

## **SUBMISSION TO SENATE INQUIRY: THE FUTURE OF RUGBY UNION IN AUSTRALIA**

This submission broadly covers the following Terms of Reference:

- (a) Australian Rugby Union (ARU) deliberations leading to the decision to reduce Australian teams from 5 to 4 in the national competition;
- (d) Corporate governance arrangements; and
- (f) Other related matters.

### **SUMMARY**

In a document titled, “*Supporting Documentation – the Future of Super Rugby*” published on 5 September 2017, the ARU cited cost as the principal reason for removing one of the five Super Rugby teams. It said there was a clear causal link between the ARU’s “financial problems” and the decline in Super Rugby team performance and lack of Wallabies success in the period 2006 to 2017. It even went so far as to say that the ARU was facing insolvency if it continued to fund all five teams through to 2020.

The information I have set out in this submission outlines my view that it is the actions of the ARU, and the ARU alone, that are responsible for the national body’s parlous financial position and for the decline in the quality of, and support for, the Australian rugby product.

It is my contention that the ARU has been nefarious and iniquitous in its dealings for many years, has failed to meet fundamental objects of its Constitution, and has been reckless in its governance. This has been to the severe detriment of the innocent players, coaches, staff and families of the Western Force, and of the game in general.

In my view, it is to the ARU’s shame that rugby continues to languish way behind all other sports in Australia’s winter sporting landscape. It is also my view that had they not been so profligate with their ‘open cheque book’ approach to ensuring Melbourne has a Super Rugby team, the grassroots they now bemoan not having supported enough would be blossoming like a cherry tree in Spring.

Those responsible must be held to account for that. I hope that this Inquiry goes a long way to delivering that accountability to all of us who have invested in rugby, including taxpayers.

### **ISSUES**

In the document published on 5 September 2017, the ARU said that the two key reasons for the “need” to remove one Super Rugby team were:

- (a) to save the ARU from potential insolvency by around 2019 or 2020; and
- (b) to halt the overall decline in Australia’s performance at both Super Rugby and test level and cauterise the loss of money coming into the game as a result of that decline.

Other reasons were also cited but this submission concentrates only on those relating to the ARU’s financial position.

## **Saving the ARU from “potential insolvency”**

**In 2009**, the ARU succeeded in obtaining the agreement of its SANZAR Joint Venture partners to expand Australia’s representation in the Super Rugby competition through the addition of a Melbourne team (the Melbourne Rebels) from 2011.

The addition of another team was always going to be expensive for the ARU and yet they decided to do it at a time when they were already financially stretched. In the year that the ARU obtained SANZAR’s agreement (2009), the ARU had posted a net **deficit** for the year of **\$279,000**. Things improved slightly in **2010** but only enough to enable the ARU to post a fairly **meagre net surplus of \$1 million**. Hardly a great financial base from which to launch a fairly substantial increase in Australia’s professional rugby programme. So why did they do it? The Western Australian observer might think it was because Perth had beaten Melbourne to win the previous expansion bid and Melbourne was smarting so much that the ARU was persuaded to make amends.

And make amends they most certainly did. Before the Rebels had even kicked their first ball in Super Rugby, the hardly-flush-with-cash ARU had already made available to them a **10-year loan facility of \$2.6 million** on top of the normal grants and payments that all Super Rugby teams receive from the ARU. No such facility was ever made to the Western Force when it first started out (and nor at any other time in its 12 year life for that matter).

**In 2011**, the ARU’s financial position deteriorated so much that they ended the year with a **net deficit of some \$10.6 million**. While the addition of the Melbourne team would certainly have contributed to that loss, the reason the ARU gave for such a perilous state of affairs was largely sheeted home to reduced revenue from Wallaby games that year due to the fact that it was a rugby world cup year. The Directors’ report in the ARU financial statements for 2011 said that the RWC had resulted in a \$16 million shortfall for the ARU which “materially impacted current year net revenues”. Given that this always happens in a world cup year (unless it is held in Australia), shouldn’t the ARU have foreseen that this was not the ideal year for it to be stretching itself further into deficit by the addition of an extra Super Rugby team?

**In 2012**, things were hardly any better. Although the **deficit** was less than in the previous year, it was still a very unhealthy **\$8.3 million**, despite a \$23 million increase in gate receipts for Wallaby test matches compared to 2011. Of course, the deficit would not have been quite so large had the **outgoing CEO (John O’Neill) not taken \$2.2 million with him in salary and incentive payments (\$1.3 million and \$896,000 respectively)** when he resigned in October 2012.

The Directors’ Report in the ARU’s 2012 financial statements makes no comment as to the reason for the continuing deficit and provides no clue as to what plans the ARU was intending to put in place to try and get its finances back into the black.

What of the Melbourne Rebels? How did they fare financially in their second year? The answer is, even more poorly than in their first year. Financial statements filed with ASIC in 2015 show that after only two years in the Super Rugby competition, the Melbourne Rebels Rugby Union Ltd company (MRRU) had already **accumulated losses** totalling a staggering **\$18.2 million**, some \$6.6 million of which related to 2012.

And that loss for 2012 was despite the following: a capital injection of around \$9 million from an increase in the company's shareholding from 2.2 million shares to 11,625,000 shares; a loan of \$500,000 from an unnamed benefactor; AND a bank loan of \$1.5 million. More alarming still was the fact that by the end of 2012, the company also had **negative equity of \$6.6 million**. By anyone's measure, the MRRU was in serious financial strife.

**And so to 2013**, a year that proved pivotal for both the ARU and the MRRU. Starting first with the ARU, its financial statements for the year to 31 Dec 2013 show that its financial fortunes took a turn for the better thanks entirely to the fact that the British and Irish Lions rugby team toured Australia that year, bringing with them a significant windfall in terms of broadcast revenue (\$41.4 million) and ticket sales (\$68.1 million). On the back of that, the ARU was able to report a net surplus of \$19.5 million for 2013.

But that was not the only significant thing that happened in 2013. On 1 July 2013, the ARU "acquired control" of the MRRU after the foundation shareholders finally threw in the towel having sunk many \$millions into the company. The shares were gifted to the Victorian Rugby Union (VRU), making the VRU the new owner of the MRRU and of the Rebels' Super Rugby licence.

As part of the deal, the ARU controlled the appointments to the board of the MRRU, starting with the installation of a new Chairman – Jonathan Ling – from 4 September 2013. The ARU's former Chief Operating Officer (Rob Clarke) had already been ensconced as the CEO in April, at the behest of the ARU's newly arrived CEO – Bill Pulver, an old school friend of Clarke's. The ARU's Chief Financial Officer (Todd Day) became the Company Secretary for the MRRU in September, occupying both of those roles simultaneously for the vast majority of the time that the ARU ran the MRRU. To all intents and purposes, the ARU took over the running of the MRRU through a network of 'old friends' and ARU executives, despite the company actually being owned by the VRU.

How did the MRRU fare under its new stewardship? Did their financial fortunes take a turn for the better? No. In fact, things got demonstrably worse. Memberships, match day ticket sales and sales of merchandise all fell and the company made another **loss** in 2013 (to the tune of **\$3,099,877**) to bring their **total accumulated losses** as at 31 December 2013 to a quite staggering **\$21,285,899**. Added to that, its **total equity** fell even further **into the red at (\$9,160,899)** (it was (\$6,561,022) in 2012). That was despite having received Super Rugby grants from the ARU of \$3.7 million, an unsecured, **interest free loan** totalling \$4.75 million from "a related party", a further loan of \$750,000 from the same "related party", and \$500,000 from another share issue.

The balance sheet for the Melbourne Rebels as at 31 Dec 2013 shows they **owed** some **\$5.5 million** in relation to loans received from the "related party". The ARU's accounts for the same period show that at 31 December 2013, it was owed a total of \$5.5 million by the MRRU. It is pretty safe to assume, therefore, that the "related party" referred to in the MRRU accounts was the ARU. During the year, another "related party" forgave a loan of \$500,000 that had been advanced in 2012. The share issue in 2013 took the total amount of shares in the MRRU to 12,125,000 as at 31 December 2013. (**Note:** at some point between then and

1 July 2015, the shareholding decreased by 500,000 to 11,625,000. I have been unable to identify how that decrease came about.)

Other interesting figures in the MRRU's financial statements for 2013 are a 'cash at hand and at bank' figure of just \$54K; a 'total assets' figure of just \$663K; and a corresponding '**total liabilities**' figure of **\$9.82 million**.

As all of the above shows, the MRRU was even more insolvent as at 31 December 2013 than it had been in 2012. So, how was the Chairman of the MRRU (Jonathan Ling) able to sign the Directors' report without qualification, and how was the independent auditor (Mr Trent Duvall, a partner at KPMG in Sydney) able to sign the auditor's report without qualification? The answer appears to lie in Note 3 to the MRRU's financial statements for 2013, which under the heading "Going Concern" says,

*"...as at 31 December 2013 the [MRRU's] current liabilities exceeded current assets by \$4,528,837...and it had a deficiency of shareholders equity of \$9,160,899. The Company [the MRRU] has received a written undertaking from the Australian Rugby Union Limited that it will continue to provide financial support to allow the [MRRU] to meet its debts as and when they fall due. This undertaking is **for a period of at least 12 months** [my emphasis] from the date these financial statements were approved.....Accordingly the directors believe it appropriate that the financial report is prepared on a going concern basis which contemplates the continuity of normal business activities and the realisation of assets and settlement of liabilities in the ordinary course of business."*

So basically, the MRRU (that already had negative equity of \$9 million) was completely and utterly underwritten by the ARU, who itself was hardly on a solid financial footing with total equity of just \$13.7 million as at 31 December 2013. Indeed, the ARU's own financial statements for 2013 (Note 1c) warned that although its accounts had been prepared on a going concern basis, this "could be impacted by downside risks, particularly impacting Super Rugby franchise teams that may require the [ARU] to incur additional costs in order to field teams under its broadcasting obligations. The [ARU] considers that if such additional costs were to be incurred, they can be funded through a combination of positive cash flow initiatives that are within its control."

Two other things are interesting about the MRRU's financial statements for 2013. The first is that under a heading "Future Developments" in the Directors' Report it says the following:

*"Disclosure of information regarding the likely developments of the [MRRU] in future financial periods and the expected results of those operations is likely to result in **unreasonable prejudice** [my emphasis] to the [MRRU]. Accordingly, this information has not been disclosed in this report."*

What on earth is that doing in a rugby club's financial statements? And is it appropriate when the company has "a deficiency of shareholders equity of \$9,160,899" and when it desperately needs offers of support from potential sponsors etc. wanting to invest? I would say most certainly not. So what were they hiding?

The second thing that is interesting is the following wording that appears under the heading "Indemnification of officers and auditors" in the same Directors' Report as the above "Future Developments" paragraph,

*“During the financial year, the Company paid a premium in respect of a contract insuring the Directors of the [MRRU], the Company Secretary and all executive officers of the [MRRU] against a liability incurred as such a director, secretary or executive officer to the extent permitted by the Corporations Act 2001. **The contract of insurance prohibits disclosure of the nature of the liability and the amount of the premium [my emphasis].**”*

Why would they hide the nature of the liability and the amount of the premium from its shareholders? That seems a little ‘cloak and dagger’, especially as the ARU financial statements contain a similar indemnification (as required under its Constitution) but fully discloses both the nature of the insurance and the amount of the premium.

And finally, nowhere in the Directors’ report does it mention that the ownership of the company had changed during the year, nor that it was now controlled by the ARU. That is despite there being two seemingly appropriate headings where such mention could have been made – “Review of operations”, and “Changes in state of affairs”. The only clue is perhaps in the address of the Registered Office for the MRRU, which had changed to be the same as the ARU’s head office address, and the fact that Rob Clarke and Todd Day had joined the board of the MRRU during the year.

In my opinion, it would be worth the Inquiry calling the then CEO (Rob Clarke), the then Chairman (Jonathan Ling) and the independent auditor (Trent Duvall of KPMG Sydney) to answer questions at the Senate hearing on 11 October 2017 about the MRRU accounts for 2013 and the ARU’s role in the company during that year.

**The year 2014** was the first full year for which the ARU had control of the MRRU. Although the MRRU was still a separate legal entity with separate financial statements, the ARU’s accounts reflected the MRRU’s financial results as well as its own. This would have been easy to achieve given that the ARU’s CFO was also the MRRU’s Company Secretary and because of the close relationship between Rob Clarke and Bill Pulver.

So, to the MRRU side of things first. The CEO role continued to be filled by Bill Pulver’s old school friend, Rob Clarke, until November of that year when Pulver brought Clarke back into the ARU fold when Clarke took on a management role overseeing Super Rugby and Australia’s involvement in SANZAR. Clarke’s successor at MRRU was Peter Leahy.

The MRRU’s total revenue for the year fell by \$2 million to just \$10.6 million, resulting in another **net loss** for the year (**\$2.65 million**) and bringing the **total accumulated losses** figure as at 31 December 2014 to a mind-blowing **\$23,931,698**. The total **negative equity** situation worsened and stood at (**\$11,806,698**) at year end. This included another interest free loan from the “related party” we know to be the ARU. That took the **amount owed to the ARU** by the MRRU to **\$8.75 million** as at 31 December 2014. Yet the MRRU Chairman, Jonathan Ling, was nevertheless able to again declare in the Directors’ Report that there were *“reasonable grounds to believe that the [MRRU] will be able to pay its debts as and when they become due and payable.”*

How on earth Ling could have made such a statement given the mess the company was in again appears to be due to the fact that the ARU had again provided “a written undertaking” to continue paying the bills. Interestingly though, the “Going Concern” paragraph in the 2014

financial statements contained a ceiling figure of \$2,350,000 for the ARU's largesse. The precise wording was,

*"The support is capped at \$2,350,000 up to 30/4/2016 which is greater than the Director's [sic] best estimate of the cash requirements of the company for a period up to April 2016."*

Four things strike me about that. First, why that precise figure (especially when the MRRU's liabilities far exceeded that amount). Second, what was the significance of the 30 April 2016 date? Third, how could they possibly estimate how much the MRRU's debts would be some 16 months into the future? Had Clarke, Pulver and Ling already concocted the plan that was subsequently launched in February 2015 when MRRU board member, Gary Gray, formally introduced Rob Clarke to Andrew Cox, owner of Imperium Capital Group Pty Ltd, and future owner of the MRRU? Fourth, the ARU's net deficit for 2014 and its total equity as at 31 December 2014 were (\$6.3 million) and \$6.8 million respectively so it was barely in any position to be underwriting the massively unprofitable MRRU.

Because the MRRU accounts for 2014 contained the same cryptic "Future Developments" and "Indemnification of directors and auditors" paragraphs as had appeared in the 2013 financial statements, it makes the whole picture as at 31 December 2014 even more murky.

But the real show stopper in the MRRU accounts for 2014 is the following taken from Note 17 to the financial statements:

***"During the period, the [MRRU] provided services to the related ARU to the value of \$5,986,404 (2013: \$3,700,000)."***

What "services" could the MRRU have provided to the ARU over 2013 and 2014 that amounted to almost \$10 million? And why did those "services" not appear in the "Revenue" breakdown in the Notes to the financial statements for the MRRU for either year? And why is there no mention of such services in the ARU's financial statements for the 2013 and 2014 years?

Intriguingly, the figure of \$3.7 million relating to 2013's "services" matches that described as "ARU distribution" in the Revenue breakdown for the MRRU for that year. But the same is not true for 2014, where there is a difference of \$1,986,404 between the "services" figure (\$5,986,404) and the "ARU distribution" figure (\$4 million). That leads me to conclude that they are two separate things. My assumption would have been that the revenue described as "ARU distribution" in the MRRU accounts is in fact the Super Rugby grant, which at that time would have been around \$4 million a year for the Melbourne Rebels. However, the ARU accounts record that the grant paid to the Rebels in 2014 was \$7.25 million. So what was the true situation? What were those "services"? And why the difference between the ARU's accounts and the MRRU's accounts?

These are issues that I believe the Inquiry should probe with Clarke, Pulver, Ling and Day (ARU CFO), and the independent auditor for both companies, Trent Duvall of KPMG Sydney.

The final observation to make about the MRRU financial statements for 2013 and 2014 is that both sets were filed with ASIC in 2015 (6 February and 18 May, respectively) which was after Clarke had left the role of CEO to go back to the ARU. Did Clarke deliberately ensure that the accounts were not filed? Did that breach his regulatory responsibilities as CEO?

I turn now to the **ARU's financial statements for 2014**. The main observation to make here is that in the space of 12 months, the ARU managed to go from a net surplus of \$19.5 million in 2013 to a **net deficit of \$5.5 million** for 2014. That appears to have been due to an inevitable drop in revenue following the previous year's bumper windfall from the British and Irish Lions tour, without a commensurate drop in operating expenditure. The Directors' Report made no comment in relation to the return to deficit for the third time in the four years since the fifth Super Rugby licence was awarded. In fact, they confidently declared there were reasonable grounds to believe that the ARU would be able to pay its debts as and when they became due and payable. One assumes they were able to make that declaration based on the fact that the ARU's total equity was still just about in positive territory at \$6.9 million. But by any measure, the national body was hardly flush with cash and had the added problem of the MRRU millstone around its neck.

So at the end of 2014, we had the MRRU with negative equity of \$11,806,698 and in debt to the ARU to the tune of \$8.75 million; and the ARU with hardly any equity itself and facing the prospect of another year of reduced revenue because 2015 would be another world cup year (this time held in England).

Against that background, it is little wonder that the ARU was telling stakeholders at that time that there was a very real chance it could be insolvent by April 2015.

And so to 2015. A year that – in my opinion – showed just how far the ARU was prepared to go to ensure that Melbourne continued to have a Super Rugby team come hell or high water and no matter how financially irresponsible that may be.

The show stopper was the now infamous decision to gift the MRRU to businessman Andrew Lawton Cox for a notional \$1 after the ARU had scrubbed the company's balance sheet clean by **paying out the MRRU's creditors to the tune of \$4,268,000 and writing off the unpaid loans to the ARU of \$8,750,000**.

Other submissions to this Senate Inquiry deal with the web of connections and friendships that eventually led to Andrew Cox being introduced to Rob Clarke as a candidate to take on the financial basket case that was the MRRU. My submission asks 'what was in it for Cox?'. What businessman worth his salt would go near a company that was so unprofitable that it had accumulated losses of just under \$24 million in just four years with no prospect of that changing? We know that the ARU gave it to him on a plate having cleared all the debt and persuaded the shareholders to hand over their shares to Cox for nothing, but that still left the question of how on earth was Cox going to make this company profitable.

Well, the answer (at least in part) to the question 'what was in it for Cox' seems to lie in the agreement the ARU made with Cox at the time he took ownership of the MRRU from the VRU. Clause 4.1(b) of that agreement says that the ARU will make two **"special funding" payments** to the MRRU each year from 1 January 2016 to 1 January 2020 amounting to a total of \$5.5 million. This was in addition to a payment of \$500,000 made in July 2015. So, a total of **\$6 million** was to be given to Cox in return for him taking over the MRRU.

Furthermore, that \$6 million was a “balloon payment” which meant that it was tapered over the period to 1 January 2020 such that most of it would be received by the end of 2018. (Incidentally, as Cox eventually offloaded the MRRU in August 2017 after another year of financial losses in 2016, the question needs to be asked about whether the payments that would have been due to Cox after August 2017 were brought forward and paid early as part of the deal.)

A snapshot of some of the MRRU’s month-by-month revenues and expenses for the period July 2015 to December 2016 also reveals the following amounts that are extremely curious and perhaps need probing in order to better understand exactly how Cox and the ARU were running the MRRU and how the financial relationship between the MRRU and Cox’s other companies worked.

	<b>6 months ending 31 Dec 2015</b>	<b>Year ending 31 Dec 2016</b>	<b>TOTAL (2015 and 2016)</b>
<b>Revenues</b>			
ARU Other Funding	\$750,000	\$2,600,000	<b>\$3,350,000</b>
<b>Expenses</b>			
Consultants <sup>1</sup>	\$461,010	\$120,000	<b>\$581,010</b>
Legal Fees	\$42,596	\$20,004	<b>\$62,600</b>
Director Fees Non ALC	\$0	\$26,000	<b>\$26,000</b>
Board Expenses	\$11,059	\$104,996	<b>\$116,055</b>
ICG <sup>3</sup> Management Fees	\$104,429 <sup>4</sup>	\$200,004 <sup>4</sup>	<b>\$304,433</b>
PCM Director Fees <sup>2</sup>	\$100,000	\$262,496	<b>\$362,496</b>
Money to Cox & Co	\$719,095 <sup>5</sup>	\$733,500	<b>\$1,452,596</b>

<sup>1</sup> The bulk of this expenditure was incurred in July and August 2015 (\$286,850 and \$75,718 respectively), which was around the time when the MRRU was gifted to Cox. Who were the consultants, what consultancy services did they provide, and who did they provide them to, exactly? In 2016, the expenditure was a flat monthly fee of \$10,000 each month. What was that for, exactly?

<sup>2</sup> A note in the spreadsheet says “PCM Managing Director’s Fees, asked by Andrew to be included in Staff Salaries.” PCM = Providence Capital Management,

<sup>3</sup> ICM = Imperium Capital Group

<sup>4</sup> This was paid at a set rate of \$16,667 per month

<sup>5</sup> Most of this was paid in July and August (\$325,024 in July and \$109,146 in August.)

<sup>6</sup> A note says \$25,000 was spent on “Miscellaneous events paid for Board members” and a further \$30,000 on Board expenses that included a trip to Tokyo.



What of the **ARU's financial position at the end of 2015**? Well, it ended the year with another **deficit**, this time of a **shade under \$10 million**. Added to that, its **total equity was in the red to the tune of \$1.25 million**. And yet the financial statements were able to be prepared on a going concern basis based solely on "an analysis of the forecast cash flows from operations of the Group [company]." However, the 'going concern' declaration did contain the same qualification as in 2013 and 2014, namely that the assumptions *could be impacted by downside risks, particularly impacting Super Rugby franchise teams that may require the [ARU] to incur additional costs in order to field teams under its broadcasting obligations.*"

**In 2016**, the ARU scored a bumper windfall as part of the 2016-2020 broadcast deal won by the SANZARR joint venture. That windfall saw its broadcast revenue go from \$18.1 million in 2015 to \$61.4 million in 2016. That **enabled the ARU to post a surplus of \$3.7 million** for the 2016 year. **Total equity also got back into the black at \$4.6 million**. During the year, the Western Force approached the ARU for financial assistance as it was approaching bankruptcy. But instead of showering the Force with interest-free loans and an open cheque book like with the Rebels, Rob Clarke et al managed to hoodwink the Force by offering them an alternative option – the entering into of an alliance agreement as part of a new national governance model the ARU had decided to bring in for all Super Rugby teams going forward. As we now know, by signing that agreement, the Force signed its own death warrant.

Curiously, there has been no talk since of moving to the new national governance model that the ARU was so keen to push when negotiating with the Force. It would be interesting if the Inquiry were to ask the ARU to table the documentation relating to said governance model and how it intends to roll it out to the remaining 4 Super Rugby franchises.

For example, it is understood that the Queensland Reds Super Rugby franchise has in the past few months approached the ARU for an advance on its 2018 funding as it is in financial distress. Perhaps the Inquiry could ask Pulver and Clyne whether the Queensland Reds are being asked to give up their licence and IP in return for financial assistance and whether the alliance agreement model will be used on them as well. If the answer is no, perhaps the Inquiry could ask the ARU why not, given the ARU's declared intention (as pitched to the Force) to go to centralised model for all Super Rugby teams. A declared intention, by the way, that turned out to be a pivotal factor in the Force's decision to sign that fatal Alliance Agreement.

Did the ARU ever have any intention of moving to a centralised model or was that all part of the ruse to get rid of the Force by fair means or foul? That too is a question that I believe the Inquiry should probe with Clarke, Pulver and Clyne.

## Halting the overall decline in Australia's performance

The second of the two principal reasons given in the ARU's document dated 5 September 2017 about the reason for going from 5 teams to 4 was:

“to halt the overall decline in Australia's performance at both Super Rugby and test level and cauterise the loss of money coming into the game as a result of that decline.”

They lamented the dip in “average win percentage” of Australian Super Rugby teams in the period from 2006 and 2017, and the falling success rate of the Wallabies which had seen them make only one World Cup final during that 11-year period. (What they conveniently omitted to include was that an Australian Super Rugby team had won the Super Rugby Championship twice during the period that there were 5 Super rugby teams (2011 and 2014), and there were only 3 world cups in the 2006-17 period, each with much a more competitive field than when Australia had last appeared in the final (2003), but I digress.

If the ARU knew in 2011 – as Cameron Clyne said in a interview he gave on FoxSportsRugby and to the Daily Telegraph in April 2017 – that 5 Super Rugby teams was not financially sustainable, why did they not take the decision to seek SANZAR's agreement to withdraw one team when discussing how the Super Rugby competition would look in the next 5-year cycle commencing from 2016? They had control of the MRRU at that point in time (2013-14) and could have – if they had wanted to – engineered the end of the Melbourne Rebels from 31 December 2015, saving the ARU many \$millions that could otherwise have been directed into other areas of the game and to other areas of Australia.

What was so special about Melbourne that prevented them doing that? Who pulled those strings to ensure that the Rebels survived no matter how much money they were losing and how poor their performance and support was becoming? What was in it for the guys at the ARU to continue to throw good money after bad on an obviously unsustainable MRRU when the national body was itself heading towards insolvency?

And why did the ARU subsequently agree to make matters even worse for itself by expanding the 15-team competition to 18 with the inclusion of Argentina and Japan from 2016?

It is very interesting at this point to note the following effusive quotes from Bill Pulver in the SANZAR media release dated 2 May 2014 in which the announcement of the expansion to 18 was made.

*“Australian Rugby Union Chief Executive Bill Pulver said the expanded model would be a terrific new structure for the game, stating “the international nature of Super Rugby makes it unique. It's already one of the world's most exciting provincial Rugby competitions, and with the changes announced today, it has the potential to become a truly global competition.”*

*“Our strong preference is for the 18th team to come from Asia as we believe this will attract significant commercial opportunities for us in the future.”*

*Pulver added that the new competition structure would be an appealing proposition for broadcasters, which has the potential to deliver significant positive outcomes and growth opportunities for rugby in Australia.*

*He continued “negotiating a significantly increased broadcast deal is the single greatest opportunity we have to increase revenue for rugby in Australia, which will ensure we can deliver on our strategic priorities and grow the game by continuing to contribute to funding Super Rugby teams; retaining our best talent; new competitions; and by creating an overall better experience for our fan base, especially on game day.*

*“We’re pleased home-and-away local derbies will continue to be a feature of Super Rugby and that we’ll increase our competitive rivalry with New Zealand by increasing the number of games we play against them.*

*“It’s crucial for the long-term success of the Qantas Wallabies that we’re playing the best opposition in the world on a regular basis, and this has been reinforced by the new model offering the Australasian Conference a guaranteed five of eight places in the Super Rugby Finals Series.*

*“With a broader pool of playing talent, more venues and extra match-ups, the new structure presents fantastic opportunities for our players and fans.”*

No sign of any concerns about financial problems there. No suggestion that the expansion from Super12 in 2006 was a huge mistake. No concerns about going bankrupt even though it was obvious how parlous the ARU’s financial position was and how much strain was being added to the bottom line because of the \$millions it was sinking in the MRRU without any return on the investment whatsoever.

What incredibly irresponsible governance from the ARU.

The other issue that, in my opinion, needs probing is this: when did the ARU first contemplate axing a team? The 5 September 2017 documentation put out by the ARU says that the SANZAR decision to go from 18 to 15 was made on 10 March 2017 following a “thorough assessment and review of the tournament **over the previous nine months.**” As that takes us back to June 2016 at the latest, it is my contention that when the ARU came up with the idea of an Alliance Agreement with the Force, it had already at best contemplated, and at worst decided, that the Force would be the team to take the bullet under a 15 team model post 2017. I think this would be a useful line of questioning for the Inquiry to put to Clyne and Pulver. Was the reference to the Rebels being in the frame for the cull a total sham? Some of the recent comments from the CEO of the MRRU about saving spaces in the Rebels’ playing roster to accommodate displaced Force players certainly suggests that they had been given a clear indication some while ago that the Rebels were safe.

And finally, as we hear that the remaining 4 Super Rugby teams have asked for increases in funding or salary caps to accommodate the best of the Western Force players and particularly the Force’s Wallaby players, perhaps the Inquiry could ask to see the planning the ARU did to set the strategic direction for rugby in Australia in the period following the cancellation of the Force’s licence.