COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL
PUBLIC INQUIRY

On Friday, 30 August 2024

Before:
Mr Peter Duncan AM (Chairperson)
Mr Rick Firman OAM (Committee member)
Ms Ruth Fagan (Committee member)
Mr Douglas Walther (Committee member)

Also present:
Ms Janet McKelvey (Counsel assisting)

Examination of Mr Peter Tegart (Always Thinking Advisory) under s263 of the Local Government Act 1993

CHAIR: Good morning. My name is Peter Duncan and I will make some opening remarks for today's public inquiry into Cootamundra-Gundagai Regional Council. The role of this public inquiry is to inquire into and subsequently report to the Minister for Local Government, the Hon. Ron Hoenig MP, with respect to a proposed implementation plan submitted to the Minister by Cootamundra-Gundagai Regional Council. The Minister has appointed four persons to be commissioners in this inquiry. They are Rick Firman OAM, Ruth Fagan, Douglas Walther and myself. Collectively, we are the commissioners and I have been appointed Chairman of the Commission.

In accordance with the Royal Commissions Act (1923), the application of which is referred to in section 438U of the Local Government Act, I have as Chair of this inquiry authorised my fellow commissioners to sit with me for the purposes of the inquiry.

Three of the Commissioners separately hold a commission from the Governor of New South Wales under section 261 of the Local Government Act appointing us to be members of the Local Government Boundaries Commission. The Minister has referred to the Boundaries Commission for examination and a report under section 263 of the Local Government Act, a proposal made by the Minister to council pursuant to section 215 of the Local Government Act to create two new local government areas from the existing local government area, having boundaries coincidental with the boundaries of the former Cootamundra and Gundagai shire areas, known as "the proposal".

Having regard to the institution of this public inquiry and its terms of reference, the Boundaries Commission has resolved to hold its examination of the proposal in abeyance, pending the finalisation and delivery of the inquiry report to the Minister. Following the completion of the inquiry, the Boundaries Commission will resume its examination of the proposal. The inquiry report is a matter that the Boundaries Commission can have regard to under section 263(3)(f) of the Local Government Act. I will now read out the record of the inquiry terms of reference:

To inquire and report to the Minister for Local Government with respect to the Cootamundra-Gundagai Regional Council

(Council) proposed Implementation Plan (comprising a Detailed Transition Plan, Task Schedule and Financial Sustainability Plan) as lodged by Council as a formal proposal on 21 March 2024 to create two new Councils from the existing Council including advising whether:

1. If the governing bodies of the new Councils were to implement the proposed Implementation Plan, would this create the potential for:

• a sustainable financial path for the ongoing operation of the two councils.

• strong and effective leadership in a manner consistent with the guiding principles set out in sections 8A, 8B and 8C of the Act.

• effective management of responsibilities relating to long term financial planning, public land management and provision of services.

2. The area of Cootamundra-Gundagai Regional Council should be dissolved pursuant to s212 of the Act to enable a proposal to create two new councils to be implemented.

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

The Commissioners may make recommendations as the Commissioners see fit having regard to the outcomes of the Inquiry, including whether all civic offices at Cootamundra-Gundagai Regional Council should be declared vacant.

I will now make some opening remarks. Ahead of this hearing, the Commission published on the inquiry website an information paper and a practice direction setting out the approach that the Commissioners will take in the conduct of the inquiry. That information paper remains on the inquiry web page. I have appointed Alice Beasley of the Office of Local Government as the departmental officer assisting the inquiry. I have also appointed Ms Janet McKelvey of the NSW Bar as counsel assisting the inquiry.

Submissions have been sought from the public in relation to the terms of reference. The inquiry will continue to receive submissions until 30 September 2024. Further information about making a submission can be found on the public inquiry web page. These proceedings and each day of all hearings will be webcast. This will allow the community to observe proceedings and to follow the evidence given

The commissioners hope that the inquiry will be conducted with a minimum of formality. However, anyone observing it and appearing should be mindful of the proposed purpose of the inquiry and be respectful of those participating in it.

I will now make some remarks about the terms of reference in the hearing today. As is the nature of terms of reference, they are potentially very broad. However, it will not be possible for this inquiry to look into every matter that might conceivably fall within the terms of reference. That would require the expenditure of an unreasonable amount of time and resources. And inquiry such as this one is not set up to make allegations against any person, nor has any person been asked to prove a case in the way that phrase may be understood in a proceeding before a court. So, it is important to note that this is an administrative, not judicial, inquiry. As such, the rules of evidence do not apply. The administrative law rules of fairness, however, do apply.

In essence, this is a fact finding inquiry set up to obtain facts. There is a requirement at law that any finding of fact must be made rationally and in accordance with the proper standards of satisfaction. That may vary, depending on whether the asserted factual matter is adverse to the interest of any person. But the inquiry will not determine legal rights. A public inquiry such as this can only make recommendations to the Minister. Any findings of facts that are ultimately made are expressions of opinion, but they bind no-one. No recommendations that might be made bind the Minister. The inquiry itself cannot implement or give effect to any recommendation it might make to the Minister.

The focus for the terms of reference is the council's proposed implementation plan. It is important for the council to take the opportunity of this inquiry to assist the Commissioners to understand its implementation plan. To assist the inquiry to understand the implementation plan, it is proposed on the first day, today, to take evidence from the author of the plan, Mr Peter Tegart.

Following today's hearing, the Commission will propose to then adjourn to consider the material alongside all matters which others wish to make in a written submission to the inquiry. Further evidence will be taken from council. Whether or not it is appropriate to put all submissions made to the inquiry on the public website is a matter for the commissioners to determine. There may be several reasons why a submission should not be published. These include that material may be defamatory or what was received was merely a submission and no more than that. In some instances, experience suggests that a submission may contain untested assertions that alone could not rationally form the basis of fact finding.

In this adjournment period, the inquiry will consider the submissions and what other evidence may need to be sought. After considering and determining applications by persons who wish to make oral submissions, noting the inquiry is not obliged to automatically give the right of appearance to all those wishing to appear before the inquiry, the inquiry will allocate further dates for taking evidence.

Ms McKelvey, as counsel assisting, is responsible for choosing the witnesses that will be called to give evidence to the inquiry, and the order in which the witnesses will be called.

At the close of the public hearings, the procedure to be followed will be: firstly, any further documentary information arising from the evidence received in the public hearings will be obtained; secondly, counsel assisting will make submissions on the evidence to the commissioners and she will suggest recommendations; thirdly, submissions in reply by those permitted to do so may be lodged by a date to be provided; fourthly, a report will be provided to the Minister, who will publish it by tabling a report before both houses of Parliament; finally, the Minister will consider the report and take such action as he considers appropriate.

Thank you. I will now hand over to start the proceedings to the counsel assisting Ms McKelvey, thank you.

MS McKELVEY: Thank you, Chair. I will call Peter Tegart.

<PETER TEGART, WITNESS

<EXAMINATION BY MS McKELVEY:

MS McKELVEY: Q. Good morning, Mr Tegart.
A. Good morning.

Q. Just to start things off, could you please state your name, your business address and your role in these - in the preparation of the implementation plan?
A. Certainly. My name is Peter Tegart. I am the principal in a consultancy called Always Thinking Advisory, and I was engaged by Cootamundra-Gundagai Regional Council to prepare the demerger implementation plan and the sustainability plan.

Q. And am I right to understand that you provided on Wednesday at summary document?
A. Yes, I did.

Q. Which is this document. I understand that each of the commissioners have that document. Was your intention to take us through that document before I ask questions, or?
A. If that's of any assistance, just to give some headspace to early, early findings and that may give rise to further questions.

MS McKELVEY: If the Commission is content for me to allow that, then I'm content for that to occur.

CHAIR: Yes.

MS McKELVEY: Q. I will preface, before you go through

that, Mr Tegart, that the emphasis of today's inquiries by me will be in relation to the mechanics of the implementation, in particular, the status of the phase two inquiries that need to be made. There are some questions that need to be answered about that. The particular detail about the financials, your overview would be of assistance and it may be on another occasion that we have to get into the detail of that financial material.
A. Happy to assist.

Q. Okay. If you'd like to perhaps take 10 or 15 minutes --
A. Sure.

Q. -- to go through your presentation --
A. Thank you.

Q. -- so that we can go from there.
A. Thank you. And Chair and commissioners, thank you for the time today. If I can take the opportunity just to introduce the idea behind this preparatory paper, it was just to alert the commissioners, Chair, to the broader issues initially facing regional and rural councils in their financial sustainability.

I will alert you to the process I went through in constructing the task schedule and the demerger implementation plan. Some of each, and I note in part C of the term, the reference there can be other matters that the Commission may want to bring forward to the Minister's attention, and I think that's appropriate given the context of both the State and the Commonwealth undertaking financial sustainability inquiries into local government.

Without going throughout slide-by-slide, the obvious ones, Mr Chair and commissioners, is the legislation binding councils to ensure that they are in fact sustainable. Unfortunately, the several decades, we have seen of course rate pegging and other matters influence the ability of councils to provide so that I am particularly concerned, given the work I do amongst rural, regional and coastal councils across New South Wales and Queensland that this is a common issue and more of an issue for those councils compared to metro, in my view.

What's important is, on the second slide, is that OLG have expressed their expectations for a demerger, which is far more explicit in my view than what has been the case in previous discussions around sustainability: council must have appropriate cash reserves, council must be able to fund their capital expenditure going forward. And they are certainly all the hallmarks that one would expect of local government. Unfortunately, the metrics that local government uses, or OLG uses, don't help inform their real status at any particular point in time. We tend to use lag indicators rather than lead, and often councils are in trouble for what happens.

I wanted to point out as well particularly for rural, regional and coastal councils in my view, the primary responsibility of councils is looking after existing infrastructure, assets, facilities and utilities. They are the cornerstone of sustainability for local communities and economic enterprise. And to that extent, the very basic tenet of taxes, taxes being general rates and annual charges for the utilities, should in fact entirely fund the maintenance, operation and renewal - this is called appreciation - of assets. In remote, rural and regional and coastal councils, they clearly do not. Metro councils, it's an inverse relationship. And I just think that's a fundamental issue that the Commission may want to also consider under part C of the terms of reference.

On the fourth slide, I speak about the pressure on local government. You can read, Chair can read those at your leisure. But the issues fronting many councils in the last half-dozen years has been consequent to the combination of natural disasters and COVID, where councils were caught on the hop in trying to rapidly put together applications for funding, where grant estimates were undercooked, therefore they have now found gaps in those costs going forward, and indeed they didn't have the capacity and capability to deliver on many of those projects, and hence those costs have escalated even further, given the enormous inflationary pressures on construction and development activity in the last few years.

Chair, could I also bring to the Commission's attention two of the other enduring issues facing local government has been the non-transfer of regional roads back from local government back to State government, and likewise the retention of Rural Fire Service and State Emergency Service assets. Now, I know that's part of a separate inquiry, but if I could bring your attention, in Cootamundra-Gundagai's case, I've been advised the cost to council of looking after regional roads and depreciation is $600,000. And that number could be multiplied many-fold for many of the other rural and remote councils in New South Wales.

The next three slides, Chair, is just for information. But it just illustrates - and this information was provided to both the State and Commonwealth inquiries. I was fortunate to be witness to both of those inquiries as well. It just illustrates at the bottom left-hand corner of those three slides for rural, regional and metro, the comparison of what is the general rates that are raised, compared to the combination of the maintenance and the depreciation expense for general assets. And clearly, there is a gap, and that gap ordinarily would be expected to be taken up as the grants that should be derived through the grants commission or through financial assistance grant funding or through roads, bridges and other forms of funding from the State government. And therein, in a nutshell, lies the basic responsibility of assets: do you raise enough taxes to meet the cost of your assets? The answer here is no, in these samples. And then secondly, is it an appropriate signal for the level of public funding, through grants and other measures, to assist those councils and be sustainable, to look after the infrastructure to an appropriate standard, appropriate for those particular communities. And again, that answer is no.

So that's an issue that I'm happy to dwell on further at a later stage, but going on past the slide called "CGRC Financials" onto the topic called "Financing CGRC", Chair and commissioners, here is the issue with CGRC as it stands: bottom left-hand corner, the general rates raised, based on FY23 financial statements was just a touch over $10 million. The combination of the council's maintenance and depreciation expense is 17 million. That's a gap of $7 million. Now, we do accept that in FY23, like FY22, was a wet year. So there was a heightened level of maintenance, potholes, grading of roads, mowing of fields and so forth. But the picture is still clear over several years that the council, like many others, is unable to raise sufficient taxes to meet the cost of its assets.

The second feature, again which is very similar to many rural, regional and coastal councils, is the inability of the councils to gain and retain appropriate levels of working capital. Now, that's a figure that OLG does not require estimation of. In my view, it's an important one because it measures your bank account, the extent to which you have enough cash to pay your outgoings in the three months between the big instalments of funding, which is called the rates instalments, and the financial assistance grants instalments. In my view, therefore, a council should have between 15 and 25 per cent of cash available to pay their outgoings, in turn building confidence in business and community that council can pay its way.

In this particular case, the combination of the unrestricted funds and internal reserves barely covers the cost or the estimate for what would be working capital for this particular council. But again, that is very similar to most other councils across the state. But now befalling this council and many others, who have been surviving, frankly, on the grant - high levels of grant funding, both in terms of disaster recovery funding and grant stimulus through COVID, the councils have been able to mask what has been their underlying financial position. And that is now coming to an end, because finally, probably this financial year now which be the last year most councils will have had - expended their final amounts for disaster recovery funding.

As a consequence of that, they have in several years been overstating the renewal to depreciation ratio, which means that they have looked rather well. But the reality is most of these councils, including CGRC, does not have enough of their own cash to pay for the renewals, which is expressed as a form of depreciation each year. So there is another hole starting to emerge for this and many other councils. And so, particularly towards the demerger question, and my view, given there has been an improvement in working capital for this council, and there has been a stabilisation of internal reserves at least, that without the government supporting a demerger, at my estimate, of about $3 million, that would immediately erode the future sustainability of the new councils going forward as well. And that's a matter that I think we should discuss at a later point.

So then, Chair and commissioners, onto the particular matter of specifically to CGRC sustainability, I draw you to a table that was prepared by Treasury Corp in the early years of this decade - sorry, the last decade, I guess, when most of the councils went through a process called, "Fit For Future" or "Destination 2036". And Treasury Corp at the time did an assessment of all the councils across the State pre-merger, of their sustainability rating. Now, there's a rating which goes from distressed through to strong. In reality, in my view, most councils across the state moderate or oscillate between weak and strong. The table I've provided you there pulls out the key drivers or indications of the strength of a particular council. It talks around their ability to meet short, medium and long term cash arrangements, the ability to absorb shocks, the ability therefore to moderate services in the asset offer, if required, and indeed what sort of impacts would be on their deficits going forward.

Mostly, rural and regional councils are in a cyclic deficit. Some of in a structural deficit environment. My assessment of Cootamundra-Gundagai, it's currently in the moderate setting, because in my estimations, Chair, the council has been responsible, in that they have really screwed down their asset and service offer. Yes, they have been supported by an abundance of grants, and they've used that wisely, but the time has come when that is no longer available, and like most councils, some further decisions are required to be made. In my estimation as well, working with the councillors through a number of workshops in the demerger process, it's likely that Cootamundra Council, should it be formed, would retain a lower level, but still just within the moderate risk rating, but Gundagai is likely to fall into the weak rating. And that's partly because it has such a low rate base and a large asset base that it must support.

The next slide, Chair, then talks to the range of interventions, of which we count to 12. That was considered by the council Leanne Bish, and ultimately used to move the councils in term 1, which is this term, through a number of interventions to a moderate risk rating and then to a sound risk rating in term 2. So this is an eight-year program, or seven years as it is now. That means across their 10-year financial planning horizon, they should achieve a balanced budget. There will be some years of deficit, some years in surplus, but on average aiming for a balanced budget. In that period of time, they could - should continue to work and build their working capital, that's the combination of unrestricted cash and internal reserves, to enforce that they are capable of paying their way, rather than relying on other interventions of government.

We should be very careful in looking at how well the assets perform by subclass of asset, because they in turn will have different renewal requirements, different depreciation expectations, and that will inform whether the council can make some earnest decisions around not renewing some assets, because they are in very good nick. And a lot of their roads are in very good nick as a consequence of disaster funding to date. But other assets require interventions early. And so, we need to moderate that a little bit.

What is clear is that both councils - let's say all three councils, CGRC and the two new councils - will require a special rate variation. That's particularly to build their capacity towards covering off their taxes, covering the cost of the assets, operations, maintenance and renewal. But equally, in my view, they are behind benchmark to other councils in terms of their average rates, given the spread of services and the size of the asset base that both the new councils or the current merged council needs to cover.

Likewise, CGRC and the new council would need to invest in their utilities, water and sewer in particular, because augmentation is required. And to that end, that will require further assistance from the State government, through their grants system, to support augmentation of water and sewer. And that should be informed by an integrated water cycle management plan and a strategic business plan, which I understand they're preparing this year.

So the sustainability plan for the new councils and CGRC was premised on ensuring that the focus remains on assets, and some more conservative decisions would be made on services.

On the next slide, called "Measures", is a better - in my view, a better version drawing on the current OLG indicators and those measures set by Treasury Corp to assess the sustainability of all councils. I can talk to those at a later date, but fundamentally, that is the tool by which or is the barometer by which at a glance we can assess how well a council is travelling at its current state and where it should plan to be at the end of term 1 and term 2.

The slide called "Grants" is just an indication to the Commission, Chair, that - what are the types of grants. The reason I raise that is part of, I would hope, under part C, the Commission may wish to recommend that we, the Government, be clear about what is allocated grants, whether they're tied or untied, and competitive grants. Councils spend a lot of effort in applying for competitive grants and often fail. In the rush to complete those, they often undercook their estimates, they don't appropriately allow for future project management and asset management, and they're left holding the baby, which and - they either need to rescope the project, hand the money back in some circumstances, or find money from somewhere else. And that's not helping the sector at all.

The next slide, again this is for information about finances for councils, Chair, is on pricing. This is my very simple back-of-envelope tool to guide what should be funded through the public - for public good assets and services. The taxes should pay for those. Compared to the other end, where councils can be involved in providing private good services and market good service, and they should get a return. Unfortunately, most of the regulatory good services are capped by State government, and therefore the rates of recovery or rates of return are marginalised, and it's difficult for councils to find any other funding of any value or any significant value other than taxes to pay their way.

Cootamundra-Gundagai is in exactly that situation. But working with the councillors, and again they were very earnest through these workshops, led through the interim general manager, they did go to the trouble of working through what is our current service offer, what is those - what is the mix that should be recovered through a public good, shared good, market good and utilities. Therefore, that signals to the community, and to government, frankly, how we are going to in the future aim to recover our costs either through taxes or fees and other charges. It also signals the extent to which grants may be applied for to cover those gaps, particularly when those services might be subject to programs under offer from government

The next slide, Chair, is on funding transparency. And it's my view that the community would expect that their taxes should go towards assets, and it's up to the council to determine with the community what is the appropriate fit-for-purpose and functional form of assets that is affordable to that particular community. And therefore using charts such as you see on the slide, a chart to differentiate where the funding comes from for rates and annual charges for assets, where the funding comes from, from the base rate and services and grants for services, where the gap is, very clearly therefore where decisions need to be made in terms of altering revenues or altering levels of service.

The next slide, I'll leave to the Commission, Chair, to read at your leisure. That's my assessment, crudely, based on Special Schedule 7 of the financial statements. The council last had an asset plan prepared in 2018. So therefore, pending the next revaluation of roads, which is scheduled this year, we'll get a better handle on what is the actual condition of assets, what's the likely change to the depreciation profile, and therefore what is the likely renewal expectations for roads and bridges in particular over the next few years.

The final slide under that part of the sustainability talks to what is called Special Schedule 7. Again, under part C of the terms of reference, I would hope the Commission may wish to suggest that Special Schedule 7 is revised, improved and audited. At the moment, unfortunately across many councils the numbers aren't well understood, but basically Special Schedule 7 should be the asset management plan on a page where it signals the actual condition of the assets; it signals which of its assets need errant backlog, which is called condition 5, need to be replaced. "Replaced" means brought back to new, or condition 1.

Condition 4 are those assets which has notionally reached its intervention level, where it requires renewal back to a good condition, and so on. And we can compare the consumption of the assets, which is written-down value, divided by the gross replacement cost, which is the revaluation value. We can assess how well the council has been managing assets based on condition and consumption of assets.

Mr Chair, I'm then happy to take you through, if you wish, what would be my view of the apportionments and numbers of CGRC through to the new councils, pending your counsel's view on if you wish me to take you through that.

Q. If you could, that would be useful, I think.
A. All right. So with that, the council worked diligently to assess, based on the criteria you see on slide titled, "Apportionment", what would be the distribution of assets, liabilities, reserves and staff, should a demerger take place. Now, bearing in mind, Chair, we were working on FY23 financial statements, we were in the middle of FY24, and of course we're only now starting to see the numbers emerge from FY24. I therefore recommend a reassessment of these numbers based on FY24. I'm happy to assist with that, should that be directed.

Secondly, there is clearly an apportionment that is available, based fundamentally on where the assets lay, where the liabilities rested at the time of the original merger, and where staff currently sit, is how the distributions would take place. However, I understand from advice from the council that OLG, from their own assessments, had suggested up to 10 additional governance and compliance staff were required between those councils to meet the current compliance standard.

Now, we do know from this financial year, all councils are required to establish and/or review a risk management framework, establish audit risk and improvement committees, and indeed, is likely to come under the gaze of statutory compliance audits. So that's perhaps where the government was going there. So the chart there simply indicates what would be the apportionment of the assets - plant, buildings, roads and the like - and the apportionment of staff between the current council, and indeed suggesting that there could be between 10 and 16 additional staff required, should a new council be created.

The reason for that is you will be duplicating the executive, you will be duplicating specialist roles such as a CFO or a head of technology, and therein rests the test, that to what extent is the council, the new council, prepared to share some of those specialists or share some of those facilities, such as landfill or transfer stations, to ease the pressure on duplicating those particular facilities or those resources.

The next slide, and the next few slides, Chair, talks to each of the new councils. So rather than use the income statement format that all councils tend to use in their budgets and their operational plans, and the reason for that is it's convenient because that's the means by which they report in their financial statements, I took the view that taking the pressure of depreciation out, the ultimate test of a sustainable council is how healthy is your bank balance? So the combination of your investments, which tends to be externally restricted funds, which are unspent grants or funds you held/holding for water, sewer and waste, so movement net of those particular reserves should indicate how healthy the council has to pay its way and deal with financial shocks in the short, medium, long term, per the risk ratings set by Treasury Corp.

So this particular - I'll talk you through this document. I've separated each of the council's accounts into an operating account and a capital account. That way, we can differentiate very clearly what's the difference between the operating income, operating expenses excluding depreciation, and therefore how well can the council raise funds to pay its way in day-to-day operations.

In this particular circumstance - and importantly as well, this particular model, while it articulates what are the types of rates, what are the types of annual charges, user fees, and allocated and competitive grants, it does at least indicate the extent the funds of council will be applied to asset management, asset maintenance, to renewals and the like, so that there is a clear, "Here's what we're raising, here's what we're spending." At the moment, most councils publish, "Here's what we received, and we spent it on employment costs and material costs." So this is a bit more transparent to the community about where our funds go.

What we're seeing here under this particular preferred scenario approved or suggested by CGRC was Cootamundra would require an early intervention for two years of about a 7.5 per cent special rate variation, as well as an uplift. You can see in the column called "Growth" an uplift in the yield from their user and other fees. And at the same time recognising that assets still need more money spent on them, particularly around maintenance, and their operations, because that is the fundamental responsibility of local government in particular in rural and regional areas of New South Wales.

So to that extent, you are seeing a growth, an uplift, in the expenditure on assets, but you are seeing a flatlining in service costs. Now, as I said earlier, CGRC has gone to a lot of trouble in really dampening down their exposure and scope of a lot of their human, community and environmental economic services. Hats off to them for doing that. And to continue that trend, the service growth has been flatlined.

Now, what that means, Chair, is that when the council prepares its long-term financial plan, either in its merged state or the new councils, whatever they then index their fees and their rates by, that notional monetary value will be the equivalent of the amount of money they can then spend. So we're growing the yield through rates and user charges, we are flatlining their other costs, and the amount of money they can then spend to maintain the discipline of the sustainability plan is what is the indexed value of increased fees and charges from the year. And that requires discipline to keep those service costs within that.

The second page then is the capital account, which talks this way: the council continues to expect to get block grants and Roads to Recovery grants, which will entirely be spent on renewal of assets, that's the government grant support, and to varying degrees it will aim to renew its general utilities and plant assets at either 80, 90 or 100 per cent per year. To explain that, the benchmark required of OLG is that a council on average should be renewing its assets at the same level as depreciation. This particular plan varies that each year because we currently believe that the road and bridge assets are in good nick following disaster recovery funding, that it can sustain a lower level of asset renewal in the early years of this plan, but restore it promptly in term 1 back to 100 per cent.

However, even with those interventions and with the current levels of loan payments for Cootamundra, the total cash movements still is negative throughout the - those years. So further decisions will be required of the councils, new councils, going forward. Now, it's okay. This was designed not to produce, you know, happy days without significant impact on communities. It was trying to balance it out. It is appropriate that every council across the state has a certain budget tension, so that they need to make decisions that appropriate for the community on the day where they might pivot between spending money on assets or services or staff or contracts at any particular point in time.

So this particular council still has - new council - still has decisions to be made. And that's manifest in the next slide, called "The Cootamundra Gap". The key one here is even though the general rates are increasing, the amount, the gap in where the rates cover the cost of assets, is still at least three quarters of a million dollars a year at the end of term 2. So that still requires some decision of the council to make investments in their assets, or make some adjustments after the road revaluation and asset plans have been prepared about what is an appropriate asset management plan-led level of renewal upgrades, or decommissioning or obsolescence of other assets. Like many merged councils, there is a duplication of halls, pools, depots and other things, and the call needs to be made. It's not - it is unsustainable to continue to main taken all of those, particularly with low patronage, but that needs to be a discussion through the IPR process, integrated planning and reporting process, for those communities.

Then, Chair, onto Gundagai. It's the same issue, but it's a harder, harder ask. And that means there are three interventions of over 20 per cent per year uplifts as a special rate variation, as well as a significant uplift in utility annual and user charges, again to pay for those future augmentation of those utilities. But the other principles remain the same: growth in annual servicing, annual maintenance, cost of assets and expected growth in depreciation. We also like to look at is the taxes of council increasing at a greater rate than the growth and depreciation each year? The answer is no. That is another test that we need to administer to all councils, in my view, across the State.

But Gundagai, as you can see through the second page, under the capital account, because Cootamundra would, I understand, continue to look after the RMCC contract for the regional roads, it also is still suffering or enduring a deficit. Now, they are sums that can be dealt with. So I'm here to say that both councils could be demerged.

There is a process by which we'll discuss at a later point, no doubt, how that may happen, but there are significant interventions beyond those that are proposed today, that would be required of both a new council through their own asset planning, service planning and financial planning.

And then, of course, the next slide again, "The Gundagai Gap". Over three quarters of a million dollars again is the gap between the general rate taxes received and those general asset costs.

So in summary, there is the capacity that Cootamundra would probably be in a better position compared to Gundagai, should the councils demerge. Again, that is subject to their own councils' views on taking those councils forward. It would require, in both councils' circumstances, a revision of their service offer, a revision led through their asset plans of their asset offer, including the standards, any forms of obsolescence or running to fail of some of the assets, and the rates of renewal.

And importantly, Chair and commissioners, depreciation is considered the bogeyman in the sector, but it's a very important measure, because when I started back in the late 1970s, this wasn't around. It's when the financial assistance grants came into being, it's when rate capping came into being.

And the purpose of depreciation was to draw to the attention of the community and councillors, are you spending appropriately on replacing and renewing the assets that you have responsibility for? Because unfortunately in the 80s and 90s, that was a let - you know, it was always easier to take money out of the big pool called "roads". And that's why we led to the backlog in 2006 with the backlog of assets in New South Wales.

Chair and counsel, I'm happy to pause there if you wish, or continue on onto the demerger transition plan.

Q. I'm content for you to continue if the Commission is. Yes.
A. Wow. Well done. Well done.

CHAIR: You've done well.

WITNESS: Okay. So that's a very, very quick snapshot to give you some headspace around how the financials work.

MS McKELVEY: Q. We'll be coming back to those, just to warn you.
A. Yeah, no. Of course. No, no, no. So yes, the demerger plan was constructed in three phases. We've certainly gone through the scoping element at the moment, and should this proceed, we would then go into a planning phase, a second phase. Now, I want to ensure the Commission is aware that this is very different, a demerger is obviously very different to a merger. A merger is, "Bang, you're now together. Sort it out." A demerger is, "Sort it out before you split."

And I formed that view because a lot of the administrative work has to be done so that you have a legal entity from the day of proclamation, you have organised the accounts, you have organised the attributions, you have organised staffing, all and any industrial arrangements, any interim arrangements for organisation structures, engagement of new GMs, the separation through the banks of all the banks and other instrumentalities, the separation of the assets, separate delineation of those which will be ultimately organised through the final year of the financial statements, whichever date that would occur, and in my estimation that's a minimum of nine months repair.

The implementation plan was designed to ensure that the new councils arrive on a solid footing. That would require the current council, CGRC, to in fact prepare the service of - catalogue of its service offer, where it would articulate what's the levels of service and the costs therein, so the new council can make decisions around whether they ramp up or down those levels of service or in fact withdraw or expand some of those services offered.

Likewise with the benefit of the new asset management plans, which are required to be done, and then used strategic business plans under integrated water cycle management, those three big documents should be done before the council's created so they have a solid footing where they know the assets that they've got, their location, their condition and what the renewal and replacement profiles look like. It's from that, that a sound and robust financial plan may in fact be crafted for the new councils, because this is simply a sustainability plan setting the principles that the council should follow, but the detail of which, the forecasting of numbers, would be embedded in those own councils' financial plans.

And there are a number of things then that would be undertaken by the new councils afterwards, but it is important that the Cootamundra-Gundagai would bear the estimate of $3 million to set the new councils up, and that the new councils would then share the loss of those internal reserves, should the councils have to pay their way themselves.

So that's the three phases. That's the explanation, and it's not a case of divide and go forward, because there are no people to do it. There is no GM, no executive, no other administrative arrangements. And legal arrangements, for example, with State government, RMCCs, require the differentiation to commence from the date of proclamation.

On the next slide is just a schematic to illustrate the process. To date, we've worked very closely with the councillors in preparing the demerger transition plan, the DTP and the financial sustainability plan, the FSP. We'll work to this point, assuming that the Boundaries Commission would have met, and we appreciate and thank you for meeting now.

And then once a decision's made to proceed, then the council would need to establish a transition project management office, that's the TPMO, whose role then is to start to work on those apportionments of assets, liabilities and staff, engage appropriate specialty expertise, particularly around assets and HR, and some financials, so that they can start the industrial process of distributing staff, setting up agreements, any arrangements, recruiting appropriately, engaging any specialist expertise to do the asset and other works suggested in the task schedules, and then for a period of time - and it could be for three months, commissioners, that the interim GMs of the new councils would be in place while an interim GM still remains at CGRC, while the recruitment takes place to establish those new councils so they can commence from day one of the proclamation. So it's a far more complicated process as compared to a merger, is what I'm trying to press upon you.

To do so, the suggestion was to organise/establish a government structure, which does bring all levels of government into play. One, of course, is the decision-making rests with the current or soon to be elected group of CGRC councillors. They are the ones who would need to make decisions on the asset levels, the service levels, on behalf of the new councils going forward. They would be the ones who would recruit the new interim GMs for the new councils. There would need to be a legal mechanism by which those interim GMs could be established even though they haven't officially been proclaimed until their proclamation date.

Through the current CGRC interim general manager and the executive, there would be a project manager's office established and there would also, of course, still be normal operations continued. The transition plan was organised in such a way as to articulate what would be those small rats-and-mice items that existing staff could undertake, compared to the larger, more complex or detailed elements that would require separate recruitments, either specialty staff or consultants.

But clearly, the idea would be the keep the government and the minister engaged from that process, through the steps, while the planning phase is undertaken, and to use the audit risk and improvement committee has a moderator or a reporter on the council's progress against that particular plan for the benefit of community, council and the government. And the final row there is engage the staff; they have the certain local knowledge and specialties so that they will be involved as what are called "working groups" around risk finances, HR, assets and so forth you see on screen. So that would be the suggestion where there would be certain delegations from the interim general manager to the transition office, and then that will be coordinated through the various groups on the council.

The transition plan itself was organised this way, on the next slide called "Elements". And so, I - to explain it, Chair and commissioners, I basically reengineered the OLG merger schedule. And so, converted that into a live document, which went to understand what were the risks in each of those tasks, what were the dependencies in each of those tasks, who was responsible for those tasks, what were the indicative time frames to complete, and then a reporting mechanism against that, about - to get sign-off from each of the responsible parties that we have undertaken that, so we have a record that things have been progressed accordingly. Let's just say this is a learning from doing the merger, who you need to do, should you do another merger or a demerger. And so, to the extent of each of those tasks, identified whether they would take less than a week or a month and a quarter and so forth, depending on the time to procure the expertise and the engagement that might be required with council and other parties, and so the estimates were then created on how long those times would take.

So the right-hand box of that particular slide, I estimated which of those tasks would be undertaken by existing staff, which would need to be recruited in as temporary staff, and which would need to be recruited as specialists or consultants. And therefore, that guided my estimations of how many days across the time frame of one month, one quarter, six months or otherwise. On those bases, assuming an average cost of staff of $80,000 per year and a consultant cost of $2,500 per day, as well as a bit of contingency, that's how I arrived at the estimate of between $2.5 million and $3 million to plan and implement the demerger.

So, as I said earlier, Chair, under slide titled "Preparation, in my view these are some of the critical paths that should be undertaken, get the asset managed plans up to speed - the last ones were 2018. While it was a good document at the time, it needs update, particularly with the disaster recovery work and existing cost schedules, because they've escalated significantly since those days. It would be very clear that the current group of councils prepare and catalogue the service and asset offer from which the new councils can then leverage and decide what their different offers may be, and what the price of them might be around that.

Can I say, Chair, the biggest single cost is going to be IT. The council has worked with the ERP provider, Civica, who has made some suggestions around how that might take place. We understand Civica has some models that they use in Victoria, where they can provide a single cloud offer and they can firewall between two or more councils their chart of accounts, their transacting payrolls and procurement. So it means that it's not a complete duplication. There's an increase in cost, but it's not a doubling of cost. And the estimate here was in the order of $400,000. That disentangling, as they called it, will take nine months, and so therefore that's also how we arrive at nine months to get all this other work done alongside that.

And we can't of course ignore the staff. We all learnt from the merger process the impact change has differently on people, and community, and so there should be an investment in change management and working with staff to understand how a demerger can work and how they can grow from it, rather than how they might suffer through it.

The next slide, Chair, is titled "Tasks". It's just a snapshot of how that schedule works. Again, we have designed, we have organised the task under those broad groupings: finance, assets, people or otherwise. We've numbered and titled each task. We've indicated the extent to which, and we can provide some cross-references, because there are some that have a co-relationship. We indicate the extent to which there is a criticality for that to take the priority, if need be, the extent to which it may influence a register, because a lot of councils don't have an asset register, a property register, a debit register or an investment register. So that needs to be established for the new councils going forward. It indicates if there are any dependencies; that's yet to be formalised there. And the indicative time frames.

So that's just a - and I understand you've been sent a copy of the full, big task schedule, so that's just an indication of how that operates. But importantly, that allows the assignment to individuals and/or to working groups, and the sign-off once those particular tasks are complete.

To talk you through the estimates, the next slide, so bundling down all of those estimates using the thresholds or the parameters I spoke earlier, $80,000 per staff, $2,500 per day for a consultant, I have estimated the number of FTE that would be required to be engaged in addition to current staff for that period, being 11. And it will require some secondments of existing staff as well. And part of the reason behind that is yes, they have expertise. Secondly, an assumption that some of the projects or other programs that council would undertake should be narrowed to release some resources to undertake the demerger tasks, but equally so that they can hit the ground running post-demerger, that they've learnt on the way about what's going on.

So, and of course we see a number of days for engagement of consultants, so that's the estimate, including contingency, of around half a million dollars, an estimate of about $3 million to complete the planning and implementation phase for the demerger.

Significantly as well, the next chart below there is we don't know what would be the expectations of the minister and of the unions around any protection arrangements for employment for staff through a demerger, as was the case with the merger. There are significant costs that emerge should there be a shedding of staff or a rat run of staff as a consequence of a demerger. That churn can be significant on the impact of a council going forward, new councils going forward. It can be a significant drawdown on the council's reserves, called employee leave entitlements. And that in turn may also cause some financial issues for councils going forward, notwithstanding any normal process of keeping the ship running while a demerger takes place.

So, the chart at the bottom right-hand side indicates that there could be up to 16 additional staff required. Frankly, that was contested, and rightly so, by CGRC. Council felt they had recruited some compliance and governance staff in the intervening period when OLG arrived at that number. But notwithstanding, there are certainly, you can see, some additional executive and specialist staff that would be required for each of the two new councils and an estimate there of that cost is in the right-hand column for you.

And of course a rural and regional area, Chair and commissioners, we like to apply the pub test. At the end of the day, this would improve representation, but not significantly in some respects, and not to the point that it's any different to a lot of similar-sized group 11 councils. At the end of the day, part of the sustainability rules of council, we saw at the very beginning of my presentation today, was around how well a council can sustain financial shocks and indeed how well they can smooth out any impacts of future financial shocks through special rate variations or other increases.

But the bill shock is an element which should be a test for a council going forward. We know there will clearly be duplication of some staff, particularly in the management and specialist areas. There, no doubt, as a consequence of the merger, there would have been an expectation of across both the Tumut and Gundagai communities, "We've now had an uplift in assets, we've had an uplift in service offered, we've had an evening out, to an extent, of that service offer across the two former LGAs. We'll keep that, thanks." Well, frankly, that offer may need to change once the two new councils are formed, and that may be at odds with the expectations of community as of today. And of course, a very difficult decision is made about how do we differentiate roads, people, and where do we assign any savings or generate savings as a consequence of demerger.

What was very clear, and the councillors at CGRC were abundantly clear on, any successful demerger will depend on agreement, and probably contracted agreement, on sharing of resources, sharing of reserves, resources, and sharing of facilities. And there's a list that we'll come up to in a moment.

And then the next two or three slides is a summary which you can read at your leisure about what was the nature of the drive, what we call the pathway to sustainability for the new councils, and frankly for CGRC itself. Again, balancing budgets, strengthening the tax base, improving working capital. I'd continue to use community engagement, community surveys, so moderate where the community thinks you need to spend more money, what's their level of satisfaction compared to their level of importance, try to engage NGOs or community groups more to help to spread out the load. The trouble is, of course, with many rural and regional councils, it is the last survivor of public service. So when a form of aged care, childrens care or health care retreats from a local government area, councils tend to step in. You know, free rentals, paying for subsidised accommodation and other things to get those particular services into an area. But importantly, it is crucial that council maintains and develops working capital to pay its way going forward.

There should be some decisions made about recycling or decommissioning some assets. This duplication has been a bogeyman of mergers going forward. But equally - and it's difficult for all councils - there should be an investment in organisational maturity. The extent to which a council is well-equipped to deal with assets, project management, contract management, people management, IT, financial. They're all the skills that should be resonant inside a council to varying degrees, but sadly get stripped out with the spectre of mergers and demergers. And an investment in that type of maturity is very important, but I respect from a political point of view if there's a pothole out there and a request to spend money on the development of a system here, we know what's going to win

I've raised the point that Gundagai, I understand, had a benefit from the harmonisation of rates. That, I understand from numbers produced by OLG, was in the order of three quarters of a million dollars. So there would be an immediate expectation to restore Gundagai rates to what they were pre-merger, as well as then elevate that to appropriate - with appropriate SRVs to help their sustenance going forward.

Critical to this is that councils will only spend on upgrades to the value they have received in capital grants and contributions. They should scope those works to be equivalent to those grants, and equally build policies around grants that, if the program or project to which we have applied or received funding from the government, if we are unable to scope it to be equivalent value, if at a point where that becomes out of balance, we either hand the money back or we de-scope it, or we find - because the issue is that councils fall into the trap of having to find funds they don't have to meet the ambitions of government, bearing in mind grants are often delivered to deliver an initiative or a program of government that the council may or may not particularly want, notwithstanding they have to apply for those in a competitive environment.

And of course all those councils, including Cootamundra-Gundagai, went through disasters. And government, both levels of government, spend hand-over-fist on replacing and renewing the same assets, washed out abutments, bridges, roads. So there are a number of treatments to build resilience into assets. You can't flood-proof or fire-proof many of them, but those investments should become part of any council going forward, and we would urge that to be included in the council's asset plans and perhaps pre-design some estimates for those particular assets that are vulnerable, likely to cause issues with evacuation and safety of people during a fire or flood disaster, because that also in my view is an element of sustainability of a local government.

And the last slide there about the "should dos", they're all the particular my view about budget reporting formats rather than income statement, that having a clear operating account and a capital account. You can see how those balance up without the impact of depreciation.

So, Chair and commissioners, onto the topic called "Decisions and Capability", it's clear that the bulk of the effort will fall on corporate staff: governance, HR, risk, finance. It's beyond them, with the current staffing numbers they have, and does require bringing in resources to assist or backfill the rolls that might be undertaken for those particular staff. We need to respect that demergers create uncertainty, like mergers. There is likely to be a higher level of churn. It's very difficult to retain specialist staff in councils of that size, particularly when there's that spectre of a demerger, a yes or no hanging over their heads. And indeed, I said earlier the erosion of the employed leave entitlement reserve could be an issue, given it's only just meeting thresholds at the moment.

As I said before, I estimate a nine-month period, yes largely led by the estimations of Civica, to do the disentanglement and configuration of the new IT systems for the new councils. And on the bottom of that screen there, I've - slide, I've indicated the types and numbers of staff that would be increased to create the two new councils.

At the end of the day, all regional and rural councils need to have an appropriate level of operational, administrative and specialist staff to deal with emergencies, because councils are called upon to bring out the graders, bring out the backhoes, deal with traffic control and provide evacuation centres during what will be another inevitable disaster.

The next slide is, you know, thankfully the councillors were gracious in their acceptance that any demerger needed to be heralded by a mix of shared resources and services. You can see and read those at your leisure on screen. My suggestion is that they would need to be bound inside a service agreement, where at least that boundary is for at least one, if not two, terms, because the benefits of which you would not gain until that time. I would draw the Commission's attention to an audit office report. Look, I think it back in 2018, when they did a sample audit of resource sharing. It was not a pretty picture, and so there would need to be some robustness through a contract or binding service agreement to keep any potential gains from that to be revealed.

On the next slide, called "Records and Assurance", it is important that we do capture the costs of demerger, because that becomes a debt on the new councils, which is fundamentally a reduced reserve or working capital balance unless it is the subject of a government grant, or worst case a loan, an interest-free loan. And but equally, it's important to provide assurance to the councillors, community and government that we are going the way that we said we are going to go through - and I would suggest that would be largely led through ARIC. And that would mean that much of the ARIC work would be diverted onto monitoring this process rather than doing normal, internal audits in that next 12-month audit plan.

And the last slide there, Chair and commissioners, was just some suggestions for consideration by the minister, should a demerger be pursued and a proclamation framed. And that may include, Chair, accelerating any notion of increased revenue through a proclaimed form of special rate variation, rather than an IPART-based one, because this work is demonstrating the basis of what an SRV would be for. There will need to be some legalese around how they can engage interim general managers for new councils prior to the commencement of the new councils, and the rest you can see there in terms of nomination of Crown managers and the like.

But there are some opportunities available, Chair, for this process to accelerate the robustness of new councils by bringing forward the interventions through proclamation rather than waiting until new councils are in place, because that brings at risk those councils changing their minds.

Counsel, I'm happy to take questions if I can have a glass of water in between.

Q. Yes, thank you for that. As a starting point, Mr Tegart, I think the first - one of the first comments you made in your presentation there was about "Without government assistance, the demerger would be difficult."
A. Yes.

Q. If not impossible?
A. Yes.

Q. And what steps do you know, whether the council's taken any steps, the existing council has taken any steps to secure such?
A. The question is best directed to the mayor and the interim general manager, but my understanding is there has been several letters and iterations and engagements with OLG through the minister's office, particularly around the various amendments to the Act through the recent bills around demergers and, frankly, probably an expectation that because this is the first test of a demerger and what was understood to be the original terms of the demerger process under the former government certainly, that the government would fund a demerger. And it's in good faith that the council has progressed this journey down to demerger, that that cost of demerger would be funded by the government.

Q. Right. Now, you appreciate, don't you, that this process or this application, it's basically a fresh application that's being made for the - we're calling it a demerge, even though technically and legally, it is the proclamation of a new area?
A. Yes.

Q. It just happens to be two areas that previously existed?
A. Mmm.

Q. And the suspension of the - or the dissolution, sorry, of the combined area.
A. The merged areas, yes.

Q. Now, one of the comments that you make in paragraph - it's chapter 4 of your - have you got your demerge transition plan? Have you got it?
A. Look, I'll be fine.

Q. I'll just read what I need to read to you, then. Where you've said things like, "The decision of the" - sorry, that:

This DPT does not propose to cover ground that is already in the public domain.

This is about the political reasons for the demerger?
A. Yes, that's it.

Q. That material is currently not before this inquiry, so in terms of being able to satisfy that element of the inquiry that needs to be made, what material should the commissioners have regard to?
A. Sure. So there would be the original application from CGRC, and again this should all be vetted through, I'd suggest, the CGRC itself --

Q. Yes.
A. -- where there had been the original Boundary Commission hearings, the original decisions and non-decisions of the former minister, based on the recommendations of the commissions of the day; the public submissions that were made, which if retested would probably, I understand, be the same, because under the new terms a referendum is required, but I understand that's not required in the circumstance, given the weight of previous submissions. So that would fundamentally be the material that would be available, as well as the resolutions of CGRC where they have received a number of reports from other consultants and have made decisions to progress with their application for a demerger.

Q. Right. So that's an inquiry we can make elsewhere.
A. Yes.

Q. That's fine. The other matter that arises from that is that there was no further community consultation done from the previous application, which was determined in August 2022. We're now in August 2024. You've just indicated that there's - you don't understand there to be a change in public sentiment. On what do you base that conclusion?
A. Only on the discussions with CGRC.

Q. One of the key things that I wanted to discuss with you this morning was to unpack the phasing of your demerger

proposal. And as I say, I use "demerger" as a shorthand, so we all know what we're talking about. At the moment, we have this demerger transition plan, which is really a plan to make a plan. Would you accept that as the characterisation of it? Or characterisation of this document?
A. To an extent.

Q. And the reason for that is because of the level of detail required and the money required to be spent to actually formulate a concrete plan about who ends up owning what?
A. Yes. So just to expand on that, one, the detail is in the task schedule.

Q. Yes.
A. That's here, what needs to be done. And I have a certain faith in that because it is basically, as I said, a reengineering of what OLG provided through the merger process. So if it works for OLG, it's got to work for the council going forward, to meet - tick all those boxes. I've added some other ones, most certainly. But, however, the - in my view, it's not until you have the benefit of FY24 financial statements that you'll have a better footing to reassess and refresh the estimates, most certainly. And then thirdly, at the end of the day it's only when a proclamation is made and then the final accounts of the council - let's say it's at the end of FY26, whatever. It's only then that you'll actually know the value of the assets, liabilities and staffing to be distributed.

Q. Yes. You offered in your presentation to be able to update the projections based on the FY24 financials. Is that something you're offering or is that something we should inquire of the council in respect of?
A. It would require an engagement to do so.

Q. Yes.
A. Nothing's for free.

Q. But it is possible, is what you're saying?
A. Yes, yes. Of course it is, yes.

Q. Yes. Okay. Do you have any insights about where the financials have landed?
A. Not at this stage. Not at this stage, I'm sorry. All I've got is that there has been an improvement in their

working capital. Less than they had anticipated, but it's still an improvement. And I understand that this should be the last year of any remaining unspent disaster grants, which has been propping up their investments. And that will then signal that council rely on its own money for future renewals going forward. But again, those financial statements, I understand, are in draft and they're yet to be committed to council.

Q. Right. I understand that they had to be completed prior to the going into caretaker, but only way we can resolve that with the council itself.

In terms of the matters that you've also raised in terms of this being the opposite - it being the opposite of a merger, instead of just throwing things together and working out what you need to streamline, here we're basically having to do the task of who will get what prior to a proclamation?
A. Correct.

Q. You'd accept, wouldn't you, that that as a mechanical matter puts the Commission in a difficulty in terms of being able to recommend a proclamation at this point in time, because that proclamation can't be made until phase 2 is completed; is that correct?
A. That would be my suggestion, yes, because - if I may - there will be some things that will emerge through the planning phase which could provide some detail that would be recommended for inclusion in the proclamation. But bearing in mind the process remains the same; it's just the numbers may be the elements that would be included. So this portion goes to Cootamundra, this portion goes to Gundagai. That would be informed by the financial statements, most certainly. And that does make it difficult for the commissioners to be very clear about, "Here is the elements to include," other than what should be included.

Q. Yes. Just as a ballpark, and so the Commission has the benefit of the data, do you have any knowledge about how much the merger actually cost, in total?
A. No, I don't.

Q. You don't?
A. Other than, if I may --

Q. Yes?
A. -- that all councils were provided funding from government.

Q. Yes.
A. There was $5 million, I understand, for rural councillors. There was perhaps an uplift in that for some of the councillors that didn't merge, but fundamentally my understanding across the sector, most of those funds were spent on IT. IT and separation of staff.

Q. Now, if we can just have - go through - actually, we might work through this document, since you've got it in front of you. In terms of the materials, not dealing with the financials for the starting point, but dealing with the - I've lost the page, sorry. And my grand plan has come to nothing. I'll take you back to the document I've marked up?
A. Clocking in early.

Q. The issue about shared resources and services and facilities, for example, you've indicated in the DTP that the councillors of the CGRC have nominated certain activities that would be expected to be shared?
A. Or considered.

Q. Considered to be shared. The list of those items doesn't then seem to include, or it doesn't include the items that are on the following page such as emergency services, waste transfer, project management and fleet management. The councillors didn't consider that, to your knowledge?
A. They did. There was a more expansive list provided, but on balance the list you have in front of you are those - sorry, in the plan --

Q. Yes.
A. -- are those that council agreed that they would contemplate pursuing.

Q. Right. So does - am I right to understand then by that answer that things like the waste transfer station and landfill, as an example, is not something they would consider to be shared?
A. At first glance you might presume that. I'm - they may reconcile that later, because that's a pretty obvious one.

Q. Right. And is this council area, it's serviced by a joint water authority; is that right?
A. No. No.

Q. No?
A. The council is the water authority.

Q. And so is it expected that the water authorities would remain merged, or shared, sorry?
A. No. Again, that's a thing that could be contemplated, and was suggested, but that would require further assessment. Part of the reason for that was to awake the strategic business plans for the utilities, which is expected this year, and that should guide whether there is any benefit in having a joint water authority.

Q. Right. And the same would go for sewer services, for example?
A. Yeah. So in public parlance, a local water utility is water and sewer.

Q. Yes. And in terms of dealing with waste transfer, et cetera, for example, that includes garbage collection, et cetera?
A. Yep. Mmm-hmm.

Q. There was also a suggestion that it would be considered that development assessment would be considered to be, or could be considered as a shared service, but not strategic planning.
A. Mmm.

Q. Was there any reason given for that distinction?
A. Again, that would best be --

Q. Directed?
A. -- inquired of the council itself. It's just a case of - bear with me - if it's the council demerged, there would be required to be a separate LEP prepared for both. And so while - and councils tend to engage third parties to do that work for them anyway, and hence that was probably the reason why they thought that role wasn't necessary.

Q. Right. In terms of shared service agreements, do you have any idea what the council actually anticipates? Whether it was just be - would it just be a shared service

agreement between the two new councils or would it be part of - with other adjoining councils, REROCs, et cetera? Joint organisations?
A. Yes to all of the above. So the council was open to options, but they acknowledge that a binding agreement would be required across at least one, preferably two terms, so that there couldn't be any moving out of that particular arrangement, and that didn't exclude any separate arrangements outside the current local government boundaries.

Q. And you'd accept, wouldn't you, that it - it might be difficult as part of this process for a recommendation to be made to require these two councils, the two new councils, to enter into arrangements with third-party councils? It really is only limited to the two councils that we're talking about?
A. Correct.

Q. And is it the case that it would be anticipated that that would be sort of set as a minimum, with a view to if they wanted to, if either of the councils wanted to then expand to, or if that shared service arrangement was to be expanded to other councils, that the councils would be given some sort of leeway to do that?
A. Correct, yes.

Q. In terms of staffing, it's mentioned a couple of - it's replicated a couple of times in this document, so I'll go back to this one.
A. I'm glad it was useful.

Q. It's on - it's also - it's page 24 of the DTP. I've got a nice pink Post-It next to it.
A. Good.

Q. It's on the page entitled "Estimates". It's about the prospect of there needing to be an additional 16 staff.
A. Yes.

Q. Now, as I say, this is probably as detailed as I'm going to get for the purposes of today in terms of questioning the estimates that have been made, but am I right in understanding that table, that if we use, for example, the "business" line, where it says Cootamundra 10.3, Gundagai 3.5, the total is 14. That's existing, is that right?

A. Correct.

Q. Then in the green column to the right, you've got Cootamundra-Gundagai. They're the actual costs for financial 2023?
A. That would be based on the '24 operational plan.

Q. Operational plan?
A. Yes.

Q. So that's what it's foreshadowed to have cost in '24?
A. Yes.

Q. Yep. And then there's an estimated 10 additional staff that are anticipated --
A. Mmm-hmm.

Q. -- with a cost of 900,000?
A. Mmm-hmm.

Q. I think you might be able to see where I'm going?
A. Well, I can answer it already.

Q. The average of the existing staff is 117,000 a year --
A. Yes.

Q. -- so why have we only adopted $90,000 for the additional 10 staff?
A. Okay, there's two parts to that. One, as I said earlier, council contests the OLG assertion that 10 additional compliance/governance people are required, thinking a number of those had already been recruited since that first inquiry was made a couple of years ago.

Q. Right.
A. The second issue is that those numbers exclude on costs. So yes, the figures in the green columns include on-costs, which cover super, training, that sort of stuff, and the right-hand figures are purely wage costs.

Q. Is there any reason why you wouldn't include the on-costs in the estimates?
A. It was just the estimates I was provided.

Q. When you say you were "provided", you were provided them by council?
A. Yep. And again, I can provide that, should an update

be required.

Q. If we can also have a - if you can also give a discussion about your assumptions in relation to the consultancy costs that are anticipated. Again, this is as high-level as we're going to be today.
A. Mmm.

Q. You've estimated $80,000 per year and $2,500 a day for consultants.
A. $80,000 --

Q. $80,000 for staff.
A. Staff, yes, yes.

Q. $2,500 per day for consultants?
A. Yes. Yep, mmm-hmm.

Q. Can you give me an understanding of what the basis of those assumptions are? Is it just experience? Have you made inquiries? Those kinds of things?
A. No, it is simply experience and abroad estimate. So based on the task schedule, my estimations of the number of days --

Q. Yes.
A. -- whether it was a week, across a week, across a month, a quarter or otherwise. And that was how I then used my algorithms to establish how many FTE days were required for staff and/or how many potential consultant days were required for the more specialist staff. And so yes, that would ultimately be tested through the procurement process, and hence there was the 10 per cent contingency provided in the estimate.

Q. Okay, but in terms of those, yeah, unpicking, the - sorry, I'll explain the roles. In terms of the staff that are estimated, though, in the table on - which page of your document is it?
A. Is it the estimates one you said?

Q. It's the - it's the same page.
A. Yes, yeah.

Q. It's the table on top of page 42?
A. Yep.

Q. And so, it's above the table I was just asking you about.
A. Yep.

Q. As I say, there's an assumption in there, isn't there, that the $80,000, it's an average that you've adopted?
A. Correct.

Q. So there will be some that are more, some that are less?
A. Correct. Some will be part-time, some will be full-time, yes.

Q. Yes. You'd accept, though, wouldn't you, that certain of those roles might be a lot more?
A. So the first column, called "FTE for the period", is the additional 11 staff who were estimated to be recruited for the purpose of the demerger planning phase, and implementation phase. There will be a number of internal staff, seconded, to the equivalent of 101 days, across that period. And perhaps some temporary staff, casual staff, engaged as well. So that was based on an $80,000 per year FTE, how that gross number was calculated. But you are correct, fundamentally, that there will be some who will be worth more, some less. This is just a bases of assessing an appropriate number. Now, that was based on the award and the council salary system, based on a technical, administrative function of the council.

Q. For example, aren't a couple of those roles potentially general manager or executive level?
A. No, no. So the --

Q. These are just the implementation staff?
A. So the top, the top table, are just people brought in for the planning and implementation phase. The bottom one is the cost of the additional GM and additional director, for example, directors --

Q. Yes.
A. -- for the new councils.

Q. And so, the estimates that you've used there, or the averages that you've used there, which I appreciate were given to you by the council, are in the order of, for example, the directors, or the general managers, would be $200,000 a year?

A. So that's above --

Q. For the additional two?
A. No, so that's - so I can see why that would be misleading to you. So that's the additional cost. So the additional cost to be shared between the two councils, so in other words they have one GM and two directors at the moment --

Q. Yep.
A. -- that would be then replicated so they now have six, and the additional cost, which is $400,000, is shared between the two councils. That's the way I was just trying to delineate what the additional cost above what is currently paid to CGRC would be.

Q. Yes, right. Okay.
A. And as I said earlier, bearing in mind for a period, it might be three months, the demerger process would have to bear the cost of the current IGM to keep CGRC going while the new IGMs, under the - depending on the legalese around it, that would be engaged as GMs elect for the new councils while they recruit for their interim organisations, which to a large extent will be recruiting internally but there will be some gaps they will need to recruit externally, hence the term - you know, they're going to need three months for those recruitments to materialise to enable commencement on proclamation day.

Q. And so this is - I mean, you can understand why I'm asking you these questions, I think, in terms of the mechanics, because as you've correctly observed, you've got no new council until the proclamation occurs, and in order for that new council to be functional on day one, certain things need to be in place already. That's a given; that's fine. However, if the proclamation - the proclamation will need to - you do have to, if you like, load up --
A. Correct.

Q. -- CGRC staff in the interim, and if that proclamation, for example, doesn't occur, what happens then?
A. No, so it would mean that the minister, in my view, would announce, "Yes, subject to the report from the boundaries recommendation, Boundaries Commission, I agree to demerger council on this date." And that would be - let's say it's 1 July of whatever year. And it would be -

that would be the end date that the demerger planning phase would work to, so that would - you'd need to work with the Electoral Commission to ensure the elections for the new council would occur to take effect from the date of proclamation. So therefore, that would need to take effect beforehand. There would need to be a process by which the current elected body could remain in place until dissolution of the current council took in place, even though they may also be candidates and elected to the new councils. Can you see the complexities here?

Q. Yes.
A. As well as the current council or CGRC councillors elected next month, engage the new GMs elect for the new councils as well as retaining their current interim GM, yes, while they do "school up". But it may well be they just engage the additional staff to commence from the date of proclamation. But yes, the certainty of proclamation taking effect would need to be in place prior to any engagement commencing.

Q. Do you know of a mechanism under the Local Government Act that would allow that to occur?
A. There are people far wiser than me that have "PC" attached to it, that could write that up.

Q. Because you appreciate, obviously, you've referenced the amendment Act that was recently passed --
A. Yes.

Q. -- in respect of demergers. We're not in that regime. That Act, or that amendment Act, also has - even though it's been assented to, has not been proclaimed to commence yet.
A. Yes. Yes.

Q. So while it's quite proscriptive about how certain things would occur, we aren't in that territory here?
A. Correct.

Q. So I think, if I can take from your answer just a moment ago, that there is a question as to whether there needs to be, if you like, some sort of in-principle agreement by the Minister first, or in principle something by the Minister first, and then to go to the proclamation ultimately once the paperwork and people are in place; is that right?

A.   That's correct. There would need to be an instrument of certainty provided by the Minister to cause the council to go down the path of putting in the planning phase, to starting the work of distributions and attributions, to finalise and wrap up the financials for the current council to enable the handing over of opening balances to the new councils, as well as allowing for the elections, as well as allowing for GMs elect, and allowing for the recruitment for more staff for the two new councils.

Q.   And so, am I right in understanding that the way that this transition plan is drafted is that there would also need to be a precursor step indicating that phase 2 of the three phases would be to commence? So at the moment we've got the transition plan, we've done - we're in phase 1, am I right in understanding that?
A.   Correct. Correct.

Q.   There would then need to be something to indicate that the matter - that the demerger should proceed to then go to phase 2 --
A.   Correct.

Q.   -- which is where all of the detail sits?
A.   That's it.

Q.   But in that case, given that that is where the more detailed financial analysis is undertaken, at what point is it envisaged that as part of the phase 2 process, the in principle, "You can go ahead and demerge" would be then re-reviewed? Is that the proposal?
A.   No, no. The instrument of certainty --

Q.   Yes.
A.   -- as I termed it, needs to be robust enough and confident enough that yep, we're on the road, it needs to provide an appropriate period, nine to 12 months, ideally, to commence fresh from a new financial year, perhaps. Just from a clean slate.

Q.   Yes.
A.   And it's from that announcement that the machinery would commence. Including the engagement or establishment of the transition project office, starting to work backwards in terms of elections, engagement of staff, getting all the various plans and registers and so forth. At least their task schedule is detailed enough to start

that body of work.

Q. It may be considered to be detailed enough to deal with things like elections and transferring of assets, et cetera. But in terms of the detailed financial analysis that's anticipated as a part of phase 2, what happens if it spits out quite different numbers to what's been anticipated by the projections that are undertaken for the purposes of phase 1?
A. So my suggestion would be, as I think you were alluding to, that the financials would be updated or refreshed with OP - financial year --

Q. 24?
A. -- 24. Perhaps moderated with whatever's proposed in OP25, FY25. But the reality is there should be - yes, there will - there should be an expectation of contingency in that the final numbers may vary, because that in part will depend on whether the government funds the demerger, because the extent to which it's not funded, fully funded, then the council is also eroding its current finances and wherewithal during the period of the planning phase of demerger. That puts the values of distribution - it puts question marks on those numbers.

Q. And in respect of that government funding, I think you indicated earlier that there was $5 million allocated by the government for the purposes of merging, and keeping in mind I appreciate your earlier answer that you don't know how much it ultimately ended up costing, but if it cost $5 million to merge, is it realistic to expect it would cost less than that to demerge?
A. That's a reasonable question. Part of it has been because we - I did estimate a larger number for the IT configuration. I estimated over a million dollars, 1.2 in fact. The advice we had back, and this is the - one of the critical numbers we needed to have confirmed up, was a third of that.

Q. Yes.
A. And so the IT, like it was with the merger, was the biggest cost. I have made the assumption that any demerged councils would use the same configuration and same chart of account structure without having to do a lot of work-arounds, and therefore was prepared to accept the initial estimate - it's not a quote - an estimate of Civica, to do that body of work.

Q. And so back to the - in respect of Civica, on page 20 of the transition plan, it says that based on a shared services model - Civica is the current contractor, as I understand it?
A. Correct.

Q. Yes. They estimate that the model would cost $120,000 per new council per year going forward.
A. Yep.

Q. But the cost of actually establishing the shared services model, they say that the - they need it - it's a $70,000 cost just to get a scoping study to work out how much it would cost?
A. Yeah. And then they did provide separately - I thought I provided there - a value of 400, which is what we put into the - was it 400 was their estimate.

Q. So it's that Civica has estimated the demerger cost around $350,000?
A. Yes. So 350 --

Q. Plus disentanglement costs over nine months?
A. We say weren't prepared to quote or provide an estimate on. That's part of the reason why the contingency's there.

Q. Right. That's the $500,000 contingency you've allowed for?
A. Part thereof, yes.

Q. Right.
A. And going back to your earlier point, counsel, if I may, that's the sort of thing that would be required in a proclamation, that council - because otherwise, they should be going back to tender for a supplier of an IT contractor. And that's the sort of stuff that should probably be considered inside a proclamation.

Q. Do you mind the idea that the Civica contract would continue?
A. Mmm-hmm.

Q. Would you consider it appropriate in any form of proclamation that the total value of that ongoing contract would be capped?

A. No.

Q. In terms of how then can there be certainty in terms of the financial performance of the consequent councils or the resultant councils if there's some unknowns?
A. Yes, so it would require, as part of the planning, the procurement of revised contracts for the new councils prior to the proclamation date. So that's part of the numbers that you were referring to and I was referring to, saying there is the level of uncertainty until that procurement processes for assets and a whole range of other things are done. Those specialties will cost money, they are consultants, and that's why there is quite a level of variability that might emerge when we get into the planning phase.

Q. There's also an assumption built in, and I think you've been very frank about it, and correct me if my understanding is incorrect, that the likelihood is that the resulting two councils - A, there's long period of time that will need to be allocated to them continuing or to come out of the cost of the demerge --
A. Yes.

Q. -- and we'll come back to that in a moment. But secondly, that there's a likelihood that Cootamundra will end up being a more financially strong council compared to Gundagai. Is that a fair assessment of your report?
A. Yes, but it's premised on the same standard, same level of service and so forth continuing as they are now. Without any doubt both the councils and probably particularly Gundagai would want to rethink that, to try and bring back to an assumption that they want to bring the council back to what it was pre-merger. I think that's going to be very difficult, given standards have moved on, expectations have moved on and costs have moved on, but, you know, the councillors on the current council were of the view that that would be their commitment, to continue to work those numbers down.

Q. And so that is the basis, I think in one of your earlier answers or in your presentation, you observed that it would be an expectation that the Gundagai rates would immediately go up to at least their pre level, their pre-existing levels?
A. Yes. That assumption was made by some documentation provided by OLG.

Q. Yes, but there would need to then be in the order of 25 per cent rate - a special rate variation for three years, for Gundagai?
A. Correct.

Q. Do you have any idea what that ends up being in sort of real terms, like an average per ratepayer??
A. Yeah, the plan did provide some estimates around that, I thought. I could --

Q. Look, I couldn't immediately find it. That's why I'm asking the question.
A. If there's things that you might need to take on notice, I can take them on notice.

Q. Yeah, more than happy for you to take that on notice. And it certainly didn't appear to be quite broken down in that way. So if you're happy for us to provide --
A. It was provided to - my recollection is, it's been a while now, my recollection was it was provided in the workshops of the councillors, but it was unnecessary to publish in the sustainability plan.

Q. Right, okay. So that's another question we might either give you on notice or we can ask the council as well. The same question really applies for the Cootamundra area and I'm assuming the same answer applies?
A. Correct.

Q. I mean, it's only 7.5 per cent for two years in that case, but we're trying to understand the real term cost so that members of the public can also understand what it might mean, or members of those particular councils can understand what that might mean for them in real terms.
A. Yes. Just to - and just to confirm again for the Commission, those were all growth interventions. They were not indexed interventions. In other words, a rate peg would be above that, or a CPI would be above it. So they don't --

Q. Yes, on top of the 25 per cent?
A. Yes, correct.

Q. Yes. So if we have another terrible year like we did last year and we end up with 7 per cent CPI --
A. Yes.

Q. -- suddenly you're looking at a 32 per cent increase for the people of Gundagai?
A. Yes. That's correct.

Q. Right. So that is, yeah, that base level plus pegging an index in?
A. That's it.

MS McKELVEY: Right, understood. I note the time. We've been going for an hour and 40 minutes now, so we might take a short break, noting that we have to conclude - and for the benefit of those watching, we have to conclude at 11.30 today. I think it's an opportune time from where I'm about to go, to take a break at the moment, if the Commission is?

CHAIR: Yes, that's fine.

MS McKELVEY: Mr Chair, you're happy with that?

CHAIR: Yes, I'm happy for that.

MS McKELVEY: If we can have till 10.30? Is that all right?

CHAIR: That's good.

MS McKELVEY: Thank you, Mr Tegart.

WITNESS: Sure.

SHORT ADJOURNMENT

MS McKELVEY: Q. Okay, it is 10.33. Hopefully you've been sufficiently caffeinated.

Mr Tegart, one of the - I asked a question earlier about the uncertainties in respect of phase 2 and how certainties can be obtained or secured before the proclamation is ultimately made. Is there - or do you think that there are any items that can be brought forward in the planning process before the, if you like, "in-principle go" is given by the minister? Or does it all have to wait till - to be terms of the proclamation and there be a risk that that proclamation won't be made?
A. If I could be neutral and say yes and no. The reason being yes, the council in its current form should refresh

its asset management plan, prepare its strategic business plan for its water utility, water and sewer utility, and catalogue its services so it can be in a position to confidently differentiate levels of service by locality or otherwise. So that body of work could be undertaken beforehand. Secondly, the council could consider migrating to an IaaS/SaaS environment. That's putting Infrastructure as a Service and Software as a Service through Civica or other party, if they wish, which may assist some of their costs or more to the point their confidence in security of data and so forth down the track. So those things could certainly happen regardless, and before the date. They could prepare a workforce plan, assuming a demerger took place, so they could prepare for any industrial arrangements and separations at cost. And so those things could happen before the button was pushed, most certainly. But it means council spending money they may not necessarily have, and have needed to do. But some of those, frankly, probably should be done anyway with a new term of council.

Q. Right. Because you'd accept, wouldn't you, that if it's the case that, you know, to use just a bland example, you know, a local swimming pool, capital works need to be done. Say, for example, capital works need to be done to a local swimming pool. Because of the change or the demerge, those capital works can no longer be undertaken by the new council because of the shift in fund, et cetera. Isn't it appropriate, or wouldn't it be appropriate, for those kinds of or that kind of information to be available before the merge occurred, or the demerge occurs?
A. Yes and no again. The reason being that in my view, the council should continue to operate, CGRC continue to operate, until the new councils - its dissolved new councils are formed. So therefore the preparation should include, "Here is the scope of capital works we will continue to do while we are, you know, as a merged entity before its separation." Now, yes, the politics will start to play, and perhaps there should be some guidance through the minister before the proclamation takes effect that it's known that these works need to happen, because a lot of them will happen, need to happen, need to happen before the dissolution, but ultimately the future cost of that will be borne and separate distributed to the new council anyway. So that's why it's not until the final audit on the final statements that we'll have a better handle on what is the distribution of assets and liabilities, because some of

those things may require borrowings as well.

Q. There are particular either capital works or operational costs that would need to be, as at a base level, be guaranteed, wouldn't you expect, for a demerger to be acceptable?
A. If I can respond this way, one, my recommendation is that the council should descope and downscale a lot of its operations to create room, capacity, in the demerger planning phase. So CGRC alters its scope for that particular nine or 12 months. Ask your question again now I've said that.

Q. I can't quite remember how I had worded it. You'd have to - you would accept, wouldn't you, that there is a minimum level of - there's a certain criteria --
A. Yes, sorry. Yes. Yep.

Q. -- of capital works and operational expenditure --
A. Yep.

Q. -- that would be expected for a new council to operate?
A. So there's two aspects to that. One is the merged council would have created expectations, willingly or otherwise --

Q. Yes.
A. -- about "Here's what the two new councils should continue to expect," even though the finances may need to be adjusted up or down to reflect that. And secondly, as I had indicated before, my back-of-envelope number would be a rural/regional council should be spending between 3 and 4 per cent per annum on their written down value of assets for the operation maintenance and renewal of assets. That could change dramatically as a consequence of the road revaluations which are taking place this year.

Q. As I say, in terms of trying to understand what the practical consequences of a demerger would be for the community members of these two areas, doesn't there need to be - that work needs to be done in advance, doesn't it?
A. Yeah. And that's what I was saying. I think that's why it's all part of the planning phase, which the asset plans and strategic plans should be done in the planning phase. But yes, they could be done prior to the push - the button being pushed. But that's still a cost that's borne

by the current council.

Q. Yes. So it is just a question of cost though, isn't it, really?
A. Yes.

Q. Yes. So it's, if you like, phase 1 (a) of what your three-phase plan is, to bring some of the phase 2 material forward?
A. Forward, yes.

Q. Yes, it's a cost to the council that would need to be considered, of course. But in order to get better understanding of what may fall out of day-to-day operations of a new council, given financial constraints, and also what expectations could be moderated to deal with a reduction in capital expenditure?
A. Yes. That's true. It would only be the question politically whether the council would accept they would need to do that without any funding assistance from government to do it in advance of that.

Q. Yes. Right. Okay. And I think one of the questions I had asked earlier in respect of, and I think you'd agreed with me, you have the potential of ending up with Cootamundra being a stronger council than Gundagai. What is the plan, or what do you envisage to be the plan, if one of those councils then fails? In terms of not being financially viable? The anticipation in your document is that it be - that you'll end up with two sustainable councils, albeit with one more sustainable than the other, if you like, or more viable than the other. But if the projections are incorrect, what is plan B?
A. That hasn't been contemplated. Part of the reason is that even as recently as the OLG conference in Canberra a month or two ago, the Prime Minister himself said communities rely on local government. Local government cannot fail. Now, at the end of the day, this would be a case where the government ideally would not be required to bail out a local council. So therefore, even though that all the best intentions and plans are put in place, any council could be in the situation through a force of nature or otherwise, that things have just gone awry, and they don't have the financial capacity or other resources to bring themselves out of a black hole. So that could happen to one of the new councils, but any other council across the state, frankly. But at the end of the day, there needs

to be a concerted effort amongst the two councils, the two communities, that they need to understand if you want to be responsible for your own destiny, then you need to be responsible for the assets that you look after. Therefore, this is the bill.

Q. So it is, I think, a fair summary of that answer is to say that it's a matter of whether the council of - the new council of Cootamundra or the new council of Gundagai would accept the cost to that community?
A. Correct. But could I - if I may, council --

Q. Sure.
A. -- also add, the recipe for this is it still also signals to government what is the level of allocated versus competitive grant funding that should be required for those councils or any council. And so one of the recommendations out of this, I would hope, would be that there should be a rethinking of the distribution of grants, perhaps led through the local government grants commission, around what is the formulae by which these distributions take place?

Q. But generally, or between these two councils?
A. No, generally.

Q. Generally?
A. Yep. I'm trying to bundle a few things in here; you might missed it.

Q. Possibly a little out of scope. But I understand the point you're making.
A. Part C.

Q. Yeah, I understand the point you make. My apologies, I'm just making sure I've got it.
A. No, that's good.

Q. I'm going through my notes. As I've said to you before, we're not going to go into the detail of the financials. I think, subject to what the Chair and the Commission say, in relation to an updating of the data, that's been part of the reason why I've held off on asking detailed questions about that material, given that we know that additional data is now available. So a decision will be made about whether that additional information is going to be requested or not and then you get the pleasure of our company again.

A. Mmm-hmm.

MS McKELVEY: Those are all of the matters that I wanted to ask this morning, commissioners, if there was any additional questions you wished to ask?

CHAIR: I think we have some points of clarification after going through that this morning, and it would be best potentially to put that in writing.

WITNESS: Sure.

CHAIR: You can formally answer it. I don't have anything pressing at the moment, but do note that we will be talking again.

MS McKELVEY: Yes.

CHAIR: And that we'll send some questions off in the meantime. Ms Fagan?

MS FAGAN: I'd like to ask one, if I could.

MS McKELVEY: No, go for it.

MS FAGAN: And maybe - I'm not sure who would answer it. But if these are - if we go through this demerger phase, then the councils will have - the independent councils would have to be established prior to the actual starting of the demerge because we'd have to employ staff and finance that operation. So is there any legal or legislative requirement, any sort of way you could do that? I mean --

MS McKELVEY: There certainly is an issue.

MS FAGAN: You'd have three councils operating, virtually.

CHAIR: Correct.

MS McKELVEY: Yeah. There certainly is an issue. I think what is proposed and I think mechanically this is probably the only way you might be able to do it, is to have the existing council basically bloat its staff, if you like, in anticipation that the staff will then get reallocated as part of the proclamation. The only issue, and this is perhaps we can discuss this now, is how you deal with councillors, new councillors, in that context, because you cannot have an election before the proclamation occurs. So there will be a period of time when there - the existing councillors will be able to fill the gap.

WITNESS: I do have a suggestion.

MS McKELVEY: Q. Yes. So what do you suggest in respect of that, because that would be helpful?
A. Sure. So there's two scenarios that I've contemplated. I haven't thought it through completely, but the sense of it would be this: one is that by the initial pushing of the button, there be a direction made where the councils are - CGRC is required to recruit a GM elect for both of the new councils, enabling the GM elect with the current CGRC council to form interim organisation structures for the new councils to enable the population of those new councils to commence from the date of proclamation. So number one, the starting issue, other than the general manager, whose costs would be borne, let's say, two or three months prior to the effect of proclamation, other staff would commence on the day of the proclamation or thereabouts. But the terminology would be general manager elect or director elect or whatever the case may be. In relation to the council, so there would have to be some very clever legal thinking around how you can have an election prior to the date of proclamation. My suggestion is there is already tools in the legislation to enable an administrator. And so, after the date of proclamation, there might be a three-month administration period of the current mayor of CGRC, for example, so it's independent, perhaps, and to allow the electoral commission to undertake that election.

Q. Just clarifying, though, you'd have to have business entities for both?
A. Correct. From day one.

Q. Yeah, from both.
A. Yes.

Q. But you'd have to have them prior to, to employ new staff under - in that area?
A. Yes. So there are mechanisms by which a GM elect can be engaged, in advance of the dissolution of the old council. But the other staff would take residence, so to speak, from the date of proclamation.

Q. You could essentially, couldn't you, yes, engage, basically, an extra GM? One of them ends up being GM Cootamundra, one of them is GM Gundagai, knowing that they will then get split out --
A. Correct.

Q. -- on the proclamation.
A. Yes.

Q. So there's - I think the staffing issues, you can deal with.
A. Mmm.

Q. The election of the councillors is an issue, but I take on board what you say about the idea of the appointment of an administrator in the interim, because certainly one of the things that was being looked at was whether the existing councillors could basically be placeholders, almost caretakers, with a view to holding out until a new election could be called. But administrators is a good suggestion.
A. And --

Q. To examine.
A. Sorry. And of course, counsel and commissioners, the issue will be about keeping the momentum and appetite amongst the current group of councillors after this election going for an extended period of time without them knowing or declaring whether they intend to stand for the new councils as well. So there will be a lot of uncertainty, but that's just part of the process to be managed.

MS McKELVEY: Yes?

CHAIR: You've got a question?

MR FIRMAN: Thank you, Mr Chairman. I just would like to bring a human element in here if I may, Mr Chairman. Now, I know we're looking at a - as we've done the business case, of course, which is the most important part of what we're doing, but I'd like to tease out particularly, Mr Chairman, through Mr Tegart, in coming to prepare this particular important document that's before us, I'd like to get a sense, Mr Chairman, from Mr Tegart, about what is the current feeling of the councillors and of the staff in relation to this situation? Now, as some may be aware, I have been on this commission since 2016. I have been to many, many inquiries. I've observed many eye-opening things, read many eye-opening submissions, and I'd like to know, Mr Chairman, from Mr Tegart, what are the councillors and the staff feeling, from his observations, please.

CHAIR: I'm happy for that question to be answered. Just to clarify that, Commissioner Firman's been on the Boundaries Commission process in previous iterations of this inquiry. It hasn't been going for that long, but --

MR FIRMAN: Thank you. Thanks for that clarity, Mr Chairman.

MS McKELVEY: Because the - yes, to clarify and particularly for those that might be observing, yes, this inquiry is a separate constitution. Commissioner Firman has got previous history, but the other commissioners do not. And so, to the extent that certainly one of the questions I asked earlier was about the sentiment and what's driving - what political issues are driving the desire to demerge as well as the business case aspects. And you had directed me to the earlier materials that had been provided in relation to those earlier applications.

Q. So, the question is a fair one. Do you have any observations to make from your interactions with the council, councillors and the council staff?
A. Sure. Okay. Thanks, Commissioner, and addressing through you, counsel. It's a case of I would draw the Commissioner's attention to those previous documents, because I'm - they were of the day, they were the emotions and sentiments or submissions expressed of the relevant communities and councillors of the day. Notwithstanding, since you've been involved in these sort of things since the merger period took place, there is no doubt that the whole lack of certainty impacts staff and councillors. There is clearly evidence of higher-than-benchmark churn in staff as a consequence of this type of uncertainty. Typically, you would expect in the order of 10 per cent would be a manageable churn in an organisation for a rural and regional council.

Councils such as CGRC and many similar ones who were going through a period of uncertainty like this are at almost double that. And so it's not so much the churn, it's which positions are turning up there. Now, for example, CGRC and other councils have had significant turnover and trouble retaining directors, retaining CFOs and retaining chief planners, and they are the critical roles for the entity or the business of local government. And that's - that lack of continuity and corporate knowledge is certainly also unravelling the substance of local government, but at the end of the day your point, Commissioner, is most important, that local government is in the business of people, following assets, and it's to that extent that we were probably not responsible enough, in my view, in managing the merger process.

And so, I'd urge very early on, should a demerger commence, that a change management plan that is respectful of the impact on the councillors and staff should be put into place, some contingency plans put into place that should there be churn, how do we fill some of those positions, how do we use that opportunity or that issue as an opportunity to innovate where we might be bringing in certain expertise that would leave a legacy? That expertise might be technology, that expertise might be AI, that may not have been contemplated before, that could smooth some of those impacts going forward. But most importantly, respect that we are operating with people whose lives, futures, careers and sense of worth could be impacted by a demerger process.

CHAIR: Q. Just briefly, you mentioned the change management plan. Looking at the estimates here, is that costed in here?
A. Yes. Yes.

CHAIR: Okay.

MS McKELVEY: There is quite an extensive list of plans and schedules and so forth that needed to be --

WITNESS: Look, and - sorry, if I may interrupt, counsel. The idea was to be a little bit picky with all the things that a local government should have. You know, an asset register, a property register, a legal register, the investment register. Things that this council doesn't have, like many others. But at least the new council would be set up on a solid footing to kick off.

CHAIR: Thank you. Another question?

MS FAGAN: Q. If I could, just about the $1.5 million. You've included it in your expenses as non-grant funded, but it is part of both of the councils' ongoing expenses, and there's no interest cost? Or where have you come out with the money, the $1.5 million for each of the individual councils?
A. That was just splitting the bill halfway. $3 million is the cost. So it was interesting that there was no real apportionment between population size, property size or otherwise. It was - the councils agreed to go 50/50.

Q. So they've actually agreed to that 1.5?
A. Each, yes. And at the end of the day, they're not paying for it, because it's a number - so the CGRC combination of working capital and internal reserves is eroded, so there's just less to distribute.

Q. Yep, okay.
A. But notionally, the idea was that there should be a bill from the CGRC to the new councils of $1.5 million each, if it ends up being $3 million, so that there's a registration, "Here is your cost of creation."

Q. And that would be, you know, whittled down over time?
A. Yes, a debtor. Yes.

Q. Yes, yes.
A. It just becomes a debtor, just to represent the cost of creation of the new entities.

Q. And that would come out of general revenue?
A. Yes.

MS FAGAN: Thank you.

MS McKELVEY: Q. And following up from that, and this might be more appropriate for the next occasion, but where you've also talked about needing to make restricted funds unrestricted --
A. Yes.

Q. -- has any thought been given to - there has in respect of the 2023 financial year. Obviously, 2014 hasn't been considered. You don't have any visibility on what might be restricted versus unrestricted for 2024?
A. Only in draft form. So the value of internal

reserves, internally restricted funds, is about the same as it was in FY23. Good news. The legality or capacity of the council to de-restrict is limited so that it must exclude employee leave entitlements.

Q. Yes.
A. It may include or exclude plant replacement, for example. But it's a resolution of council to keep or not keep it. It does therefore put at risk all those other previously held ambitions of restoring a cottage or whatever the case may be, would be abandoned by the use of those funds. The preference, of course, of CGRC is that the Minister would foot the bill.

Q. Right. And we'll have to direct those questions to the council.
A. Correct.

MS McKELVEY: Do you have any other questions?

CHAIR: No. Not at this stage.

MS McKELVEY: I'm concluded for today.

CHAIR: Okay. Thank you. And thanks, Mr Tegart, for your attendance today. We will need to talk again, as counsel has said. I'd like to remind everybody viewing that the submissions are open until 30 September and at this stage we will adjourn to a time to be advised on our website. Thank you.

THE HEARING WAS ADJOURNED

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