subjective area of council's financial reporting because decisions are being made about the condition of assets, life span of assets, depreciation rates, how often the revaluation occurs and when it occurs. There is a lot of information there that varies slightly amongst councils. In our case, we had to go through the process of making sure that all of that was spot on. As I said, we engaged experts to help us do that. But I think that if we are going to go too much further into that equation then the Audit Office may need to get the resources it would need—and they would be substantial—to actually have a good look at that.

The CHAIR: Just a final question from me in the time that we have left: In your submission you state:

> If NSW Government agencies understood and worked with the existing IP&R regulatory framework seeking to embed their aspirations into IP&R, state agencies are more likely to realise better outcomes, saving time, confusion and tax-payer funds whilst lightening the administrative load of rural ad regional councils.

How would that work, and what regulation is compatible with IP and R?

YVONNE LINGUA: I think how that could go would be, really, having a real, defined commitment by State agencies to connect with local governments and to really understand what their IP and R process is, and to have a commitment to hearing what is coming out of those IP and R processes and what the community is feeding back in terms of their aspirations and the things that are important to them. I mentioned before that RAMJO has pivoted to doing more in the disaster risk reduction space, and that has been as a result of us hearing that from our member councils.

Going forward, I think that if more of our State agencies, such as the Reconstruction Authority, again, using the DAPs as an example, or planning departments with regard to local water utility infrastructure, or even highlighting a positive example with Sustainable Councils as a part of DCCEEW—I think one of their successes with that pilot program has been that they really have listened to what our member councils have said and have supported our Regional Energy Strategy, which really reflects what was heard through those IP&R processes. If there was that formal commitment to better understanding what the cycles are within that—the planning cycles within IP&R—I think that those opportunities would be more clearly identified and then, therefore, the overarching State planning would be able to align to that a lot better. Again, using the DAPs as an example, there is already a wealth of information and emergency management planning and other plans that already take place that could be utilised to create the DAPs rather than funding a whole new process to obtain that same information.

The CHAIR: Mr Cowan, did you have anything final to add?

GEORGE COWAN: It's an interesting process, the IP&R, and it's been around now for a while. I think 2011, or thereabouts, we did our first community strategic plan. The community certainly get that part of the process. They take part actively and like to see their hopes and wishes included in those plans. But then, when you get into the lower levels, it tends to lose its impact. Even in the councils, I have to say that council laws will often pay lip-service to something in the IP&R process in favour of something that they prefer when it comes down to the allocation of funds and that type of thing. I honestly don't believe that in the State agencies there is much firsthand knowledge of how the IP&R works at a council level and what sort of a valuable tool it could be. Yvonne has mentioned the most recent processes that we've been involved in with a couple of government departments. They're taking that extra step of trying to embed it into the IP&R. That is something that has only just happened in the past 12 months. It's certainly something that could be utilised a lot more than it is.

The CHAIR: Thank you again for making the time to be here today to give evidence to the inquiry. That's all we have time for today. If there are any questions on notice, our Committee secretariat will be in touch with you.

(The witnesses withdrew.)

(Short adjournment)

Mr BOLA OYETUNJI, Auditor-General, Audit Office of New South Wales, affirmed and examined

Ms CLAUDIA MIGOTTO, Acting Deputy Auditor-General, Audit Office of New South Wales, affirmed and examined

Ms ALISON BROWN, Assistant Auditor-General, Audit Office of New South Wales, affirmed and examined

The CHAIR: Welcome, and thank you for making the time to give evidence again at this inquiry. Do you have a short opening statement to make?

BOLA OYETUNJI: No, Chair. We gave our opening statements when we previously appeared.

The CHAIR: I'm happy to start the questions. Assuming that you have paid some level of attention to some of the hearings that we've had for this inquiry, what has been your overall impression of the issues raised by councils through this process?

BOLA OYETUNJI: As I've been travelling around the councils—I think I have visited about 10 or 11. I think it's important to note that they're complex issues that require solutions. I think I've been impressed with the level and detail of the information given to this Committee to give you the opportunity to be able to write a report that can be useful in terms of the financial sustainability of local councils. That's my general view when I read the transcripts.

The CHAIR: What do you say to those councils that think that depreciation is not a useful tool for financial management?

BOLA OYETUNJI: I will say there is a misconception. The depreciation for the financial statement audit is to allow you, over a period of useful life, to estimate what is the wear and tear of the asset. So if you have a $1 million asset, you don't write it off the same year; you write it off over five years or 10 years, depending on the useful life. I think from my visits to those councils what I've picked as being the main problem, really, is when we now have the performance ratio that talks about operating results after, which incorporates depreciation.

As I said in my previous appearance, I feel what OLG could do is actually remove depreciation from that parameter and have earnings before depreciation and amortisation. What happens then is it allows councils to be comparable. Some of the evidence I read is if you have a council that has 100 years useful life and another has 300 years useful life, removing depreciation from that assessment actually then puts everyone on a level playing field. That's what I think my understanding is of what the concerns of the councils are at this stage. I have spoken to quite a lot of mayors and general managers.

The CHAIR: Would you suggest moving local government accounts to a cash basis for depreciation?

BOLA OYETUNJI: No. If you look at the way accounting standards are designed, they are a core basis. I think also, if I understand your question, depreciation cannot be moved to a cash basis, because depreciation is not cash. I think sometimes the problem a lot of them have, really, is you can't measure my performance based on different rates of depreciation that we will use.

The CHAIR: Is it your view that there are better financial management systems that councils need to get better at employing and using?

BOLA OYETUNJI: I think the solution lies with the OLG guidelines. When you say "better", if you look at the guidelines, I think they need decluttering. Because there is a lot of information that is there that sometimes you don't know what it's used for or the reasons. An example I'll give is the council of City of Sydney I think is 97 pages. I think the City of Melbourne is 55 pages. The City of Gold Coast is 42 pages. With the guidelines—because the councils are complying with the requirements of the guideline, that is why some of those accounts can look very voluminous. What I suggest is to look through and determine what is useful and what is not.

The Hon. SCOTT FARLOW: If I can just pick up on that point for a second, are we getting any value out of having 97 pages compared to Gold Coast's 42, so to speak?

BOLA OYETUNJI: When I talk to the councils, they don't get additional value from that. That's what they say, and I've spoken to quite a lot of them.

The Hon. SCOTT FARLOW: From your perspective, though?

BOLA OYETUNJI: From my perspective, I think the requirement is more than what the accounting standards or auditing standards require. That's why I said that if you declutter the guidelines, that will help in terms of their usefulness. If there are too many pages, you actually lose the importance of what is real and what is important and relevant.

The CHAIR: We have heard about Gold Coast council a fair bit in this inquiry and what they do in Queensland. Do you have a view around the guidelines that they use there and how they could be replicated?

BOLA OYETUNJI: I'm not aware; I'm not conversant with the guidelines they use on the Gold Coast. But I think would be useful, of course, for the Office of Local Government to look at what happens in other jurisdictions, to be able to have better practices for their guidelines.

The CHAIR: Do you think there are better ways for the Government to ensure that local councils aren't embarking on projects that are beyond their means?

BOLA OYETUNJI: That is a good question, and I will answer the question with an example, if you don't mind. I visited a council that got $6 million to build a pool. Of course, they know that there are no extra funds to maintain the pool for the next 10 years. The question then is: Will the GM say no to $6 million? Usually that is a difficult decision. So what I then think is that there should be a more strategic way that the business cases are put together. The funding to local government should not just be for the acquisition of the infrastructure, but it should also include ongoing maintenance. There could also be, in terms of a guideline from OLG, that if you then took that $6 million without extra funding, you should be able to wear the consequences of that decision.

The CHAIR: Are there any structures that you're aware of in the Local Government Act or the regulations that are holding councils back from being as effective as they could be?

BOLA OYETUNJI: I would defer that question to Ms Brown. She can answer that.

ALISON BROWN: Not in terms of the Act. When we're talking about the effectiveness, I guess that may be something that I might handball to Claudia. Claudia does performance audits, so she does efficiency and effectiveness. In terms of the financial audit—and Bola touched upon it—some of the things that trouble the preparers of the financial statement are the level of content, which you touched upon earlier, within the statements. But then there is a piece of work there to work out, "Yes, it troubles the preparers, but does it actually serve the needs of the users?" I think that's where the work is: It's working out what is useful information, what do users require and how do councils provide that to users, rather than focusing on all the noise around preparation there.

In terms of the effectiveness, I think some of the things in there—and Bola touched upon them—are the performance measures and working out whether those performance measures actually tell a meaningful story about councils in general and that council in particular, and whether they are relevant and reliable and within the control of councils. I think some of the things that councils talk about when they talk about depreciation is that it's a cost they can't control. It's an accounting entry they have. It doesn't matter what they do in terms of that performance, they're not going to be able to alter that number. Claudia, did you have anything on effectiveness?

CLAUDIA MIGOTTO: No, I don't think so, but perhaps to the earlier question around the ability of councils to fund projects and infrastructure. Relevant to our work, the integrated planning and reporting framework does require that councils plan for and manage the future costs of infrastructure, and really have that assessment of what are the costs of service delivery, what is their asset condition and so on, to inform planning into the future about the sustainability of investment in particular projects and so on. That is a requirement of the legislation and also the IP&R framework as well. We've commented in our previous reports that, where that's absent, it limits the ability of councils to predict and manage unexpected costs that might occur related to projects.

The CHAIR: In our last hearing in Shoalhaven, we heard that councils are basically having to train auditors in how to interpret their accounts—in how local government works, because the Audit Office contracts out to private contractors who have limited awareness or experience, or no experience, in local government. We also heard from a council that had engaged directly with the Audit Office, and was rather glowing of that experience. Is it advisable that the Audit Office builds more capacity to audit more councils directly? Is that necessary?

BOLA OYETUNJI: Thanks for that question. I think one of the things we've done is exactly that in terms of our commissioning model. Because we do 128 councils, we also have a lot of data, a lot of information and a lot of time series analysis we can do, so we've thought about that. In our commissioning model, that's one of the things that we will be doing. But we also have the service providers. The way to manage their competence is more on a contract management basis. Part of what we do is, after the end of the financial year, after the end of a particular audit, we also seek feedback from councils and management of councils to give us feedback about their performance.

From there, we manage not only the contract but, when we go to tender for other jobs, at least we have that information about how they can perform. One of the things, generally, about it is—if you've heard before—

there will always be a rotation. We have a rotation basis so that it doesn't impinge on independence. Usually in the first year, yes, there is a lot of hand-holding to take the auditor through what the systems are—the system processes. That's a natural process sometimes. When it borders on competency is where the problem is and we'll be looking at that as we go forward.

The CHAIR: We heard from the previous witness today that there are parts of council's activities and accounts that aren't audited—this was with regards to asset accounting and asset management plans. Would it be advantageous if they were?

BOLA OYETUNJI: I believe the reason why they're currently not audited is there are a lot of future projections and budgets in that schedule. Auditors usually look at the past. We usually don't look at the future, because we need evidence, based on whatever information we have. Having said that, where you have a budget process, you have the right model and you have the right evidence to back assumptions and factors that go into the calculation, we would be open to have a discussion if we will add value to that process and we would be able to do that.

ALISON BROWN: It would require a solid framework. Once there's a framework, we can audit in accordance with the framework. Until there's a framework, it's very difficult.

The Hon. SCOTT FARLOW: I go back to the depreciation question and certainly take your points on depreciation, but one of the challenges we've heard from many councils is when it comes to the red fleet. Part of the challenge has been in terms of that asset. It's not an asset that they control or have any ability to influence, but it is recorded on their books. I'm interested in what the Audit Office's view is in terms of councils having to recognise the red fleet—being the Rural Fire Service fleet—on their books rather than the State Government, who ostensibly actually has the control of that asset, recording it on theirs.

BOLA OYETUNJI: I will answer the question in two parts. The first part is whether the red fleet should be on the accounts or not in terms of accounting. It's not in the remit of the Auditor-General and it's currently in the inquiry with the Public Accounts Committee. We're waiting for that. The second part of the question that I can answer is, when it comes to auditing, what we've done, because we audit State and local government, we've been able to then obtain the list of the assets—I think 66,500 of them from the State Government—to be able to then determine how material those assets are to local councils. You will see that from the ones we've seen there is actually not material to look at council accounts. The concern about red fleet started because of the qualifications and because we were qualified based on limitation of scope. But this year we've been able to get that information from the State Government, so we're now analysing it. That's what we call alternative procedures in auditing.

The Hon. SCOTT FARLOW: So you will now be able to do it without qualification, will you?

BOLA OYETUNJI: That's what I believe, if there is some material. That's correct.

The Hon. SCOTT FARLOW: We've heard some concern from councils about the cost to them when it comes to the audit officers conducting the audit for them. Have there been any changes there or is there anything that councils can potentially—I think it was small councils, maybe it was the Federation Council, from memory, who were complaining about the cost in terms of the audit. Has there been any change from the Audit Office and are there any mechanisms for smaller councils, so to speak, to have smaller audit fees?

BOLA OYETUNJI: They are some of the changes that we are bringing about. Generally, the complaint of fees, when you think about it at this time, was—six years ago we had contracts negotiated at low fees during low inflation. When we went to the market, because of the inflationary environment, of course, the prices went up. I have discussed with a few councils and I promised them one of the things I would do is that, going forward, those fees will not be higher than inflation, based on if there is no scope change or any specific problems. That's what we will do. The second thing we also do is that we will be ensuring that, when we go to tender, we will invite the council executives to be part of that process so that it's transparent, which is what is happening. That's one of the things that we will be looking to do. For the smaller councils—the rural ones—the greatest problem we have there, honestly, is more of a capability problem. When you don't have the right internal controls, you don't have the right framework, you don't have the right governance over your systems and you don't have enough IT controls over your system, it becomes difficult to sign off an opinion without doing more work.

One of the things I told one of the sessions I addressed was that maybe—and I think it's in one of the witness submissions—the stronger councils, the larger ones, can be giving helping hands to the smaller ones. In those rural areas, they are not accountants or qualified accountants there, so there will always be a problem. How the larger ones then can help them will be where naturally the fees can be reduced. Hopefully, some of those rural councils, if we see that the risks are low, we're also putting through some data analytic solutions that can actually then continuously reduce the fees in those areas. We're looking at it. I visited them and I know the pain points that they have. They don't have any extra dollars to spare. I've committed that I'm going to look at that and find a solution to it.

The Hon. SCOTT FARLOW: I think they're good initiatives that you've outlined. Further to that point, as we look at recommendations that we can make as a Committee, are they initiatives that you are taking up with any other body or is something that we should potentially be looking at in making a recommendation with respect to larger councils assisting smaller councils as part of this Committee inquiry?

BOLA OYETUNJI: Yes, I think it would be good for the Committee to make that recommendation. The address I gave was to LG Professionals, where I told them. I gave an example that we do internationally with PASAI where we have what we call a twinning arrangement, where the Australian jurisdiction of auditors-general help the Pacific nations in their audit process. Currently we twin with Solomon Islands. I've got one of my staff in Solomon Islands helping them through their accounting and updating the backlog in their auditing process.

Dr AMANDA COHN: Thank you for the answers you've already provided. I want to follow up on the costs. It's good to hear that those initiatives are already under way. We've had a number of councils complain to us about the costs moving from private auditors to the Audit Office, and I want to give you the opportunity to respond to that. I suppose the question is why are the costs so much higher initially compared to the private auditors that councils were previously using, notwithstanding the commitments you've already to made to improve things moving forward?

BOLA OYETUNJI: One of the things is—we were also part of the commitment and I'll get Ms Brown to add to that—before we bring any audits in house, we're also going through the commissioning model. For whatever reason, if it's going to be cheaper doing it by the private sector, I will allow them to do it. Usually that would not be because we have better data, having been the auditor across all the local councils. In fact, the one that we've successfully discussed in terms of fees was we brought them in, the price appeared to have gone up, but when you compare it with the service providers that we've actually gone to the market with—so we were able to use the benchmark. In that environment, price generally went up in the market by 40 per cent, and the increase for bringing it up from that low base is the same. So that's one of the things that we're doing. At the end of the day it has to be, in a commissioning model, who can do it on a more value-for-money basis.

ALISON BROWN: I was going to add to that because some of this predates Bola's appointment. We have all the way along had a very strong procurement process there. We go to public tender for the procurement of audit services from providers. We do take on board the feedback, and we make sure that the providers that we now look to engage are able, capable and have experience in local government. We are pretty confident that that process is robust enough that we're very happy to open it up to the councils for scrutiny. So when their jobs come up to tender now, we'll invite them to be part of that process, we're and very happy for them to provide feedback on that.

We feel that the processes that we go through to get providers for councils are very much the same processes that the councils themselves would go through. A lot of those increases are just driven by market factors. If you look back over the period that we've had the mandate, we've had COVID in there, which with the border restrictions meant that there were fewer skilled people coming into the country to provide services. Overall across the profession, and across lots of professions, that has driven up prices as well. I totally get where the councils are coming from. Yes, fees have gone up, but I don't know at the moment that there's anything that we could do differently to keep them down—remembering that we are a not-for-profit organisation. We recover costs; we don't charge fees. We do try to run things as leanly as we can, but we are also very much subject to market pressures.

The CHAIR: One of the other things that we heard from a couple of councils, directly through the inquiry, was that the length of time that the Audit Office was taking to go through that audit process had increased and that the process was a lot more resource intensive for councils. I wondered if you had any comments on that.

BOLA OYETUNJI: I got data from my team. Prior to COVID, the timeliness of the report we finalise by 31 October was actually very high. With COVID coming through, there have been a lot of disruptions. What we are working through is making sure that we bring a lot of work over to the left—it is before June—so that we can improve on the timeliness of the report. I'm a very keen advocate of that because if we don't finish our audits on time, it's actually not useful to anybody. So that's one of the things we're working through in the office. We're having also our own resourcing allocation process to make sure that these are completed on a timely basis. That is why today is 30 July and a lot of my staff have already started the final audit in some of the councils who are ready for us to come in. That's where we work through that. I can assure you—actually, promise you—that, moving forward, that's something that we're taking very seriously and that we'll see a lot of improvements on.

The CHAIR: It was concerning to hear that some councils were having issues with their audits because of the length of time the Audit Office was taking. It was through no fault of a local government area that they were having their audit impacted in such a way and having a black mark, I suppose, against their name.

ALISON BROWN: We don't want people to get black marks. We do publish each year. As part of the report to Parliament on the round-up after the audits, we did publish the statistics on what were the root causes behind the late sign-offs. Audit is actually one of the lower reasons for why the whole process is not completed on time. By far the biggest one is problems with valuations, councils having significant accounting issues that haven't yet been dealt with or take time to deal with. There are a myriad of things about readiness. As Bola said, there were a lot of problems on both sides of the fence when we went through COVID, with resources incapability and capacity gaps on both sides there, including with the audit service providers. But we are overcoming them, and I think we have now bulked up. We have more staff than our establishment. We have plans to put on more staff again to do the audits next year. I think it's a problem that we will absolutely overcome in the shorter term. We're working very constructively with the councils and the ARICs as well to hit those pain points and try to overcome those pain points.

The CHAIR: My apologies that I was not aware that that was part of the report that is tabled in Parliament. I will certainly pay more attention next time when it's tabled.

ALISON BROWN: No problem.

The CHAIR: In terms of the valuations that you mentioned as the top cause, what are the reasons for that?

ALISON BROWN: We did talk to the ARIC chairs about this yesterday. We had them all in for a conference. There are a couple of issues in there. One is sometimes a lack of understanding about what the requirements are and where they come from. The need to do valuations is within the framework. The framework is based on the accounting standards. The accounting standards give people two options: You can use historical cost or you can use the revaluation model. The Office of Local Government prescribes the revaluation model. That means that at each balance date, councils must ensure that their assets are materially stated at their fair value. This involves a process of, on a cyclical basis, doing a full comprehensive revaluation, which is a large exercise, and then in the intervening years, doing a fair value assessment at each balance date, which is a smaller exercise, but I think it still troubles some of the councils.

That's an understanding about what the background is. Then there are all the problems and all the things that can go wrong in that process that then also draw it out. Talking to the ARIC chairs, the recommendations were to look at the valuers to make sure that they are skilled, competent and qualified and that they understand what the evidentiary requirements are for audit—that we are going to look at the assumptions behind it. It's not just a number on a piece of paper; we need to look at what goes in behind that. Sometimes it's not understanding the requirements, and then on the other side, it's not understanding the evidentiary requirements that we need to audit that number.

BOLA OYETUNJI: The important point to also put on record is it's not an audit requirement, or the Auditor-General or the Audit Office that requires revaluation. That's one of the reasons why. I think I read it in one—a witness that mentioned that the Auditor-General requires the revaluation to be done. No, I think it's, as Alison mentioned, the choice of the court to have fair value assessment rather than cost. The other thing to also be aware—and, again, I was a financial controller before. The biggest problem for any accountant—and I'm not going to talk about competency there—is when you have those valuations, to bring it to your fixed asset register is a cumbersome process. Even if you look at this room and say, "The price has gone up 10 per cent," then you have to look at the components—the ceiling is different from the floor and it's different from the walls and the sockets. It's a very complex process and program that they have to go through, and then it's a complex program for the auditors to also come and have a review. So it's a lot of things. This costs money and this costs time but we also have to do it right. I understand that 80 per cent of the prior period errors we have come from the valuations.

ALISON BROWN: The valuations, yes.

The CHAIR: Eighty per cent?

ALISON BROWN: About that, yes. There'll be problems with useful lives, with componentisation, with key reconciliations between the engineering records and the accounting records. The list goes on and on. There are constant problems with it.

The CHAIR: Would it be better to move to historical valuation? You mentioned the two options.

ALISON BROWN: That's really something, again, for the regulator, and it's working out whether that actually gives more useful, relevant and reliable information to users than the revaluation model does. A lot of the councils like the revaluation model and, in fact, some of them have moved to looking at revaluing land under roads pre-2008, which they actually don't have to put on the books but they have gone that path. It suits some; it may not suit others, and that's an exercise for the Office of Local Government—to work out what it is that users want and whether it's worth the burden it puts on the preparers.

The CHAIR: We did hear in evidence from some councils about applying a value to a road that they can't pick up and sell, for want of a better description. With the revaluation process, we also heard concerns—and I think that might've been in one of our regional hearings—about the frequency with which that was having to be undertaken; every five years. They felt like they'd started it, and then they'd just painted the Harbour Bridge, if you like. Is there opportunity that that could be adjusted or changed to better assist councils to complete that process in a more meaningful way and make it less resource intensive for them?

BOLA OYETUNJI: Not particularly, in terms of what we can suggest. The accounting standards, AASB 116, requires you to—once you've chosen fair value, every year you need to reassess whether your fair value is in line with what you have in your books. Usually the five years that you've mentioned—it's just a convenience, five years—that within five years things will not really move. But if it actually moves every year significantly, what the standards says is that you should revaluate as soon as there is a significant difference between your fair value and what you have in your books. That's why people generally use three years or five years. There is no specific requirement to that. But at the end of the day, what is important is cycling back through the standards to then say, "Are we compliant with the accounting standards when we've chosen fair value?"

ALISON BROWN: It's not hard-coded anywhere, so there is no requirement anywhere about the number of years in between revaluations. As Bola said, it's really just an exercise of making sure that the basis for what you have in your books is supported by the evidence you have. So if you've gone more than five years and you've survived an inflationary period, you will then find that the bulk of your valuation is made up by index movements, which then destroys the relevance and the reliability of the underlying data. You have too much, and it's called fluff in there.

The CHAIR: Sounds like a very technical term.

ALISON BROWN: It's a technical term, but you get what I mean.

The CHAIR: That's very interesting. In terms of some of the other evidence that we heard, particularly from our coastal councils on the impact of natural disasters on their assets, what sort of a burden does that then put on this process if you've got an asset that's getting wiped out, rebuilt, wiped out?

ALISON BROWN: That is another reason why there are a lot of delays in those years signing off audit reports. Some of the councils were still trying to do impairment assessments well after the event and, for a couple of the councils, they actually had multiple flood events, which meant that they couldn't do fair value or impairment assessments in time or even attribute them to the right natural disaster event. It does make it very hard for the councils, and I have a lot of sympathy for the councils that are impacted by that.

BOLA OYETUNJI: And some of the evidence that was heard, or listened to, is—and I think there is an issue about the betterment of the environment or restoring it to what it is. I think what you've said is there are a lot of climate change events and disasters going through, so now is the time for us to fundamentally actually shift how we fund some of those emergency funds to determine whether we restore or have betterment in that process because it will continue and we should be ready for it.

CLAUDIA MIGOTTO: Just also to flag, it is a great question around the impact of significant weather events on coastal councils and it is something we will be picking up for a deep-dive review in a performance audit looking at coastal management frameworks from State government and local council perspectives. We'll have more to say on that in a few months time.

The CHAIR: Very interesting. Do you have any final remarks or clarifications to make?

BOLA OYETUNJI: The only thing I would encourage you to realise is that this is a very complex process you've embarked on. A lot of people will be waiting for your final report. We will be waiting for it too, so we wish you well.

The CHAIR: No pressure.

The Hon. SCOTT FARLOW: The Suvaal report.

The CHAIR: Let's not call it that. Thank you so much for making time to appear again today. It has been very valuable to have you back and hear the work you've done visiting local councils around the State as well. Well done. Any questions on notice, the Committee secretariat will be in touch.

(The witnesses withdrew.)

Ms CARMEL DONNELLY, Chair, Independent Pricing and Regulatory Tribunal NSW, on former affirmation and examined

Mr ANDREW NICHOLLS, Chief Executive Officer, Independent Pricing and Regulatory Tribunal NSW, sworn and examined

Ms FIONA TOWERS, Executive Director, Pricing and Policy, Independent Pricing and Regulatory Tribunal NSW, on former affirmation and examined

The CHAIR: Welcome, again, to you all. Thank you so much for making time to appear again at this important hearing. Would you like to start by making some short opening remarks?

CARMEL DONNELLY: Chair, we hadn't planned to do that.

The CHAIR: That's fine.

CARMEL DONNELLY: We did make some opening remarks when we appeared before. We're happy for the Committee to just move to questions.

The Hon. SCOTT FARLOW: I guess throughout this whole inquiry we've heard lots of feedback with respect to the special rate variation process and the difficulties that councils face in going through that process.

CARMEL DONNELLY: Yes.

The Hon. SCOTT FARLOW: We've heard some councils who, I guess, have been successful in achieving special rate variations and others who haven't. I know that the Minister originally tasked IPART with looking at this question. Is there anything that IPART is looking at with respect to special rate variations and that at the moment?

CARMEL DONNELLY: Yes. We were initially given some terms of reference for the review but the Premier advised me that, in light of this parliamentary Committee of inquiry, we wouldn't want to duplicate. We're really very keen to see what comes out of this inquiry. We have acknowledged that there are a range of views about the special variations process. I've certainly experienced ratepayers who expect or suggest that IPART should be looking far more thoroughly into each council's financial management—where the money's going et cetera—whereas the process is one where we do a relatively swift assessment against some set criteria and turn that around in three or four months. Sometimes we'll have up to 15 or 17 to do in that same period of time.

On the other hand, we're also aware that councils do have to put a fair bit of effort into it. It can be time-consuming, so there's a burden for councils in demonstrating that they've met the criteria set by the Office of Local Government, and they are required to consult with their communities. There can be a period of quite contentious discussion around the special rates variations. We are keen to hear what the Committee comes up with in terms of improvements. There is quite a variety of different views about what an improvement would look like. I would acknowledge that.

The Hon. SCOTT FARLOW: One of the challenges of this inquiry is that we've heard from dozens and dozens of councils how financial sustainability affects them. The challenge is, to your point, we haven't heard from dozens and dozens of ratepayers throughout this, who often have a very different perspective when it comes to what they are able to pay in terms of their rates. I guess that one of the key challenges in terms of that special rate variation process is consultation with the community and how that can then go for councils. But I'm interested in, from IPART's perspective, what you look at in terms of giving a special rate variation the quality, let's say, of community consultation that's required.

CARMEL DONNELLY: I might get my colleagues to embellish a little, but I'll kick off with that. Certainly, in terms of the special rates variation, councils are expected to have consulted with their communities. We do see a range of situations in that process. Sometimes the council will have quite a high level of support for a very focused request for additional rates, and when we do our further level of consultation, we may get one submission and it's partially supported. In other situations, councils have a community that really doesn't have the capacity or willingness to pay and has broader questions, and it gets quite contentious. We do look at whether or not the material that council have consulted on has been full and accurate. There have been times in the past where IPART has detected that a council may not have clearly represented the size of the increase over a period of years, and the tribunal has made a decision to only grant an increase to the level that was clearly communicated. Ms Towers may want to add something.

The Hon. SCOTT FARLOW: I think we may have seen this with one council where it was a partial increase on that basis.

FIONA TOWERS: It depends on how they actively engage with the community. Some councils will just put it on their website and expect ratepayers to come to the website, or they'll do it over the Christmas period when it's not a great time in terms of ratepayers being available to engage with them. Some councils will hold public hearings or workshops and try to get engagement with their ratepayers. But with others, it will be letters out, and again it goes to the clarity of whether the letter says what the percentage change is, what it means for ratepayers and what they're getting for the special variation.

CARMEL DONNELLY: One of the other things we look at is whether or not it is clear that council, in passing a resolution to apply for a special variation, has considered the outcomes from the community consultation. The criteria that are set for us don't require there to be community support, but they do require community awareness. We include in that looking at where the council may have had a number of options on the table and then modified their approach after listening to the community consultation or not. We also want to see a good, healthy process of that feedback being listened to.

The Hon. SCOTT FARLOW: Another question we've had raised quite often when we've had border communities, in terms of assessments that are done—largely in business cases and grant funding—is the use of cross-border residents, so to speak. If we're looking at, let's say, Albury, it is residents from Victoria and the like. When IPART is making assessments in terms of special rate variations, do you look at any of these factors at all and discount them, in terms of cross-border usage, or has that not come into the equation?

CARMEL DONNELLY: I'm happy for us to take it on notice and think if there have been times where that has come up. But, unlike some areas where we work, we're not required to look at an apportionment and say, "If this is a service provided by one council, are neighbouring councils—they may be in the ACT or they may be in Victoria—also benefiting from it, and what's the appropriateness to pay?" We may have some examples where we've had submissions looking at affordability, which we do, and whether the impact is reasonable. There may be some where we've looked at those factors, but they're not a headline in the criteria that we use. So the cross-border situation might be one that could be looked at to see if there are improvements.

Dr AMANDA COHN: Thanks for coming back to answer our further questions. I'd like to raise an issue again that we discussed in the initial hearing, which was rate exemptions. I understand it was something you'd looked at in your 2016 report. It's something that a number of councils have raised with us again, and we've heard significant evidence in favour of tightening up exemptions. We haven't heard any evidence that I can recall against that suggestion. My question is that you made that recommendation in 2016.

CARMEL DONNELLY: Yes.

Dr AMANDA COHN: Why wasn't it implemented? What were the barriers to doing it at that time, and are those barriers still there?

CARMEL DONNELLY: I'm not sure if I'm able to talk about that time; it was before my appointment, and also possibly a decision that we weren't party to. We put our recommendations to the government of the day and they make their decision. But certainly, we have also heard from both ratepayers and councils questions about those exemptions. For instance, I certainly have read submissions in which people will say, "I have a certain set of circumstances as a pensioner with my own home," and then other people are in a different village that has perhaps some sort of exemption, or people believe so. Is there equality? The other that we've heard—I certainly recall some councils that have a large amount of rates-exempt land. It may be government owned or it may be owned by not-for-profits or so on. That means there's arguably a certain amount of costs that are needed to run council and a smaller group of ratepayers contributing. So, yes, we have recommended that that be looked at and focused, and it hasn't happened yet.

Dr AMANDA COHN: Just to clarify my understanding, you're maintaining the 2016 position of recommending that that be tightened?

CARMEL DONNELLY: Can I be really formal and say the tribunal at that time made that recommendation. It hasn't been sort of ratified and reconsidered by the tribunal now, but we've noted it and we certainly keep hearing that it's an issue.

The CHAIR: Thank you for appearing again. Can I invite your general thoughts on the evidence that this inquiry has heard so far, and how it has lined up with your pre-existing understanding of the sector?

CARMEL DONNELLY: Yes. I certainly have kept an eye on the inquiry and had a look through a number of the transcripts and the submissions. I'm struck again by some of the similarity with the feedback that we hear and that led us to recommend that there be a review into the financial model for councils. It is clear that it is quite a diverse landscape and there are diverse views. The move that began with introducing the population factor in the rate peg and has been continued with our more recent review of having more customisation to reflect the different situations of different councils, I think, has probably been shown to be the right direction, given the diversity.

The other thing, to Mr Farlow's point, is the voice of the ratepayer. The voice of the ratepayer hasn't probably been as strong as other voices. I know that's very hard for a parliamentary inquiry to have submissions. I would say that IPART also is concerned with that when we're working in local government, which is why we commissioned some work that is published on our website—that I mentioned when I appeared last time—by ORIMA to have a survey of residential ratepayers and business ratepayers and some focus groups so that we are actually having much more of an informed perspective of what ratepayers see as their priorities and what their concerns are.

The CHAIR: Is it appropriate to suggest, based on the evidence that we have heard also, that councils need a re-basing, if you like, of the level of rates that they're collecting against their community's ability to pay and also the services that the community requires?

CARMEL DONNELLY: That would be consistent, I think, with some of the remarks that I made last time when we appeared. There is that tremendous diversity amongst councils, and some councils may have begun with a higher rate base when the rate peg was introduced, and that has been increased with a level of reflection of inflation. Those that didn't, start with a low rate base, the rate peg doesn't allow that gap to be bridged, and one of the remarks that I think I made in the past was that potentially it may even widen. Certainly, some councils have had particular shocks or challenges that might require them to have re-basing. Even when the legislation was changed and IPART was then able to introduce the population growth factor, that was at the time. It wasn't looking back to years of population growth that may not have been reflected in that revenue cap from rates.

I think the re-basing would be not necessarily one-size-fits-all and not for all councils. I think there are probably some that have a clear case for some re-basing. In that, there needs to be account taken of the ability to pay, because some councils will have a population that, particularly in a cost-of-living crisis, is really battling some challenges and wouldn't have the ability to pay more rates. But if there are financial sustainability challenges, I think, as we might have alluded to in previous reports—2009—it may be that what needs to be looked at is other sources of revenue, whether it is allowing them to fund from other sources of revenue that they've raised themselves. But, again, if the community is battling cost of living, that may not be possible, and it may be that there needs to be some sustainability provided from grants.

The CHAIR: In terms of the diversity in the issues that you touched on—and we certainly have heard that in the course of the inquiry, particularly in the percentage of the revenue that councils get from their rate base. Some get very small amounts: 12 per cent, 18 per cent. At others it's a lot higher in terms of proportion. There is obviously a great diversity there. You mentioned the re-basing needing to be on a case-by-case basis. Does IPART have the capabilities to design what the best path forward would be for each council, based on their situation—as you mentioned, the community's ability to pay and the services—rather than having the methodology as it currently stands, which is still more of a blunt instrument?

CARMEL DONNELLY: I certainly think we could put in place a different approach that had a methodology that was more bespoke for particular councils and looking at a more in-depth assessment of where the problems are, what advice we might give. If I think about the model that's used in South Australia, every four years the Essential Services Commission of South Australia looks at each council in a way that may be more like what some ratepayers hope we are doing with special variation assessments and actually able to look at: Are there matters or work to be done in financial management, in the selection of priorities? Could there be advice about ways of improving the sustainability, apart from an increase in rates? Again I would say it's not one-size-fits-all. The South Australian approach has 68 councils, and they do all of them over a four-year cycle. Of the 128 in New South Wales, there are some that are not experiencing financial sustainability issues. I think the value of IPART looking in more depth could be focused on where there's a need rather than in the South Australian model, where they're looking at every single council.

The CHAIR: You mentioned the Essential Services Commission every four years doing a look-in and review forward. Obviously there is a greater need, and some councils are struggling more than others. Could it be the case that those councils receive, I suppose, more assistance or attention in the short term, with a view of getting them to a similar approach, as you mentioned, with the South Australian model?

CARMEL DONNELLY: It could be structured so that IPART would look at the councils that are more facing financial sustainability or particular challenges and give some advice about whether there is expenditure that perhaps could be delayed or changed, whether or not there should be a pathway to have more certainty in terms of grants. That is one of the issues I've certainly noted in the evidence—that it may be that there needs to be a longer term strategy—a pathway, as you say—towards sustainability that an independent review by IPART could give some confidence to other levels of government, either State or Commonwealth, that that sort of intervention or additional grants program over a period of time would be helpful. That might help assuage the issues that some councils have told us they face where they're dependent on the grant's revenue but there is not very much certainty about it.

The CHAIR: How much would it cost for IPART to assess the finances of councils?

CARMEL DONNELLY: That is something we might take on notice, but I will say it's what I have in mind in terms of, "Would you go with the South Australian model?" If you were able to focus our resources where it will have the most value for the community, for the ratepayers, for councils, then you wouldn't have us doing the same level of intensive review for 128. It would be much smaller. That would be a way of not just making sure that the resources that IPART requires for the review are delivering value but also that it's not a process that is unnecessarily onerous for councils that are not facing those sorts of challenges.

In a report that we produced in 2009, the tribunal at that time recommended an additional option to be part of the rate peg and special variation type of system, which would be at the other end. A council that is demonstrating very good financial management, meeting a number of criteria, engaging well with their community could apply for some earned autonomy and not need to be subject to the rate peg. There might be a gateway towards that earned autonomy, where IPART could focus reviews, or the councils where independent advice is needed about the whole picture for that council and its financial sustainability, rather than what we do now, which is assessing against a handful of criteria.

The CHAIR: You've sort of half answered my next question, which is: If you were to focus your energies on a smaller number of councils, what happens to the rest? Granted there are obviously some that could have that earned autonomy, as you call it, to get more of a green light. There is still, I suppose, this middle ground, which is an increasing size. We heard from a number of councils over the course of the inquiry who—this is very much paraphrasing—were doing okay but were worried about what was in the future, if you like. Given that those ones weren't in such dire straits—they weren't having to immediately apply for SRVs—what checks and balances would be appropriate for that?

CARMEL DONNELLY: I will just stress that I'm giving my evidence as an individual witness. I don't think the tribunal has formed a view on that at any time—as are my colleagues. I don't know if you would have asked this question of the Auditor-General, but I think there is really a role for the Audit Office and Office of Local Government. There has been some comment in Auditor-General reports about how soon the Office of Local Government might be able to detect that there is a group that some early intervention or early advice could be of assistance. Now, that could be a similar sort of in-depth review by IPART or by someone else independent. I know I haven't answered your initial question, which was how much it would cost, but if there are particular models that the Committee has in mind that you would like us to give you some idea about costing, if we had a bit more detail we could probably come back and tell you about what the resource requirement would likely be.

The CHAIR: There would be, though, a sort of a scale.

CARMEL DONNELLY: I think so.

The CHAIR: And where would you see that being cut off?

CARMEL DONNELLY: I will just say that in our previous reports over the years we've highlighted a number of measures for performance. You probably need a quite well-rounded set of measures to be looking at. The world has changed. There's been a lot of unprecedented things that we've heard about over the last few years. There's usually some merit in having a consultative, transparent process about what will be the criteria for different groups that are fit for now. My overarching suggestion would be that there could be more work that could be done. We could work with the Office of Local Government, or the Government could commission someone to have a look at what are the appropriate metrics that would mean a council needs to have a review because there are sustainability problems. Perhaps they could opt in if they can see that there is a risk and they would benefit from the advice. Similarly, what are the metrics that would enable the Minister to be comfortable to give a council some earned autonomy so that it wasn't subject to the rate peg, again, taking into account the ratepayer voice. I don't know if my colleagues would like to add anything.

ANDREW NICHOLLS: Just that the 2009 review anticipated that there would be clear performance standards that would apply to all councils in deciding where they would be in terms of rate peg, having a limited four-year price path or, indeed, full earned autonomy, and that there would be a continual review process to ensure that those benchmarks were being met so that even those councils that had earned autonomy would need to continue to establish that they had met those benchmarks to allow that to continue. I would think any model would need to consider that.

The CHAIR: We've heard about fees and charges as well in this inquiry—statutory fees and charges, and other charges that councils might raise. Could IPART assess whether these are also being appropriately set?

CARMEL DONNELLY: I certainly think we could. We have a lot of work that we undertake in looking at fees and charges, including for other government agencies. In the situation where there are a number of fees and charges, there's a range of State legislation that has constrained a movement with inflation or a movement with costs. It wouldn't be enough to just start indexing them from where they are now. I would suggest a one-off review looking at whether or not they are a fair ask but also covering the costs in an efficient way to rebase, and then allowing for indexation. That would be a pretty useful starting point.

The CHAIR: In terms of councils being able to assess their own operations, what sort of burden would it be on a council to be able to assess its own operations, if you like?

CARMEL DONNELLY: Councils obviously vary in capability because they vary in size and the resourcing that they've got available. Certainly, for any organisation—private, not for profit or public sector—it's helpful to have a cycle of review and to be thinking about whether you've got the resources allocated to the right priorities to be able to benchmark and look at whether or not you're delivering something as efficiently as you could, so that you can free up resources for other priorities. I might see if my colleagues want to add or, perhaps, take that on notice and come up with some suggestions.

But one thing that I have observed at different times is that it doesn't necessarily always need to be an independent review or a consultant brought in. I have participated, in my career, in some peer reviews between one government agency and another where there is a level of independence and, for probably the least cost possible, you basically have a secondment of somebody expert from another council who could assist. I have worked in some areas of regulation where some of the larger organisations with quite a lot of capability have mentored smaller organisations and provided that sort of assistance to help review their operations. So there are options that are open and, again, I think it isn't one size fits all. I think there'd be a number of larger councils that are quite impressive in their capability and others, particularly those in rural areas, where it can be hard to find the skills that you need readily.

The CHAIR: Are there ways to help ensure that any process, if it was to become more regular, wouldn't become too burdensome and onerous for councils to be able to do?

CARMEL DONNELLY: I have a few suggestions myself, and I am happy for my colleagues to add. There are some foundational things that could be done across the system to assist councils to not have to reinvent the wheel in what kind of accounting information they are collecting. How are they defining it? Are they needing to have a whole array of skills in order to access the intel that they need about their operations and their efficiency, or could there be some support for a system or some services that they could opt in to across the board? I am not suggesting that all those financial systems et cetera are vanilla for all councils and that's forced upon councils, but it may be that there is some support that could be provided by others, like the Office of Local Government. Of course, I don't know what their thoughts would be on this.

The CHAIR: We can ask them this afternoon.

CARMEL DONNELLY: So that you had, perhaps, a standard charter of accounts and access to a financial system that would more automatically produce information that would be useful, and you don't require the sophisticated ICT design or accounting strategy expertise in your council to reinvent it. If councils could opt in to some of those sorts of systematic supports, then they might be able to get more intel more readily and provide it to their councillors with less effort. That is one of the thoughts.

FIONA TOWERS: The only thing I would add is, when we do these sorts of reviews, we tailor our information request to the size of the organisation and the risks the organisation is facing. We wouldn't use a one size fits all, so there shouldn't be a huge onus on them in terms of collecting data from them, in a sense. We use our LG's data sources wherever possible. We might need to get some data from the councils, but it should be data that's readily available in terms of how they manage their business.

ANDREW NICHOLLS: If we look at South Australia, they've certainly been through a process of not only conducting the individual reviews but they are also assessing where each council is at in terms of their maturity in conducting those reviews. While I can't speak for them, in their material it looks like they certainly are looking at ways of addressing and supporting the councils that are still growing in their maturity, whereas part of their report card back to government and Parliament identifies the councils that are a little bit more mature in their sophistication and readiness to take on that process. There are probably lessons from South Australia that we could look at about how you support those councils through those processes in a tailored way, as my colleagues are saying.

The CHAIR: If we look now at individualising the rate peg for each council and permitting councils to increase their rates only with demonstrated need, would that be a way to ensuring that they can maintain a reasonable level of rates for ratepayers in the long run?

CARMEL DONNELLY: I will start by saying I think that the increased tailoring with our methodology arising from our review last year and some of the additional room for special adjustments for councils will move towards more individualisation for rates and, if some of those reset issues that we've already spoken about can be addressed, the aim is that would be a model that better reflects the underlying true increase in costs for a council. We are, obviously, working on our next rate peg. We have established a council reference group and we are working with them about some of the priorities for looking at where adjustments might be made, where there might be some tailoring, and how well that rate peg is working. So we have a feedback loop and a consultation loop that is there to keep improving the validity of that rate peg, to fairly reflect the increases in costs.

FIONA TOWERS: We also have the ratepayer's workshop to meet with ratepayers to get their input on what needs to happen to the rate peg, because obviously we have to be mindful of cost-of-living pressures in terms of the rate peg.

ANDREW NICHOLLS: In addition, though, we are only looking at the rates component. One thing that I think is emerging from this inquiry is that it's important to look at, holistically, how councils were operating. But to the extent that we can within the framework of the rate peg approach, the point that my colleagues were raising here is very valid. We are now much more engaged, we are much more tailored and we're looking at how the rate peg becomes a much more dynamic process every year, so that it is better and more cost-reflective, but it won't necessarily address all of the underlying issues that every council is facing.

CARMEL DONNELLY: Yes. A very important consideration, though, is that councils are elected by their community and their community may elect them on a platform to make changes to go in a different direction. It might mean that a council which has traditionally conceived of itself as delivering the core services makes a shift in response to the community to deliver additional services or to be stimulating the local economy more, so there is more of a value-add. That wouldn't be captured. A change in strategy wouldn't necessarily be captured and reflected in the rate peg. Something like a deeper dive review or something like the special variations process could still be required, so that a council can say, "We've consulted with our community. Our community wants us to invest in a particular type of services or infrastructure that we haven't done in the past. There is a willingness to pay. We consult. We can demonstrate that, and then can we seek an increased rate path to reflect the community's wishes."

I suppose the reverse could be true. There could be a council that for a period of time is delivering not just core but an enhanced level of services and the community is saying, "We'd like you to stick to your knitting and just do the core." Now of course, at the moment, councils don't have to implement the full rate peg. I think there would be room for them to say, "Well, actually, we're going to refocus our expenditure and we won't need to increase it"—with that caveat that councils are elected and should respond to the wishes of their community and some communities will want a base-level service and others will want an enhanced-level service.

The CHAIR: In terms of the feedback that we've received from a number of councils over the course of the inquiry, they were welcoming of the changes to the methodology. But the overwhelming theme was that they still had concerns, or that issues remained, and that it would, I suppose, have to stand the test of time. What do you say to that in terms of the path forward?

CARMEL DONNELLY: I'm not surprised by it, and I can certainly understand that perspective. I agree that we have a better methodology now, but we're only just implementing it. It's part of the reason for having, at implementation, a council reference group. It should be subject to critical thinking, to being able to be improved. I think the flexibility that we are able to now implement of more tailoring to each council, having some more factors, consulting on areas where there may need to be adjustments is positive. But we will continue to be thinking critically and listening to feedback.

The CHAIR: You mentioned earlier about the councils that don't take a lot of rates in in terms of their rate base and the revenue that they raise. For them, there will be really no change in that methodology that will significantly impact or change their forecasts in sustainability. Is the only answer then to effectively get more money from, say, financial assistance grants or otherwise?

CARMEL DONNELLY: I think you've hit on a quite substantive issue there. The councils that have had a historically low rate base, just increasing incrementally to reflect increases in costs doesn't give them the opportunity—without a special rate variation in the current system—to increase beyond that. We certainly are very alive to the fact that many of those communities don't have the capacity to pay. Those councils may not have an ability to raise revenue from other sources. There has been some reduction over time in the level of financial assistance grants. Grants from other sources, we've heard, certainly can be less predictable. That's where some level of reset would be needed. And it would need to look beyond rates, to your question. It would need to look towards all the sources of revenue as well as the areas of expenditure.

I think there is also another layer on that, of expenditure, because we have certainly heard from some councils that have additional services as a last resort safety net. You can't compare all rural and regional councils to metropolitan. If councils have met their communities' needs by stepping in and providing a service that's not available any other way, then they've got some unique challenges.

ANDREW NICHOLLS: I think the challenge with grants generally is that it's probably the least certain of the revenue sources for many councils, and yet they are the very councils that need the certainty the most. There is a real challenge there around how do you build sustainability for those communities that are often providing those services that are not provided by anyone else? How do you provide them with the certainty and the capability and capacity to be able to take themselves forward as an organisation?

FIONA TOWERS: Also they can plan for the longer term as well, and have a strategy in place to deliver over time, with the certainty that they'll have the funding to do it.

CARMEL DONNELLY: It does make me think that, in the kind of review that you were suggesting earlier, there could be a component of providing some advice as to whether or not there is a strong case for a longer term program of grants funding for a particular council. That would move it from year-to-year uncertainty but give some sort of independent verification of that being an appropriate course.

The CHAIR: Did you have any final remarks? I have exhausted my questions.

CARMEL DONNELLY: I did have one point that I thought might help the Committee clarify. Just looking through some of the transcripts and submissions, there were a few comments that led me to think that some of the people giving evidence and submissions have thought that the rate peg applies to local water utility services. Local government, where they're a local water utility, their charges for water services are not capped by the rate peg. They are not regulated by IPART. IPART regulates Sydney Water, Hunter Water—a number of the larger water services. Only one council, which is Central Coast Council, is included in the Water Management Act as a "water supply authority". Other than that, the rate peg doesn't limit how much councils can charge for water; IPART doesn't regulate it. But we do regulate Sydney Water. There was an argument saying that councils are unfairly capped when Sydney Water or Hunter Water might get a larger increase. It is actually the other way around: The larger ones are regulated and the local water utilities aren't.

The Hon. SCOTT FARLOW: Thank you for the clarification.

CARMEL DONNELLY: Other than that, it has been a good opportunity and we are going to watch with great interest in how the Committee resolves the many complex issues. I am interested to see the report.

The Hon. SCOTT FARLOW: No pressure!

CARMEL DONNELLY: Yes, no pressure. Thanks very much for the opportunity to appear.

The CHAIR: Thank you for making time to give evidence. I think there were one or two questions taken on notice, so the Committee secretariat will be in touch for the answers to those.

(The witnesses withdrew.)

(Luncheon adjournment)

Mr JOHN LOWE, Chair, Business, Economics and Trade Committee, NSW Farmers Association, sworn and examined

Ms KATHY RANKIN, Head of Policy and Advocacy, NSW Farmers Association, sworn and examined

The CHAIR: Welcome. Thank you very much for making time to give evidence to the inquiry and for being here today. Would you like to start by making an opening statement.

JOHN LOWE: Thank you very much for the invitation to appear before the Committee today to provide evidence to this inquiry. I operate a mixed farming business with my family, based in the Central Tablelands and the Central West districts of New South Wales. We raise sheep and cattle at Lowther, near Lithgow, and farming in the Central West, near Burcher. Travelling between my farms requires me to travel through a minimum of six local government areas. I am joined today by Kathy Rankin, the Head of Policy and Advocacy for NSW Farmers. As a State farming organisation, NSW Farmers represents the interests of its farmer members in New South Wales across all agricultural commodities, and advocates for the profitable and sustainable New South Wales farming sector.

It is critical that local governments are adequately and efficiently resourced to meet the service and infrastructure needs of regional and rural communities, and the farming businesses and people that underpin them around much of the State. Our submission to this inquiry makes six key recommendations focused on important improvements to address current challenges regarding special variation rates, cost shifting, infrastructure funding and accountability. The local governments are facing increasing financial pressure, especially in rural, regional and remote areas.

The decline, in real terms, of revenue for local government has been compounded by the increasing responsibilities and services required to be provided by council without the additional resources to support this. This is often the result of cost shifting from State and Federal governments for various infrastructure and service functions. As an example, concerns about road infrastructure is a critical area that continues to be raised by our members across the State, with critical improvements needed to address longstanding repair and maintenance challenges, including additional road funding support for local government that prioritises indexed block grants.

The increased pressures on councils are leading to an increased reliance on rates and rateable land as a source of revenue, which is increasing the cost burden for farm landholders. There is a perception that the current system as it stands is not efficiently resourced or delivering value to ratepayers and landholders in rural and regional areas. NSW Farmers are supportive of the need to holistically review the local government funding. Through our submission, NSW Farmers has highlighted the need for restored Financial Assistance Grants funding to 1 per cent of Commonwealth tax revenue and for a pause on special variation rate applications by councils.

Our members have also expressed concern on both the ability of local governments to finance their services and infrastructure, and also their expenditure priorities and financial acumen. It will be important to address these factors that are challenging the long-term sustainability of local government's ability to meet the critical service and infrastructure needs of regional and rural communities, whilst ensuring cost burdens are not unfairly shifted to ratepayers such as farmers. We look forward to your questions today.

The CHAIR: We have opted to ask free-flowing questions, so I'll pass over in the first instance to one of my colleagues, the Hon. Sam Farraway.

The Hon. SAM FARRAWAY: Thank you, Madam Chair. Firstly, thank you, Mr Lowe. I'll declare an interest: I know Mr Lowe very well. He lives in the Central West and I've had a fair bit to do with John. With all that said, I want to leap straight into what I think is a critical issue for your members, and that is road infrastructure and how local council roads intersect with State highways and the whole paddock-to-port and paddock-to-plate model where we need to ensure that our farmers are supported. What I want to talk about touches on one of your recommendations. It says that they recommend:

> … that the NSW Government prioritise indexed block grants over special purpose grants to Local Government.

You are saying that you want to index, based on the current road block grants that are issued by Transport for NSW. Is that correct?

JOHN LOWE: I would say—and I'll get Kathy to add to my comments—that we're looking for the road funding to be at a sustainable level and then index to match the increasing costs that local governments are facing. If we set a revenue point now and it doesn't match the costs of doing business—and at the moment road maintenance is one of those areas that is skyrocketing out of control, and I imagine the State also is feeling that—we want to make sure that we can still maintain our network going forward.

The Hon. SAM FARRAWAY: To elaborate a little bit more on that, the former Coalition Government introduced a new funding model for regional councils and local country roads managed by councils, and that was then to distribute funding based on size of road network. That was implemented under the former Liberals and Nationals. The current New South Wales Government has rolled out a round of that funding to date. What I am asking is do you believe that it is in the interests of farmers and your members that any road funding is distributed and disbursed based on size of road network? That is the first question. Two, do you believe that is the best model to use to ensure that there is equity for both sealed and unsealed roads to be maintained in business-as-usual activities for local councils?

JOHN LOWE: That is a big question. I probably won't have the full answer for you today, Mr Farraway. You would also have to look at what style of roads and what environmental challenges those roads had. On the surface, I would say that you are absolutely right. But where I live we've had some dramatic landslips on the Jenolan Caves Road. I would say that maintaining a stretch of road like that may need more specialised funding streams than just being based on the size of road network.

KATHY RANKIN: Could I add a little bit more to that? The size of the road network is fairly critical but it's a matrix model that also looks at what are the roads used for, what is the surface and seal of the roads and, therefore, how does that actually work. The reason I raise that is we have, across regional and rural areas, because of the grain harvest, for example, quite significant need and demand for heavy vehicles across a number of local road networks. We have the Grain Harvest Management Scheme and we've got the last mile access. If councils don't have the adequate funding to be able to deliver the services required for heavy vehicles carrying grain over an intense period, then those networks aren't open. Our position would be, yes, size of road network, but we also need to make sure it's fit for purpose for the use of those roads and the types of roads that are being identified.

You also asked, Mr Farraway, about whether that was the best model. Our position has been that, if we have a model of allocating funding to local government, then it must also be supported by clear, simplified and transparent reporting and acquittal processes. Quite often, if it's under a grant process, the councils are required to acquit their grants. They then need to have them audited separately and, therefore, there's a lag in terms of some of the potential cash flow for some of the smaller councils if they are actually acquitting those. I'm not saying that is specific to the model that you were speaking to, but also through Federal Government funding grants for roads there is often a lag where we have the councils carrying the burden of the payments or the outgoings before it's reimbursed from the funder.

The Hon. SAM FARRAWAY: Understood. From your members' perspective, though, a lot of their road network that they would first utilise would be roads that local council own and maintain. What we're hearing from local council—and I want to see if there is a correlation with what your members are hearing and feeling and their feedback—is that council would prefer more autonomy around the certainty of a funding stream, removing the beauty contest from one council to a neighbouring council or smaller councils to larger regional cities that are councils, and the ability with that autonomy to know how much is coming from this funding program. The council can then—separate to natural disaster and more so business-as-usual activities or preventative investment in road maintenance—know how much to spend.

The issue that I have heard from some of your members one on one is that some of their country roads that they need to get out of their farm, onto that road, then to intersect with town and highway, can never meet a BCR. For instance, it wouldn't reach to be replaced with a concrete structure or an unsealed road that is never graded on a regular basis. I'm going back to the funding model, because it's quite important, I think. It's not so much about the quantum, because that's up to governments to sort out; it's how it's disbursed. How do we ensure that those back roads that are critical to your farmers and their operations are actually recognised in a funding model, without a BCR, and local government can know in the long term that they've got money for investing?

JOHN LOWE: Do you want to answer?

KATHY RANKIN: I'm quite happy to jump in first. One of the things that I've been thinking as you were asking that question, Mr Farraway, is we often know that prioritisation is given around the number of drivers or vehicles travelling on roads, and you just raised that very critical issue of a local road that's coming from a small farming community intersecting with a State road. We don't actually see a large number of uses and we don't see that increasing often, but we see it steady. From our perspective, we'd like to see councils thinking more about the economic benefit of an improvement to a road that may not be high-traffic use but high-critical use for movement of livestock, movement of grain, movement of food and fibre freight out of regions and back onto that road network. Often it's about numbers of use, numbers of vehicle travelling and projections about increase in travelling—that's why we don't necessarily get that higher level of funding that may be allocated into those smaller community areas.

JOHN LOWE: One little add-on there is my western property is in Lachlan shire—a lot of dirt roads. Increasingly out there, what used to be a very efficient way of travelling, supporting grain and livestock, was a simple semitrailer combination. Now, the minimum, as a rule, would be a B-double and, quite often, road trains. The roads need to be able to withstand the pressures of those higher productivity vehicles—less movements for the same amount of product but, in designing the roads going forward, they need to be able to cope with those higher productivity combinations.

The Hon. SAM FARRAWAY: To follow on from that I want to talk about betterment. It has been a common theme that we've spoken about through this inquiry. Even Wollongong council this morning spoke very highly of the need for the Federal Government to look at streamlining the betterment process. We spoke about the expectation for councils with their community when replacing the infrastructure. From a New South Wales farmer's prospective, it must be frustrating that the Disaster Recovery Funding Arrangements that flow from a natural disaster, in particular flooding, do not allow for betterment and only allow like for like. That is a pretty common theme and opinion out there.

I'm interested to know whether farmers, one, agree with that. Second, do you believe, from your organisation's and members' perspective, that the Federal Government should be reviewing the criteria around DRFA to include a portion of betterment, in particular for road infrastructure, to allow, when rebuilding this infrastructure, whether it's State Government or local government, the infrastructure to be rebuilt to withstand all-weather events more often? This would save money for local government, farmers and taxpayers in the long run and build far more efficient infrastructure for the movement of freight, in particular for our farming sector.

JOHN LOWE: I would have to agree with you completely on that. I was told the definition of insanity is to do the same thing and expect a different result. We've got a number of roads, especially in the Central West, that will flood, by the nature of our district. If we can build up those flood-prone areas—Newell Highway is a classic case in point—so they are less prone to flooding and less prone to being damaged when they flood, that will be a terrific outcome. Anything that will give us long-term benefits for our transport network will be fantastic. Improving those roads will also probably make friends with a lot of the transport operators that are suffering a huge amount of wear and tear on their trucks when the roads get damaged by bad weather.

KATHY RANKIN: If I could add to that. As you were talking, I was thinking about a number of the comments that were made to us following the significant floods in 2022. The repairs were based on—we had a tarmac on a slightly built-up road. We had dish drains on the side of the roads. They hadn't necessarily been able to be cleared or vegetation removed. When the rains came through, they washed away through natural water courses, undermining that road. Now, the councils were required, as you said, to build them back exactly the same. If there was an opportunity to put culverts underneath those roads at various points that came with the natural water flow and also to build some more structural integrity into some of those dish drains, that would actually help with the maintenance of that tarmac service—or even the maintenance of a gravel surface if it was perhaps going further west.

The Hon. SAM FARRAWAY: Farmers are pretty practical people, John and Kathy. What I would say around betterment is it has been described to me in my former roles that the Commonwealth sometimes think it's gold plating. But from your members' perspective, when we talk betterment for road infrastructure that will have a direct benefit for a community and autonomy—in particular, farming operations—we are talking about road raising. We're talking about culverts. We're talking about drainage. As you would know, Mr Lowe, obviously in the Lachlan shire, in those low-lying areas, you need to be able to move the water. From your perspective—and I suspect your members' perspective—are they the types of betterment projects that your members would support and think need to be a part of our rebuild, in particular in rebuilding road infrastructure once flooded?

KATHY RANKIN: Yes. In fact—I don't have the exact wording—we have policy that would support that betterment that's around, if you like, the sensible opportunities to tweak or to make amendments that would allow for those road improvements, rather than major reconstruction.

The Hon. SAM FARRAWAY: Just to tie on from my last request, this goes to farmers more so on the North Coast. I want to tie in the Fixing Country Bridges Program that was introduced under the former Coalition Government. This program, I think from the feedback that I had, was one that provided huge benefit to farmers in order to get their produce or livestock from paddock to markets or that whole paddock-to-plate timeline. Does NSW Farmers support the New South Wales Government relooking at this program and reinvesting money so we can try to complete the last couple of rounds of timber bridges and turn them into concrete bridges and structures that can withstand these weather events more often across regional New South Wales?

JOHN LOWE: The short answer is yes. I know for the area that I travel in on a regular basis, there are a number of old, fairly tired bridges that could well do with an upgrade and that will improve the general productivity of the area quite dramatically. I can think of one near Bedgerabong called Straneys Bridge. When you look at it, you wonder why it's still standing, but it can still take a 24-tonne load. But if I was a truck driver, I would probably have my heart in my mouth every time I did it. If it was upgraded to something that was more appropriate to the times, it will also aid the travelling of farm machinery, oversized loads up to road trains and just increase the productivity of the area dramatically. If you could have high-productivity vehicles, you'd probably get less road movements and less overall wear and tear on the network.

The Hon. SAM FARRAWAY: Excellent. Do you have anything, Ms Rankin, regarding the Fixing Country Bridges Program or anything from that—the benefits that have been seen by farmers on the North Coast more so?

KATHY RANKIN: Thank you for the question. I think that, particularly on the North Coast, there have been significant challenges. There's a lot of history wrapped up in those timber bridges. They've carried a lot of weight and a lot of carriage over a number of years. The only thing that I would add is that with the upgrading of those bridges, which is absolutely critically important, also comes the requirement often to upgrade the roads. It's not just a matter of replacing the bridge. It actually is a matter of often having to reroute or realign the roads, and the access onto them as well, so it adds to the significant costs. But, as Mr Lowe said, our farmers are looking at increased costs to transport their product to markets. That means that they're either absorbing that or they're ending up having a higher priced product going into the market, so anything that can be done to ease those costs and to increase the transparency of access would be appreciated.

The CHAIR: I wonder if you could explain a bit more for the Committee some of the cost pressures that farmers are facing at a time like this, Mr Lowe.

JOHN LOWE: I'm just trying to work out where I start. I'll probably start with—our rate burden has been going up dramatically. When our members see a special rate variation being proposed, it tends to upset them a bit, especially if they're under pressure. We've gone through a period where the commodity prices have gone down. Water-wise, this season's pretty good; last year was very tough, if you're in livestock. When people were trying to do the right thing and destock, we had a crash in our livestock prices and that probably put some of our membership and other farmers under a great deal of pressure. Every input we've got has been going up in price. Back to our rates, personally, in the Central Tablelands my rates went up 60 per cent in one hit because we had a special variation plus a revaluation.

The CHAIR: What's the quantum of that figure? What's the 60 per cent? What does that equate to and what does that mean?

JOHN LOWE: We went up from $9,000 a year to $15,000 a year. If you said, "Well, that's where it's going to stop for a while," we'd probably say, "Okay, we'll see how we go," but it's just on everything else. We've got a few people who are feeling a little bit upset because of their other cost pressures, that there's an extra rise in the lease payments on Crown land enclosures. If you look at it in isolation, it looks like it's not a big amount of money but it just all adds. Probably one of the biggies that's hitting us at the moment is insurance costs. Costs of feral animal management is becoming very significant and that's becoming a never-ending story; it just keeps on coming.

I'm just trying to come up with some of the majors. That's probably the major ones I can think of at this stage. Transport costs are going up quite significantly because the cost of machinery and the cost of our transport operators to maintain and replace their vehicles is going up. If we draw that back around to the road network, a poor road network increases the wear and tear and they've got to recoup their costs somewhere, otherwise they go out of business. Unfortunately, a lot of farmers would be classed as small business people, which means you have got to be across a multitude of issues. Small business is tough; it doesn't matter what game you're in. Kathy, would you like to add?

KATHY RANKIN: No, I am good, thank you.

The CHAIR: In terms of the increased rates, if we can focus on that Mr Lowe, what sorts of difficulties does that pose for farmers when you see an increase of the quantum that you saw?

JOHN LOWE: It comes into our fixed costs. They're costs we can't avoid. We can trim our operation, we can try and rejig the way we do business but those costs are going to remain there. For good or bad, we're in an area that is becoming quite popular for lifestyle blocks where, dare I say it, we're getting close to being on the outer fringes of Sydney. Sydney is a lovely place to visit, but I chose not to live there—I thought. With that, rates go up and so it makes doing business in that area just that little bit harder. If we choose to stay, we have got to effectively suck it up because that is what it is. If we decide to sell up and go somewhere else, we have got to go somewhere else. There is always a cost.

The CHAIR: Do you have any information about what the average farmland rate is across the State?

KATHY RANKIN: That is a difficult one to answer, and if we could take it on notice we will come back to you, if that's alright.

The CHAIR: Thank you.

KATHY RANKIN: If I may expand a little bit, the size of the land that farmers have is quite diverse, from intense agriculture through to more broadacre and that sort of activity. But we also do know that the value of agricultural land has been growing exponentially year on year. If I may also make a reference to the fixed costs, most of the farmers that Mr Lowe has been speaking about carry significant loans. They're fairly highly leveraged, so as soon as you start putting on a significant rate increase, that needs to be covered off by your bottom line and puts additional pressure on the viability of the business.

The CHAIR: Sure. In terms of the rates across the State, what I am particularly interested in is how that impacts farmers across the State as well? What is the degree of imposition, would you say? Is it the same wherever you are or is it perhaps more acute if you have a certain type of property?

JOHN LOWE: I don't think there is a one-size-fits-all answer. In the Central West, which is predominantly a farming block, we would pay—I'm sorry I haven't checked that one. I think we're about the same amount for—and I'll probably come back to acres—5,500 acres of farming country and for 2,000 acres of fairly hilly grazing country. It's good country, I'd like to think. It has beautiful views. It is about the same amount.

KATHY RANKIN: If I may add to that, it is also about the climate cycle. The farming community works often on a one-in-three at the best of times in terms of having a good year. Carrying that extra weight of the costs during periods of drought and extended drought—and we do recognise that during the last drought there were provisions made to help with addressing the cost of local council rates, but they still are significant across the board.

The CHAIR: Your submission notes that councillors and council staff need financial training. Is there evidence you can provide us of issues caused by what we would call untrained staff or otherwise?

JOHN LOWE: Probably our emphasis is more on councillors coming in. Council elections are a popularity contest and people will often vote for someone they know as opposed to someone they don't know. Résumés don't enter into it in a great deal. It's not like going for a director position. We are conscious that some councillors may have less skills than others and possibly are not sure of the right questions to ask or how to ask the right questions from their staff. To get good governance in council, we want to make sure that the councillors are able to interrogate the information they're given and be financially literate going forward. There is always the statement of a local government doing a main street beautification project, for instance, and it seems to blow out and go on and on and on. It's a soft target but a lot of the population will go, "What were they thinking? What's the benefit?" I'm not in a position to say whether individual projects are a good idea or not, but I would certainly have more confidence if our councillors had the training to interrogate the actions as best as possible.

The CHAIR: Your submission also states that there needs to be a list of essential and non-essential roles performed by councils. I'm just interested in the views of NSW Farmers in what those essential and non-essential roles might be.

JOHN LOWE: Would you like to have a crack at that, Kathy?

KATHY RANKIN: Yes. I think that that relates back to if we have local government—that is, the frontline service delivery, if you like, for what happens within the community—what are the things that they should be taking on? What are the things that they should not? For us, the critical issue is about how do you make sure that the provision of the essential services—the road maintenance, the water maintenance, the provision, if you like, of libraries, the regulatory oversight, those sorts of things—are really critically important to us rather than doing some additional things that might be seen as positive, but not necessarily delivering the critical services that residents within a community are looking for.

JOHN LOWE: Farmers are probably fairly narrow in their outlook at times. A percentage of our membership feels that it's roads, water, garbage and the rest of it's a luxury. I probably would have a slightly broader viewpoint that we also need to have an urban environment at our rural centres where professionals want to be there. We're struggling for teachers, ambos, doctors, lawyers—all the people we really need to give critical mass to a community. We have to have a town that's nice to live in, but we also need to be aware that it might be a nice town but if you're going to ruin your car trying to go to the next town, maybe that's a problem.

Dr AMANDA COHN: Thanks for making the time to travel to Sydney for the hearing today.

JOHN LOWE: That's my pleasure.

Dr AMANDA COHN: I have one very specific question coming out of your written submission. You talked about the responsibilities that council have under the Weeds Action Program.

JOHN LOWE: Yes.

Dr AMANDA COHN: Obviously, there's a good argument to be made about some local level decision-making on weeds, but are councils currently resourced to do that? What recommendations should we be looking at to enable local government to carry out that responsibility?

JOHN LOWE: With my inquiries, it's been stated that the funding for the weeds action planning process has been not matching CPI and there has been significant costs increases in the managing of the weeds programs within councils. In my area there's a county council which I think is four local government areas combined. They're finding that their costs structure is not keeping up. They're seeing that funding diminishing and they're very concerned that managing the weeds of national significance in their region will be diminished. For environmental and economic reasons, that's of great concern.

Dr AMANDA COHN: If I can just jump onto your previous discussion with the Chair about essential and non-essential functions of council, there are some views in metropolitan areas that environmental measure are an add-on, a discretionary measure, for councils. I'm thinking about things like weed management in rural and regional areas.

JOHN LOWE: Yes. Would it be the view of farmers that that's an essential function of the local council?

JOHN LOWE: If it's not a function of local government, it needs to be a function of a government. Weed incursions are an ongoing problem. We also see problems with biosecurity measures in maintaining road sites where machinery moves from one place to the next and transports environmental weeds along the way. In the Central Tablelands, a biggie is African lovegrass, which hasn't made it onto many lists but is a fairly insidious grass, which is very similar to serrated tussock in the outcomes it produces. If you go along roads where it is, it will be very thick right along the edge of the road where it has been mowed, and then you'll see it progressing into paddocks on the side of the road. I don't think there is much good about it, personally.

KATHY RANKIN: Could I give you a further example? Hudson pear is a very insidious weed in the north-western areas of New South Wales. It has spikes. It grabs onto wool of sheep. It goes onto boots and clothes, and it just builds up. And it goes onto roads—the wheels of trucks. It has spread, despite a commitment to try to eradicate or manage it. It has actually spread quite significantly over the past number of years because we haven't had the resources to be able to push back to it. Two years ago, I think it was, Walgett council decided that they needed to do something proactive around it and they have employed a Hudson pear weed officer who is about not only going out and identifying where these are but also helping to proactively manage and engage with the local farmers in the management process through cochineal.

Dr AMANDA COHN: I understand you might not be able to answer my follow-up question. I would be interested to know if the weeds officer at Walgett council was funded through the State Government Weeds Action Program or whether Walgett had funded that out of their general rates revenue.

KATHY RANKIN: I'll take that on notice but I have a feeling it may have been a specific grant. But I will check.

The CHAIR: Thanks so much, again, for making the time to give evidence to the inquiry and for being here today. We really appreciate it. Our Committee secretariat will be in touch with you with regard to questions that were taken on notice.

(The witnesses withdrew.)

Mr BRETT WHITWORTH, Deputy Secretary, Office of Local Government, Department of Planning, Housing and Infrastructure, on former affirmation

Mr DOUGLAS WALTHER, Executive Director, Office of Local Government, Department of Planning, Housing and Infrastructure, on former oath

The CHAIR: Good afternoon, again. Welcome to our next witnesses. Would you like to start by making any opening remarks?

BRETT WHITWORTH: I probably wouldn't mind making a short statement. It's more a reflection of my observations of what the inquiry has heard and some of the evidence, and shouldn't be taken as being a government position. It is quite clear that, like all governments over the past few years, councils have suffered financially from pandemic impact costs, where there was escalation in terms of labour costs and material costs, as well as the impact of natural disasters. I do think, though, that those costs have probably masked a deeper challenge for councils to maintain financial sustainability.

I do not believe that every council is on the financial brink—in fact, I believe there are a number that are quite healthy from a financial perspective—but I believe that every council has been dealing in a decline in its financial position over time. It leads me to ask the question: What is the cause of that? Is there a regulatory issue that we need to look at? Is there a system or a process issue that we need to consider? The easy answer would be to effectively raise more tax, be that rates or be that fees, which sounds simple and practical, but I also think that there are concerns that we have seen from the community about the impact of more taxation without that consideration of the guarantee of efficiencies in service delivery. Simply charging more rates also ignores that for many communities there is not the additional capacity to pay those additional rates, whether that's because of socio-economic factors or whether that's about geography or other factors.

I note the Minister last week made an announcement about the future of Central Darling Shire, where its inability to charge more rates has been fundamental to its financial capability. I think if we can get to a point where we can match service delivery expectations to expenditure to revenue, that is where we are in a good place. But that means that there needs to be a conversation about what service delivery expectations there are, what the expectations are around expenditure and, of course, how much revenue. I firmly believe elected councillors are in the best position to do that, because that ultimately is about understanding what the community can sustain and managing and weighing competing community perspectives.

I feel that we need to ensure the councils have good information to make informed decisions, which goes to the integrated planning and reporting process. It goes to performance ratios and it goes to the accessibility of financial information. I do get concerned that there is a confusion around and a conflation of budget process and accounting process. I think they are very separate processes. But I do think that there are probably a raft of measures that we can look at that would enable short-term responses that would enable councils to unlock funds. The analogy for me is that water that is below the inlet pipe of a dam. Let's find some way to get access to that dead water.

There are more medium-term opportunities around how can we be more effective in terms of revenue raising, whether it is rating consistency and rating effectiveness or whether it is contributions reform and fees and charges reform. Can we make councils more effective around budget management, ensuring that councillors have more information and are focused on the budget cycle? But in the long term, I think improved efficiencies in council operation might then also allow more independence in setting a rate path.

Dr AMANDA COHN: Thank you for coming back and appearing before us again. I have one specific question, which is about rate exemptions. You just mentioned in your opening statement that we should be looking for opportunities to rate consistently. You have talked about rating consistency and effectiveness. Does the Office of Local Government have a view on current rate exemptions and what we should be looking at changing?

BRETT WHITWORTH: I think there is actually a live example about rate exemptions at the moment in a council in the capital region where community groups have actually acquired land historically—have acquired land and they are performing and not undertaking their community functions. These are halls and so on. But because they are not a charitable organisation and because it is not Crown land trust, it doesn't get a rating exemption until they have determined to become a charitable organisation. I think that's an area where we need to look at that. I also think that rating exemptions are probably also a case of looking at what and how councils apply rates.

There's more than just the application of the ad valorem amount and the land valuation. It's the question of how they allocate that amount across. I'm not going to name the councils, but there are two councils that have a very similar style of commercial development which are within probably five kilometres of each other. In one local government area, that commercial development is rated far higher than the other local government area, which then means that—so they're charging that commercial activity a higher rate and then they can drop the residential rate. I think there are opportunities for us to look at that.

I also think that there are opportunities for us to look at where we're encouraging newer forms of development. So build to rent is a new form of development that we're talking about. Build to rent has with it a single landownership, so therefore a single rate, but it's actually a commercial activity, albeit for the purposes of residential development. We should be looking to ensure that it doesn't get a residential rate but a commercial rate. I do think that there's opportunity to look at a number of those changes. There is some work that had been done earlier under previous governments around rating changes and the update of the rating manual. I think, with some targeted recommendations from the Committee, that would be able to be brought forward and used to get, I suppose, a more appropriate way in which we're levying rates across different types of uses.

Dr AMANDA COHN: Those are really helpful examples. The first example you gave of the community group not receiving a rate exemption where perhaps the community would expect that they should—would a possible solution to that be exempting based on use of the land rather than ownership of the land?

BRETT WHITWORTH: I think, when you consider that you're starting to blur planning uses with rating purposes, then that raises the question for me about short-term holiday rental accommodation. There would be consequences that we would need to consider if you were trying to just simply link use of land with the planning use. I think that it's worthwhile to do, but I think you need to be careful on how you do it. My build-to-rent example is one of those where people look at build to rent and think about it—even the planners think about build to rent as being, "Well, it's residential." But as someone that was involved in identifying that that is an appropriate use in commercial centres, I'll tell you that what was in my recommendations and my policy advice is it's actually a commercial use. It just so happens to be a commercial use of land for the purposes of providing residential. So you're going to end up with people confusing planning uses with rating uses.

Dr AMANDA COHN: The build-to-rent example is a good one where, as far as council is concerned, it is happening on land that is zoned residential. What tools might there be for councils to ascertain the use of it? Because obviously the easiest information for them to have is just what it is zoned.

BRETT WHITWORTH: Actually, I think the concern that is being raised is that it's occurring and it's allowed to occur on land that is zoned for commercial, so allowing build to rent in centres, so under an E zone in a centre on the basis that it's a commercial use of that land. Build to rent in and around Crows Nest, for example—the councils are saying, "We would ordinarily"—they say two things. One, if that was a strata development, we'd get multiple strata rates, whereas there is only one land rate for this. I think it's how—do you end up expanding out the range of rateable purposes so that it is as large as the planning land use purposes? Maybe that is my better argument—trying not to confuse it. But, yes, there is an opportunity to expand out the rateable purposes, but you've got to be careful that you don't end up with the standard instrument, local environmental planning dictionary of land uses. You want a more simple set. At the moment we have got residential, commercial, farming and industry. You want to keep it at that level of simplicity, I think.

The Hon. SCOTT FARLOW: Can I pick up on that? With build to rent, it is very much a hybrid and I guess the council's concerns have been that we get, let's say, 500 residents within one build-to-rent development, and that then becomes additional usage on local parks in the provision. It is not the same sort of requirement if you had 500 people in an office block, so to speak. Something like that denotes its own particular usage or classification, potentially, doesn't it?

BRETT WHITWORTH: I think this is where build to rent is a really good example because it teases out a lot of the complexities of the issue. Build to rent is a commercial form of activity, albeit for residential purposes. What you have given me is what are the consequences of people living in build to rent? What is the difference between build to rent and a university where there is an active demand on open space? What is the difference between build to rent and an office park commercial development, where there is an expectation that people can actually go outside and use public space? I am not trying to deny that build to rent should have a lesser rating. At the moment, build to rent has a single rate point, so the councils are rightly saying, "There are 500 people living there. We should be able to get more rates out of them."

But I also want people to be aware that—we have to look at that. You either go down that path of having planning land uses and rating land uses as being the same, which is then incredibly complex, or we try and retain some higher level understanding that there are commercial uses that will potentially have a higher rate that you ascribe to them—a higher ad valorem rate than what a residential rate would be.

The Hon. SCOTT FARLOW: I am trying to work out how that actually would work, in a sense.

BRETT WHITWORTH: I know. It is effectively saying—trying to be really, really simplistic about it—you will pay less ad valorem amount for a house than what you do for a commercial activity. So rather than saying we've got 20 houses here in a build to rent, we say we are charging them a commercial activity because it is a commercial activity in a town centre. It just happens to be a commercial activity for the purposes of residential.

The Hon. SCOTT FARLOW: I guess that the challenge that comes from councils is they indicate that that commercial activity costs them more, and if you were to have a typical build-for-sale apartment block that would, of course, as you have outlined, come through the strata schemes and apportion a higher cost to it. So there is a competitive advantage, in a sense, for build to rent in that regard, isn't there?

BRETT WHITWORTH: That also helps us with our housing crisis.

The Hon. SCOTT FARLOW: Yes, but it also works against mum-and-dad investors or purchasers for a property as well?

BRETT WHITWORTH: You are also making an assumption that the ad valorem amount for a house and the ad valorem amount for a commercial activity is the same when, in fact, it is not. They are very different.

The Hon. SCOTT FARLOW: So you are saying the ad valorem amount for a house is higher than it would be for a commercial activity. Is that right?

BRETT WHITWORTH: No, the other way around.

The Hon. SCOTT FARLOW: So the ad valorem amount for the commercial activity would be higher, therefore the rates charged would be higher on that property.

BRETT WHITWORTH: Yes.

The Hon. SCOTT FARLOW: So the evidence—for instance, the City of Ryde example was about $200,000 difference. Do you dispute that?

BRETT WHITWORTH: No. I don't dispute it, but I am saying that we need to change our thinking. I would like to know whether Ryde was considering that to be residential or considering it to be commercial.

The Hon. SCOTT FARLOW: You are saying that $200,000 distinction, if you were to attribute that in a—you want to make sure, in a sense, that it is apples and apples rather than apples and oranges in a comparison.

BRETT WHITWORTH: Yes, and I do think that there's value in the Committee flagging that this is something that needs to be looked at because there's a tension there with build to rent, in particular. Build to rent will give us more housing and more diversity of housing in well-located areas, which will help us to address the housing crisis, but it also puts that pressure on council finances in that, unless we get the rating right, they will see it as being a disadvantage to have build to rent in their area.

The Hon. SCOTT FARLOW: Is there any work that the Office of Local Government has been doing on this to date?

BRETT WHITWORTH: We have done some preliminary ideas about how we could make build to rent work under the existing rating system, and that's talking about it from a commercial perspective, but it's not a lot of detail at this point.

The CHAIR: I invite you to make some general remarks about the inquiry so far and your general thoughts about the evidence that you may or may not have heard and whether that aligns with your pre-existing views of the issues facing the sector.

BRETT WHITWORTH: Okay. They're very general questions.

The CHAIR: They are.

BRETT WHITWORTH: Probably one of the often raised issues is going to be, "Well, why can't we just remove the rate cap?" I don't think you've really had the opportunity to talk to a number of community groups. I can tell you community groups in places like Bathurst, the Shoalhaven, the Hilltops area, Upper Lachlan et cetera, et cetera have all come out very strongly against any special rate variation increases. They do so on the basis they're saying their community can't afford an ongoing increase in the amount of rating in that area. I also think that if you remove a rate cap, what do you have in its place? Do you have an underlying rate, like, this is what we expect the rate would be? Do you go down the model of the South Australians where you have the Essential Services Commission, ESCOSA, to do an evaluation of the way in which councils are setting their rates?

Or do you actually go down the path of where IPART may set a rate path determination, if the council wants to do that—so, similar to how Sydney Water or the transport agencies get their approval to charge rates, where they do a submission to IPART and say, "We want you to give us an approval to levy these charges for our services"? It's based on a four- or a five-year determination, expecting what the likely costs will be, what the likely revenue will be, what the likely service demand will be. If that was offered to councils and you said, "There is rate path process that you could seek approval from IPART for", some councils would probably jump at the chance.

Others would go, "How are we going to put"—there is a lot of detail that would need to be put together to justify to IPART that the rate increases are reflective of cost, that you've done everything to ensure there is no escalation in costs that is as a result of inefficiencies in how council services are identified and delivered. There is a lot of detail that would need to be provided. I think that's something that could be looked at as an option to be explored. It would certainly break us from the existing announcement in November of what the rate cap is and everyone works away around that. I think we also have the opportunity to look at the base cost change model that IPART has released and say, "Can we use that to give us even more detail around individual rate caps for councils?"

If you look at it at the moment, the base cost change model allows you to consider between different parts of the State, different geographic locations, to factor in a population growth element and to factor in an emergency services levy, so that you end up with a unique rate peg for each council. That could probably be further developed in terms of applying even more locality-based distinctions between councils. I think those are some of the key things to think about. I also have noted that there have been a lot of conversations about the development contributions system. I come at this with experience in the development contributions framework, having been involved in multiple reform attempts in the development contributions space. It is a highly contested area of public policy. There is no right or wrong answer to this.

I think it sounds simple to allow councils to charge for more development contributions, but we need to be prepared for the fact that the underlying development contribution in Blacktown, for example, in Schofields is probably north of $100,000 per lot. Now I am not going to argue with Kerry Robinson, the CEO of Blacktown. We do argue, but I am not going to argue with him on the basis that he says that that doesn't get levied on to the lot—that doesn't get levied on to the price—so the purchaser is not paying that extra $100,000, but the developer is paying that in terms of the loss of their value uplift. If their value uplift is getting smaller, then they are not necessarily going to undertake that development. If they don't undertake that development, we are not getting land production. If we are not getting land production, we are not the meeting housing needs.

That is where you get to with development contributions. You also have to think about what is the cost and what is the infrastructure it has been levied for? Is it the appropriate infrastructure? Is it the right infrastructure that facilitates that development, or is it infrastructure that is a population-based infrastructure? Is it right to levy on the first development for that infrastructure, is it better to think about rates over the longer term, or is it better to think about incentives to actually get the land to be developed in the first place and think about other systems like land tax and so on? I just think that the development contribution space has seen so much work and effort and noise, and words written over the years about how it needs to be reformed, but the reforms have been very challenging to achieve and I don't think it's the panacea that it's being presented as.

The only other thing I will say is that I know there has been a lot of conversation about performance ratios and the impact of things such as asset valuations and the impact of development contributions on performance ratios. I think you have taken evidence from Camden about how their patience ratios appeared to be bad but, in actual fact, they are doing very well from a delivery of services perspective. These are all things that we are looking at at the moment. I think the question about performance patience ratios needs to be asked. Who do they benefit? Are they there as an ideological partnership on what a good council looks like, or are they there for the community and for councillors to say, "This is how we think our council is operating compared to other councils in the area"? Can we do more around the benchmarking of what they should be to improve them and make them less live or die—less "end of the accounting year" statistics—and more information that can be used on a contemporary basis for councillors to make decisions about budget and other issues.

The CHAIR: We heard from IPART earlier today. They mentioned potentially some early intervention from OLG in terms of preventing councils that were on the brink or at risk, if you like, before getting in a really bad way. Does OLG have capacity to do that?

BRETT WHITWORTH: We have the capability. Building the capacity is something that we will do with the additional funding that we have received from the Government. Increasing our number of what we call "performance analysts" will help us to do that. The other issue, though, is getting at the problem early enough and understanding when it's coming. This is something that we have bolstered as a result of the Audit Office's performance audit into the Office of Local Government. We have a regular what we call "emerging trends and issues meeting" and we have a risk management framework where we assess councils in terms of their governance activity and their financial activity and so on.

We have been able to predict those councils that have financial challenges and start trying to intervene early on using targeted interventions, writing to councils asking for detail about their performance improvement plans, and asking for information about their capital expenditure reports and so on. There have been a couple that did come to us as a surprise. That was partly because of some infrastructure decisions that were taken—in some cases, infrastructure investments in major sporting activities. Some were changing the asset valuation of a particular infrastructure class, like a road, which has impacted their underlying balance sheet, or that the timing of grants from the State and the Commonwealth has impacted their liquidity elements. We've been looking at those and learning from that experience, but I think we can continue to get better at that.

The CHAIR: In terms of the evidence that we've received about rates and rate reform, the evidence that we've received is that there are obviously some significant challenges facing councils across the State. Even that Base Cost Change model that you touched on earlier would still leave some councils behind. We're also in this situation where, as you say, ratepayers are struggling with the cost of living as it is. If councils submitted long-term resourcing plans to some sort of independent body, which included their fees, rates, charges and all of that sort of stuff, would that more individualised rate path help with some of these financial issues that councils are facing?

BRETT WHITWORTH: I think that it would. Again, you need to build the capacity in the councils themselves to be able to predict and identify what those recent challenges will be over a period of time. There would also need to be the ability to be somewhat more agile in terms of responding to changing issues and circumstances. I think that, for some councils, getting locked into particular long-term infrastructure projects can be a challenge. For others, how they respond to natural disasters and the impact of natural disasters is also a bit of a challenge. I think the idea around fees and charges and how they make those fees and charges more cost reflective is also something that would need to be developed. They're quite serious economic principles that I think need to be understood.

DOUGLAS WALTHER: It's just to make sure that, as well as reflecting the fees and charges, you're also looking at the expenditure side of things. Whether it's using QBRS or any other documents already being developed, council have their strategies and their long-term plans. As those five- or 10-year plans are being developed, councils should be thinking about how they're going to be funded.

The CHAIR: We've heard about the IP&R framework a fair bit. Would that framework suffice to adequately reflect the needs of the community and the resources that are needed?

BRETT WHITWORTH: I think the IP&R framework's quite robust, but it's as good as the process—it's as good as the work you put into it. We've had our engagement team undertaking a peer review process where they actually went around the State and sat down with councils and brought councils together in a room and said, "How did you do your IP&R? What things did you learn?" and had other councils listen to that and actually used that as a way of increasing the understanding of what can be seen as being a good IP&R process. They're going to publish that shortly. So I do think that, yes, IP&R is quite solid. It has got to be something that the council develops; it can't be something you go and get a consultant to write for you. It's got to be something that you do yourself—that the councillors set the expectations, the community is engaged in that and then those expectations cascade down through the long-term financial plan, the operational plan, the delivery plan and so on.

The CHAIR: With the IP&R framework, are the communities adequately consulted on this currently so that—just thinking of the SRV process—that could essentially be a fallback to avoid, again, a further round of onerous consultation, if you like?

BRETT WHITWORTH: I think the fact that there have been communities where they have said, "Why do we have such steep escalation in our potential rates or special rate variation?" answers the question as to whether that community engagement in the IP&R process has been effective or not. That is probably an area that we can do more on. When I say "we" I don't mean just the Office of Local Government. I think that stronger engagement with the community on IP&R is critical.

The CHAIR: If we were to tailor rates more specifically to local councils, how can we ensure that rates stay low or at a level the community can pay?

BRETT WHITWORTH: You do it one of three ways. The councillors themselves are the handbrake or the regulator in terms of what the community believes they can pay and what can be afforded. The councillors then have to take on that responsibility and accountability to talk to the community about what the increase in rates will be and an understanding of whether the community can afford that. Or you create an approval process, like a rate path process similar to the one that I talked about with IPART, whether it's a case that IPART gives a determination that the rate increase can be afforded or whether IPART provides, like the South Australian ECOSA model, the community with the information to assure them that the cost increases are appropriate, reflective of what the expenditure costs are and what the revenue expectations would be. The third option is you just continue with the rate peg as a way of centralising that process. If you wanted to give councils more individuality, it's either you go to the councillors and say, "It's on your head", in which case you would want them to be engaging with the community far more often, or you come up with a mechanism where egregious increases can be managed through an approval process.

The CHAIR: Are there other ways that we can make councils' incomes more reflective of the individual circumstances of each council?

BRETT WHITWORTH: I think there are. There are things that we could do in the short term. I don't know whether Ryde council talked about some of its challenges with development contributions and restricted funds. Where there are externally restricted funds particularly arising as a result of development contributions, these may have happened because a plan which allowed development in a particular area and contributions to be collected for that infrastructure—the infrastructure may have been built and the development may have been finished, but there is still money in the plan that you can't really get access to. There may be some ways in which we can help councils look at that, like a contributions amnesty where we said, "Let's look at your development contributions and pool the funds across to something else." That was that dead water at the bottom of a dam analogy. There may well be restricted funds because of water or sewer in regional areas. There may be other external restrictions that councils have. We could help them with that.

Looking at other fees and charges, the stormwater charge is $25, which is based on some sort of historical artefact. It's an example of something that could be looked at and increased but, again, you would want to make sure that it's not just a stormwater charge for the sake of it and that there is actually some stormwater being delivered. Waste charges are another example. Do the waste charges reflect the waste service that's being obtained? I think there is definitely capability there to increase and look at those charges, but you want to make sure that there is a reflection of those cost increases in terms of the actual cost of the delivery of the service and there was some justification.

The CHAIR: In terms of a more broad policy approach that you have mentioned, are there any other details that we would need to be clearer on before we adopted such an approach? You've mentioned needing to justify whether or not there was actually stormwater being delivered, before we hike up the fees. Are there any other examples that you can think of?

BRETT WHITWORTH: I think there would be—it's a question of the Committee thinking about what charges need to be reviewed. Stormwater charges are obviously something that a lot of people have talked about. Waste charges are probably something that needs to be looked at, particularly in light of the movement to new waste technologies and the State Government's objectives about reducing the amount of waste that goes to landfill—so the need for the provision of FOGO and other sorts of services.

DA fees is a complex area and, again, that's where the cost—what is the cost of running an efficient DA assessment service? Does an efficient DA assessment service need more planners? As someone who's spent a long time working in the planning industry, I'd actually probably argue no; you want to make sure that you've got the right level of expertise for the job. If it's about—are there other things that we can contemplate in terms of making these services and facilities more efficient and effective? So I think it would be a case of, if you were to contemplate recommendations around increasing fixed rates and charges, you'd want to be thinking also about what are the appropriate economic principles to ensure that there's a degree of "the cost reflects the service" delivery.

The CHAIR: What can we do to ensure councils are better at budgeting the money that they have, and keeping their costs limited and appropriate?

BRETT WHITWORTH: I think a lot of people confuse accounting with budgeting, so you've got to break that concept as well. Budgeting is: These are the services that we want to deliver and this is the money we're setting aside to deliver it, and then to have a quarterly cycle of review and reporting. There are different scales in which the administrative arms of councils explain to their councillors their budget. Some councils will give a line-by-line detail of the budget. It's very complex but it's also something that a councillor, if they wanted to pick it up—they could get, from, "That's how much we have," all the way down to, "I can understand where that gets delivered in terms of what the frequency of grass being cut on the sporting fields is."

There are other councils where the allocation of the budget is around service delivery areas, so the directorates or even the manager level. That doesn't necessarily give you the transparency as to where that budget is going and how that budget is being managed. The State uses mechanisms like Cabinet and the Expenditure Review Committee to identify and assess whether a proposal to spend money is appropriate, and then uses budget processes to monitor the delivery of that expenditure. A similar concept of having a finance committee—many councils already do this, but having a finance committee to set the budget and to monitor the budget on a quarterly basis, if not more frequently, is appropriate. Then the accounting process, at the end of the day, is just how you've accounted for where the money went.

The CHAIR: In terms of that, though, some councils don't even have a finance director, let alone have a finance committee, as you say. Does OLG have a framework or a guideline for what is best practice in this regard? We did hear evidence from a council that does this—it might've been Canterbury Bankstown—but do you have anywhere a guide or a cheat sheet for councils on how to do this?

BRETT WHITWORTH: I'd probably want to take that on notice, just in case we don't—we have a policy somewhere. My perspective on this is that we want councils to be local and to establish their governance that responds to local circumstances and local issues. Setting up a template council structure would potentially defeat that. All 128 councils and all 150 auditable entities in the local government space in New South Wales are all different and all individual. It goes back to that concept of local government being responsible for delivery of the services to their community and to come up with the best model.

If they came to us and said, "We'd like help", we'd certainly be willing to help and assist. I just get nervous about templates becoming mandatory requirements where you set the lowest common denominator bar et cetera. I think it's one of the reasons why we've had to, with the Minister's decision around Central Darling, actually say, "Even the lowest common denominator doesn't work for Central Darling and we've got to come up with an entirely new approach to governance in that area." But we will take it on notice as to whether there's actually a particular policy or guidance document.

The CHAIR: In terms of councils and their varying degrees of operation, we've heard in the inquiry the varying amounts of rate base that they have in terms of the percentage of their revenue. For some councils, even adjustments or tweaks to the rate peg/cap—whatever you want to call it—wouldn't make a material difference to their ongoing sustainability. Is it the case that, really, the answer—or one of the only options—is for an increase in Federal financial assistance grants?

BRETT WHITWORTH: Yes. As a State bureaucrat, I would love to see more Commonwealth Government money come to New South Wales. I think it's probably a matter of record that the percentage of the financial assistance grants has declined from being 1 per cent of Commonwealth GDP to something like 0.38 per cent now, so there has definitely been that decline over time. I do think that that's important, but that's not a decision in the remit of the State. That's obviously a Commonwealth decision, but I do think that that would be a welcome development if the Commonwealth decided to increase.

I think what it does do, until the Commonwealth does look at that, is force the States more and more to look at how those funds are allocated within the State and it's looking at whether the principles within which we have to work—the horizontal fiscal equalisation principles—are actually disadvantaging smaller councils to the benefit of the larger councils where we have things like the no-disadvantage test, yet we're clearly seeing regional councils struggling in terms of funding roads where money's going to them to fund, but where money's going to the larger inner-city councils to fund roads that maybe they don't need to have funded.

DOUGLAS WALTHER: Just picking up on that point, the Productivity Commission recently looked at water utilities and actually floated the idea of almost a community service obligation of funding some of those water utilities in the—85 of the local water utilities. Eighty-five councils have local water utilities. Sixty-one of them have less than 10,000 connections. When you divide the cost base from that treatment plant, you can see why so many of them struggle. I think that sort of picks up on that point.

The CHAIR: We have heard evidence on statutory charges. You mentioned earlier in your remarks about that. Should there be a review of all of those fees?

BRETT WHITWORTH: I think that there is value in looking at those fees and looking at them again. I think setting some economic principles around—if you're letting councils set those fees, there should be some clearer economic principles around what they need to set them by and achieve to ensure they reflect what the cost of the service delivery is. There is a number of those fees—development application fees, the interment fees, and so on—that are set by other agencies and by other Ministers under other statutes. They do impact councils.

I think there's value in asking the question as to whether they could be reviewed or not. I do know that development application fees have been generally consistent since 1980. They have sort of only had tweaks and adjustments since that time. But because they're set on the basis of capital cost of development, it probably has—the DA fees that you would have paid for a development in 1985 are different to what you'd pay for a development today. But that underlying principle about how they're set has been quite consistent, and I think changing that would mean having a good understanding as to what benefit you're getting from a change in the fee structure.

The CHAIR: In terms of councils in the State, is it fair to say they're all in a declining position financially?

BRETT WHITWORTH: I don't think that that's a fair characterisation. I think they're all struggling; I don't say that they're all declining. Sorry, I think that they're all struggling with managing budgets in a challenging environment and it depends on what those councils want to do in terms of service delivery as well. I do think that those councils that have managed to identify additional own source revenue that is not tied to regulatory processes have fared much better than the councils that are dependent on rates. Then there are other councils that aren't just dependent on rates; they're dependent on grants as well. It's those councils dependent on grants that have struggled the most. They get the sugar hit every now and then of a good grant. They get the financial assistance grants which are unclear as to what the timing of those will be.

I don't know whether the Committee knew about the timing of—the Commonwealth has got into a situation where they're forward funding grants and that's now created an expectation. They paid 2023-24 at the end of June 2023, which meant that there was no payment this financial year—except that they gave the States $850 million on 207 on 28 June to distribute out to 130 councils before the end of the financial year. Which, if you're a council and you're predicting that you're going to do your accounting and whether you're going to make a loss or a surplus in that financial year, and you're depending on a financial assistance grant coming through, and you only learn about it at five o'clock on the very last day of the financial year, it doesn't really help you to do that work.

I say that more in the context of it's hard to measure whether a council is financially sustainable or not because it's a little bit in the eye of the beholder. It's also a little bit in terms of what are the service expectations that they have and what is it that they want to do with their money. Are they being conservative and holding money back for the future to deal with crises and extreme events, or are they being progressive and trying to achieve something earlier? Do they want to get in front of the curve of new development? It can be challenging for them, on that basis, to work out what is sustainable and what is appropriate or not.

The CHAIR: Do you think that the local government sector has a cost and spending problem as well as an income problem?

BRETT WHITWORTH: I think that, like all governments, it does have a cost and spending problem in terms of where is the downward pressure on its cost calculations and its estimation what of it needs to do for an infrastructure project. We have procedures in the regulations about tendering to ensure that the best value occurs for the obtaining of products or services. But we also have processes where we say to councils, "Well, if you use these sort of guaranteed processes, then probity has been guaranteed." There is an expectation that cost containment will also be part of that, but probably probity is the first question, and cost is the second.

When councils are undertaking large development projects and infrastructure projects, they're required, if it is more than $10 million, to go through and comply with the capital expenditure review guidelines. But the question needs to be asked: How well are they looking at the other costs and how well are they optioning their projects to make sure that they achieve a certain cost outcome? Are they building contingencies? And so on. This isn't trying to be critical of council, saying that they're overspending. There are challenges. I think the capital expenditure review guidelines could be updated and it's something we've talked about quite a bit. If there's a concern about the cost of doing even small-scale infrastructure or large-scale infrastructure, are the capital expenditure review guidelines really driving down the cost? That's a challenge for anyone to say that they are.

The CHAIR: You mentioned developer contributions earlier. We also heard about the essential project list. Could the essential project list be changed to include social infrastructure like libraries?

BRETT WHITWORTH: If you do that, you're confusing and blurring levying new development for the cost of the infrastructure that is needed to make that happen with levying people for the provision of population-based services. Do you want to be levying the first development of the land for the provision of ongoing operational costs such as library books and so on? This is where the essential services list is—it's focused on what is the infrastructure that is needed to enable that development to occur versus what is the infrastructure that's needed to make that a nice place to live and the services that you'd expect that a council would provide. Some councils will argue that they want to levy the first development in order to get the libraries, the aquatic centres and so on. But if they do that, it will potentially lead to a situation where that first development is paying a substantial amount of money that would then jeopardise the feasibility of that development and you don't get the development to occur.

The argument to put contributions and to levy services on contributions is that rates don't necessarily recover enough money to pay for some of these types of infrastructure, particularly the capital where there's a lumpy up-front capital investment. That's where the concept of grants would come in, but, again, you're getting grants to pay for something that you then—how do you manage the operational delivery of it over time? This is not an easy area to just say, "Change the essential service list", and add it in. If the community thinks that libraries and aquatic centres are an essential part of new development and living in a new community, then maybe that's something that they have to contemplate through their rate base of paying for that and paying for increased rates and services. But the more you do that, the more you make both the new development and the ongoing cost of living expensive to meet.

The CHAIR: We've also heard a lot about depreciation in the inquiry. What changes would you say are advisable to depreciation?

BRETT WHITWORTH: I think that the Auditor-General has given you advice that the valuation and the concept of—well, there's a difference, I suppose, between valuation and depreciation. The valuation, whether it's on the basis of a revaluation methodology or a cost-based methodology—I think the Auditor-General has said that that is something that comes from the accounting code that comes from the Office of Local Government. Given that the Auditor-General has said that they have no reason to identify a particular methodology, we'll look at what is the best methodology. The reason that we have the revaluation methodology is that was the accepted standard when the international accounting standards were introduced and governments of all nature picked that up.

In terms of depreciation, I think the Auditor-General talked about looking at how you account for the chart of a council's accounts and how you report on, effectively, the bottom line, whether you should include depreciation or not. Again, I have no reason why an EBITDA approach would be—I don't have a concern about exploring that concept and excluding depreciation from that performance ratio perspective. But if you do that, I think it's also important to ask the question, how are councils valuing the use of infrastructure today that has a lifetime that's more than 20 years? How are they valuing the use of that? How are they valuing for the eventuality that that infrastructure will need to be replaced and ensuring that there is a reserve? If we start not thinking about depreciation and ensuring that there are reserves put aside to renew infrastructure, then we're going to be even more dependent on grant funding for the renewal of that infrastructure in the future when it needs to be replaced.

DOUGLAS WALTHER: That asset replacement planning is very important, and I think it can be linked to long-term grant criteria and certainty around what grants are coming. I think there has, in the past, been a moral hazard in that councils who didn't plan for the replacement of the significant infrastructure knew they could come to State Government and get the funding for it, whereas other councils who did plan for it were in a better financial position and therefore couldn't make the case as to why it needed to be State-funded. So I think you need to tie the asset replacement planning with certainty around future grant payments.

The CHAIR: Will the changes to the depreciation actually the make councils more sustainable?

BRETT WHITWORTH: It will make some look more sustainable on paper. Does it make them more sustainable over time? If they're not ensuring that they can manage their assets and manage the life cycle of their assets because they haven't created an appropriate depreciation methodology or created a methodology where they're saying we're effectively reserving money for the renewal of that, then it won't make them more sustainable. Again, we've got budget versus accounting concepts coming in. You budget to ensure that you can provide services using infrastructure that has a lifetime that can be managed, versus an accounting process that says, "This is how much we paid for this piece of infrastructure, and this is how much we value our use of it over time. This is how we demonstrate to people that we have factored that into the accounts that show whether we're an appropriate ongoing organisation."

For private companies, it's pretty easy: It's profit or loss. But for public, looking at a chart of accounts, you're talking about what is the public value that gets created, what is that public value that's been created in an ongoing sense, and how do you measure that through accounts? Some of that would need to be a reflection of the infrastructure that you're creating for use now and into the future and ensuring that future generations can still access and use that infrastructure.

The CHAIR: That is all we have time for. I thank you again for coming back and appearing before the inquiry. If there are questions that were taken on notice, the Committee secretariat will be in touch. No doubt you are also eagerly anticipating our report, so I will pre-empt that remark.

BRETT WHITWORTH: Eagerly.

The CHAIR: Thank you. That concludes the hearing for today.

(The witnesses withdrew.)

The Committee adjourned at 15:15.