# PUBLIC INQUIRY INTO THE NORFOLK ISLAND REGIONAL COUNCIL

**South Pacific Hotel Board Room**

# 110 Taylors Road, Norfolk Island 2889

**Before: Ms Carolyn McNally, Commissioner**

# Counsel Assisting:

**Mr Paul Bolster Ms Kathleen Morris**

# On Thursday, 3 June 2021 at 10.02am NFT

**(Day 4)**

1 THE COMMISSIONER: Okay, Mr Bolster.

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1. MR BOLSTER: Thank you, Commissioner. I call Mr Snell.
2. Mr Snell, if you could come forward, please.

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# 6 <LISLE DENNIS SNELL, sworn: [10.03am]

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# 8 <EXAMINATION BY MR BOLSTER:

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1. THE WITNESS: Excuse me Commissioner, do you mind if I
2. take some documents, have some documents with me?

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1. MR BOLSTER: No, not at all.
2. A. Thank you.

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1. Q. For the record, could you state your full name,
2. please?
3. A. My name is Lisle Dennis Snell.

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1. Q. You were elected as a member of the Norfolk Island
2. Regional Council in May 2016?
3. A. That's correct.

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1. Q. In December 2016 there was a meeting of the council at
2. which you came to discuss a long-term financial plan; do
3. you remember that?
4. A. We had many meetings around that time, but to be
5. honest I can't recall the exact details of that meeting,
6. but nevertheless, yes, there probably would have been.

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1. Q. This was a significant meeting because it was the
2. first meeting at which you had been given a report about
3. the performance of the council in its first three months;
4. do you remember that issue broadly?
5. A. No, I don't; no, I don't.

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1. Q. It was also the meeting at which officers of council
2. presented their 10-year long-term financial plan --
3. A. Oh, yes.

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1. Q. -- a series of asset management plans and a series of
2. other plans in relation to the assets of the council; do
3. you remember that now?
4. A. Yes, I do now, yes.

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1. Q. I want to read to you what you said at that meeting
2. and get your reaction to this, and this was in response to

1 the plan itself:

2

1. *I'm deeply concerned at the implications of*
2. *this. Whilst I appreciate that it has to*
3. *be done and to adopt the fully costed*
4. *scenario, I think we should explain what*
5. *the fully costed scenario is. It uses the*
6. *base scenario and makes several adjustments*
7. *to it. It places council in a small*
8. *surplus position in the first year with an*
9. *ability to meet the minimum asset renewal*
10. *required. It again assumes council*
11. *operates in the same manner that it*
12. *currently is with the following*
13. *assumptions.*

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1. *Rating revenue is increased to a minimum of*
2. *$1 million as legislated. I can't see how*
3. *we're going to get out of that without a*
4. *new governance arrangement.*

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1. There's then some discussion about the absentee
2. landowner's levy, depreciation coming down, and then you
3. say this:

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1. *Capital grants of $5 million are received*
2. *to help fund renewable critical assets.*

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1. Just pausing there. You appreciated that what council
2. staff were proposing for you on a break-even budget
3. involved the Commonwealth paying $5 million a year for
4. capital asset renewal?
5. A. Yes; yes, it was.

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1. Q.
2. *Core services of telecom, electricity,*
3. *sewerage waste and the airport are fully*
4. *costed and funded through their operations*
5. *including provisions for asset renewals.*

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41 A. Yes.

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1. Q. Then you went on to say this, when you were talking
2. about a base scenario which did not involve a fully costed
3. approach to budgeting, you said this:

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47 *The results present a catastrophic*

1. *financial position for council with cash*
2. *reserves depleting at an alarming rate*
3. *each year to adjust fund operations until*
4. *21, 22 when all cash reserves will be*
5. *exhausted.*

6

1. *As council will be unable to fund its basic*
2. *services and critical services in the near*
3. *future there will be no cash available to*
4. *be used on any asset renewal as it will*
5. *essentially exhaust all cash reserves*
6. *immediately and the council will not be a*
7. *going concern.*

14

1. Do you remember all of that?
2. A. Yes, incredible, isn't it? Yes, I do.

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1. Q. Let's put a bit of context around those comments. At
2. that time there were three options presented, weren't
3. there? There was a business as usual, that is, keep going
4. the way we're going?
5. A. Yes.

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1. Q. And you recall that the forecast there was for rapidly
2. depleting cash?
3. A. Yes.

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1. Q. And that's the no cash scenario that you were
2. concerned about; correct?
3. A. Yes.

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1. Q. The second alternative involved fully meeting the cost
2. of operating the council.
3. A. Yes.

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1. Q. Implicit in that was $5 million a year from the
2. Commonwealth as a capital grant.
3. A. Yes.

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1. Q. And that showed a slightly improved capital position
2. in terms of cash and showed cash increasing over time, the
3. aim being that by around 21/22 you'd have around
4. $18 million or $19 million available in the event that the
5. airport had to be dealt with; do you agree with that?
6. A. Yes.

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47 Q. The third option involved effectively carving out the

1. airport, giving it back to the Commonwealth --
2. A. Yes.

3

1. Q. -- so that the depreciation cost of the airport would
2. not be a weight on the budget; do you remember that?
3. A. It was discussed, but not - no action was taken upon
4. it on that scenario of giving the airport away; it was
5. decided to keep the airport as a major --

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1. Q. Why was that?
2. A. It is a major asset of Norfolk Island and it was
3. viewed at the time that the airport could fund itself
4. through the various charges that were imposed on visitors
5. and business enterprises within the airport structure
6. itself.

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1. Q. And, to a point, that's what it did over the next
2. three years, didn't it?
3. A. Yes.

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1. Q. It certainly added to the budget?
2. A. Yes.

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1. Q. And meant that you, to some degree, didn't need to
2. raise revenue in other sources because of that valuable
3. asset?
4. A. It was part of the government's philosophy and modus
5. operandi that we would always try each Government Business
6. Enterprise to fund itself. Certainly in the days of the
7. Legislative Assembly we adopted that principle, but
8. sometimes we had to rob Peter to pay Paul from some of
9. those government business enterprises, but generally they
10. all funded themselves.

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1. If you recall, and I will present to the Commission of
2. Inquiry the Norfolk Island Government community budget
3. update of 2014/2015 and it highlights, amongst other things
4. which I'll refer to as your questioning goes on no doubt,
5. that some of the government business enterprises could not
6. fund themselves and we were aware of that and I was aware
7. of it within the early days of the council.

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1. Q. You though, along with the other councillors, all five
2. of you, adopted a budgetary approach whereby you would
3. effectively seek to make each business unit fund itself?
4. A. Yes, that was the intention.

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| --- | --- | --- | --- |
| 1 | Q. | Telecom, electricity? |  |
| 2 | A. | Yes. |  |
| 3 |  |  |  |
| 4 | Q. | Waste, sewerage, everything? |  |
| 5 | A. | Yes. |  |
| 6 |  |  |  |
| 7 | Q. | How did you go about doing that? | Let's take each of |

1. them one-by-one. Does electricity today fund itself on
2. Norfolk Island?
3. A. I'm surprised that it doesn't.

11

1. Q. Why doesn't it?
2. A. That's a very good question, why doesn't it fund
3. itself? The details of the costs of the importation of
4. fuel, the details of the many other expenses that the
5. electricity undertakes was certainly taken into
6. consideration at budget time.

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1. Now we did, as a council, introduce additional charges
2. particularly for those that are on solar voltaic, myself
3. included. Some that had been, back in the days of the
4. Legislative Assembly had been encouraged to take up solar
5. voltaic were not contributing much at all to the cost of
6. the generation of electricity for those that weren't
7. fortunate to have it, and even though the polls and wires
8. and other infrastructure of the electricity undertaking was
9. used for solar voltaic and they couldn't be functional
10. without them, so we introduced additional charges for those
11. with photovoltaic to cover, assist to cover the costs of
12. the operation.

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1. Q. Over time, and we're talking very generally - we can't
2. really focus on each separate electricity decision, they're
3. all there in black and white in the records - but over time
4. the opportunity was there, over three and a half, nearly
5. four years, for the budget to match the expenditure on
6. electricity with income, and I want to suggest to you,
7. Mr Snell, that was never achieved?
8. A. No, that was - no, that's right. Our managerial costs
9. and our costs for such things as the Hydro Tasmania reports
10. and so forth were costly to the electricity undertaking;
11. they were all part of the budget process for electricity
12. even though there were reports commissioned to assist us in
13. our deliberations about electricity on the Island.

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1. The issue with raising charges, as you're well aware,
2. have undergone a mandatory process of being placed on
3. public exhibition, so whenever we had the necessity to
4. increase any charges they had to be put out for public
5. comment.

4

1. Now we as a democratic society, we abide by those
2. constituents who elected us. Now, if the community says
3. they don't want an increase in electricity charges or an
4. increase in anything else, we must take that into
5. consideration.

10

1. Q. So, is what your saying: well, council staff suggested
2. all of these ways in which we could bring the electricity
3. budget into a position where it funded itself; we allowed
4. the community to see what those plans and we as a council
5. that was connected with the community spoke to people and
6. came up with the position that charges should not be
7. increased in the manner suggested; is that it effectively?
8. A. Yeah, that's correct, and as I mentioned before, the
9. feedback from consultation cannot be ignored. And, a price
10. increase would have to be consequent of pushing business to
11. reduced staff, reduced trading; the impact is
12. counterproductive, so we had all that to balance.

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1. Q. Let's use electricity as an example. But that means
2. that some money has to come from somewhere else in the
3. budget to fund that deficit.
4. A. Yes.

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1. Q. It's recorded in the council papers, and I'll be very
2. interested for your thoughts on this, that there was a road
3. underspend, there is a road maintenance underspend of
4. $1.8 million over the first three years of the council's
5. operations. Do you accept that proposition?
6. A. "Road underspend"?

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1. Q. An underspend in terms of the need to replace roads?
2. A. Yes.

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1. Q. You don't need to drive very far out of Burnt Pine to
2. see evidence of an underspend.
3. A. That's correct.

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1. Q. Do you agree with that?
2. A. Yes, I do.

45

1. Q. Do you think that when you consulted with the
2. community and the community was told what these electricity
3. prices would be, that they were being told that it was
4. being funded by, for example, amongst other things - and I
5. know this is to a degree an oversimplification but it shows
6. the principle - do you think that the community understood
7. that there was an underspend on their roads of that
8. magnitude?
9. A. Certainly some did, certainly some did, but --

8

1. Q. How did they find out about it?
2. A. Through the councillors themselves and also through
3. the 28 day consultation period that was offered in all
4. circumstances where any increase in charges were to be
5. made; it was put out for public consultation.

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1. Q. When it was put out for public consultation, however
2. it was put out, do you think it was put out - do you recall
3. whether it was put out on the basis that keeping the
4. electricity fees pegged at 62 cents, 64 cents a kilowatt
5. will mean that we're not able to spend as much money on
6. roads, that we're not able to spend as much money on
7. sewerage replacement leading to problems down on flows into
8. the ocean? Do you think that that need to balance the
9. budget, balance expenditure with income, was conveyed to
10. the community in your consultation processes?
11. A. Possibly not, but the community here is not stupid and
12. the community here would rather pay less for electricity
13. and drive on roads that are already established.

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1. The road network for Norfolk Island as far as an
2. Islander is concerned is quite adequate, and the emphasis
3. that had been placed, not only by yourselves and within
4. this Inquiry on the terrible conditions of the road - and I
5. quote yourself - we don't consider those roads terrible at
6. all, and I have travelled many places where the roads have
7. been a lot worse, so the community understands that and
8. they would certainly, in my opinion and the opinion of my
9. constituents, that to drive on a road that we have now as
10. it is, in comparison to having the electricity charges
11. raised, they would rather continue driving on those roads
12. and have just the basic maintenance programs.

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| 42 | Q. | That's the community view that you -- |
| 43 | A. | Yes. |
| 44 |  |  |
| 45 | Q. | That's the community view that you represent? |
| 46 | A. | Yes. |
| 47 |  |  |

1. Q. You would agree with me that's not the only community
2. view out there?
3. A. Of course not, no, this is a democratic society.

4

1. Q. Can I suggest to you, just playing devil's advocate,
2. that there will be people out there for whom the roads
3. would be a significant issue?
4. A. Yes, yes, certainly.

9

1. Q. There's people out there for whom the sewerage system
2. and making sure that that's up-to-date and modern, they
3. would place that at the top of their queue, top of their
4. list of priorities?
5. A. Yes.

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1. Q. What I want to suggest to you, Mr Snell, is that the
2. task of yourselves as councillors was to balance all of
3. that?
4. A. Yes, that's quite right. In an ideal world we'd love
5. to be able to balance all of that, but we have to take into
6. account the impact on those that cannot afford to pay, and
7. we always took that - well, I did, always took that into
8. account.

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1. Q. When that first report came to you from council it
2. said some critical things about the state of the assets and
3. infrastructure on the Island. Do you recall that?
4. A. Yes.

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1. Q. And you took umbrage with that?
2. A. Yes.

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1. Q. Am I right in summarising your position at the time,
2. and tell me if I'm wrong, please tell me what the actual
3. position was, but that you took a view that, okay, we
4. hadn't been spending the sort of money on infrastructure
5. that you might spend on the mainland but what we were doing
6. was enough in the circumstances and it was getting us by?
7. A. Yes.

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1. Q. Was that the sort of approach that you took to your
2. deliberations on council after 1 July 2016?
3. A. I was always, as you already pointed out, I was always
4. concerned at the financial implications of council, and
5. I'll be quite honest with you, Mr Bolster and Commissioner,
6. that I consider that even the very establishment of the
7. council was designed to fail, and in consequence here we

1 are today and we have failed.

2

1. Q. Why do you say that?
2. A. Because the financial - when I look at the financial
3. budgets of the Legislative Assembly, we were having
4. difficulty then, and the establishment of what the
5. Commonwealth had imposed on Norfolk Island after 2015/2016
6. was nowhere going to be cheaper than what we had been doing
7. before, even though the Commonwealth said they were going
8. to take over the big responsibilities of health and
9. education and policing; those were covered within our
10. original budgets as well. And we had in the original
11. budgets provisions for general maintenance of roads,
12. electricity, sewerage and so on. Certainly we could not do
13. the main ticket items.

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1. Now, we should go back within this Inquiry to the road
2. map that was established in 2010. The road map of that
3. time and the discussions within the Commonwealth and within
4. the Parliament at that time indicated, and we accepted
5. this, indicated that Norfolk Island needed to dissolve
6. itself of the three tiers of government: the federal, state
7. and local government areas. The federal parts of the
8. responsibilities of a territory under the authority of
9. Australia and external territories like Norfolk Island
10. should be placed on an equal footing with other places.

27

1. Now, we wanted to work out with the Commonwealth a
2. plan - and we did the road map - of how we can arrange and
3. we agreed to come into the fiscal system of Australia for
4. taxation and other imposts of that nature to counterbalance
5. what we had hoped to receive from the Commonwealth when
6. they took over the other expenses that we were already
7. operating off the federal responsibilities.

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1. They blocked that as long as they possibly could;
2. nothing happened, but we recognised back in 2010 that we
3. had financial problem and it continues to this day.

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| --- | --- | --- |
| 40 | Q. | All of that was effectively history on 1 July 2016? |
| 41 | A. | There is no future without appreciation of history. |
| 42 |  |  |
| 43 | Q. | I'm not saying that you don't take heed of it, but it |
| 44 | was | history? |
| 45 | A. | Yes, it was. |
| 46 |  |  |
| 47 | Q. | And the five of you as the governing body were faced |

1. with the opportunity of meeting your obligations under the
2. Local Government Act --
3. A. Yes.

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1. Q. -- to sustainably match expenditure and revenue in
2. respect of the assets, the income and the liabilities of
3. Norfolk Island Regional Council for the next four years.
4. A. Certainly.

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1. Q. Understanding, accepting all of the difficulties about
2. that, it would seem when one looks at the decisions made on
3. the revenue side about increasing revenue, there was a
4. significant reluctance to take any revenue measures to
5. improve the budget over those four years. Do you agree
6. with that as a broad proposition?
7. A. Again, this is an island and it comes back to the
8. impact studies that should have been done of what the
9. transition arrangements were in 2015, of how it was going
10. to impact on the community of this Island. Certainly, the
11. increasing of revenue to us as Norfolk Islanders, we don't
12. expect to get blood out of a stone, and to get revenue out
13. of some of the people on Norfolk Island would have been
14. impossible without dire consequences to their way of life
15. and to the culture and traditions of this place.

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1. And we all - myself and other councillors - always
2. took that into consideration, of the community's ability to
3. pay increased charges. The community was prepared to go
4. without in some instances, like not having the roads
5. upgraded. Certainly infrastructure such as the sewerage
6. was a major problem, but only a very minute part of the
7. island at that time was connected to the sewerage scheme,
8. so some people were excluded from it all. So, as
9. Councillor McCoy said, you had one part of the community
10. accepting full responsibility and costs for an
11. infrastructure that others didn't have to contribute to at
12. all.

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| 39 | Q. What were the things that you think the people | you |
| 40 | represented were prepared to go without? |  |
| 41 | A. "Were prepared to go without"? |  |
| 42 |  |  |
| 43 | Q. They were your words. |  |
| 44 | A. Yes. |  |
| 45 |  |  |
| 46 | Q. What did you have in mind when you said that? | What |
| 47 | were the things? Was it the roads? |  |

1. A. Yes, roads is one of them. We can go without a number
2. of things that mainlanders, those that come here to join
3. and live with us, find difficult to do without. We can do
4. without a number of things: mobile phones if we wanted to
5. we can do without, certainly footpaths and roads and street
6. lighting. We need a good hospital, we need a good
7. education system, and we need a police force, probably not
8. to the extent that we have today. We can do without the
9. number of vehicles that are on the Island. We were able to
10. live in a society which is not dependent on what happens in
11. Australia or anywhere else. This is an island community
12. and a lot of people fail to understand that.

13

1. There is also, of course, the question of the CPI, the
2. Consumer Price Index, which as you well know the Consumer
3. Price Index measures the cost of living on the Island, and
4. a lot of Island people will do without luxury items if they
5. couldn't afford it, and it is among one of the casualties
6. of the previous Administration, was to establish the CPI
7. system which provided a measured indicator of local
8. inflation which was published monthly; so, we didn't have
9. that in the council, so we were at a bit of a loss there as
10. well.

24

1. Q. If you took the Consumer Price Index for the Island
2. and looked at it in isolation, it would be significantly
3. higher than the mainland?
4. A. Well, definitely.

29

1. Q. It has to factor in the incredible cost of freight
2. whether it's by air or by sea?
3. A. Yes.

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1. Q. It has to reflect the fact that there's been a
2. reduction in competition on the sea freight route which has
3. increased prices, particularly over the last 18 months to
4. two years?
5. A. Yes.

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1. Q. It has to recognise the increased fuel costs?
2. A. Yes.

42

1. Q. You're not self-sufficient when it comes to food or
2. not even close to it, and that everything effectively that
3. needs to be eaten on the Island has got to come from the
4. mainland?
5. A. May I correct you on that? A Norfolk Islander, up
6. until 50 years ago maybe, or even 30 years ago, we could be
7. self-sufficient except for the basic items of flour, sugar
8. and a few other things. When I grew up here as a child
9. 150 years ago we were self-sufficient. Sure, we didn't
10. have all the luxuries that we have today, but we could
11. survive, and a Norfolk Islander will survive.

7

1. Q. Let's turn then, shall we, to the issue of the two
2. substantial decisions of council that have greatly affected
3. the financial position over the last four years. You've
4. been present throughout the hearings?
5. A. Yes.

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1. Q. And you've seen the minutes for both the road contract
2. and the airport contract?
3. A. The minutes?

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1. Q. The minutes, the minuted decisions?
2. A. Yes.

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1. Q. So, the resolutions?
2. A. Yes, yes, yes.

23

1. Q. The resolutions that recorded the way in which council
2. made its decisions on both of those contracts?
3. A. Yes.

27

1. Q. You've seen that we've made reference to the cash
2. position before each of those decisions?
3. A. Yes.

31

1. Q. And the unrestricted cash that was available?
2. A. Yes.

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1. Q. So, on 19 February when the decision was made in
2. relation to the airport, you recall that there was about
3. $10 million in unrestricted cash?
4. A. Yes.

39

1. Q. Can you tell us as best you can recall what was
2. discussed at the meeting on the 19th? Looking back, how
3. did that meeting play out? What was said?
4. A. The 19th in relation to the --

44

1. Q. Of February.
2. A. 19 February in relation to the?

47

1. Q. I think it's 20 February 2019 in relation to the
2. airport contract?
3. A. Yes.

4

1. Q. So, there's been a long history of the airport being
2. an issue in terms of the runway?
3. A. Yes.

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1. Q. You knew at some point in time the runway would have
2. to be repaired?
3. A. Yes.

12

1. Q. That meeting, what was being proposed?
2. A. The councillors understood that the airport had to be
3. upgraded for the standard and the type of aircraft which
4. was operating to Norfolk Island at this time. The airport
5. was upgraded to a 737 standard of the 400 series maximum,
6. and now we have 737, 800s and A320 aircrafts which is a
7. hell of a lot heavier and needed more space, et cetera,
8. et cetera. We understand that the lighting system was past
9. its used by date and so on, so we knew there had to be
10. major works done on that airport.

23

1. There was, and I correct Mr Buffett's earlier
2. assumption or his hearsay that the airlines were
3. threatening to pull out. We had never been notified
4. officially that that was the case from any airline that I
5. know.

29

1. Q. It was CASA's certification that was the issue, wasn't
2. it?
3. A. Yes, yes. CASA, as they're known, were getting very
4. concerned at the break-up in parts of the airport itself,
5. but they were prepared, as Councillor McCoy said, they were
6. prepared on a dispensation to continue to give exemptions
7. to aircraft to fly to Norfolk Island if proper maintenance
8. was controlled. However, all that aside, we were aware
9. that the airport needed to be attended to in due course, we
10. did.

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1. Q. Take your mind back to that meeting on 20 February
2. 2019; how did the issue come up? What do you recall was
3. discussed?
4. A. How did the issue come up? It has been on our program
5. for quite a number of years.

46

47 Q. No, no, just focus on the meeting.

1 A. Yes.

2

1. Q. And what was said at the meeting. Do you recall what
2. was said at that meeting?
3. A. I do have some - some notes here about that; I did
4. some, if you would excuse me. The meeting discussed the
5. implications financially of what this could mean to Norfolk
6. Island to have the airport upgraded and at what costs. It
7. was decided at that meeting that it would go to public
8. consultation and it is my recollection that, as a result of
9. that meeting, the next day or so we held community public
10. meeting in the Rawson Hall with the then Professor Greg
11. White to assist us in explaining the difficulties and the
12. ramifications of upgrading the airport and what cost
13. factors were involved, and what would be the disruptions to
14. the Island in regards to aircraft and so on and so on, and
15. we had that meeting in Rawson Hall.

18

1. Q. I think you and I may be at cross-purposes and we may
2. be talking about a different meeting.
3. A. Oh.

22

1. Q. The meeting I'm talking about was after that, it was
2. after tenders had been called for, after the Commonwealth
3. had indicated the extent of its grant, and this was the
4. meeting where you received a report from staff about the
5. tender evaluation process. Can I perhaps show you a copy
6. of the briefing that you were provided? You recall being
7. provided with that report?
8. A. Yes. Yes, I do.

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1. Q. I'll provide one to the Commissioner. Bear with me
2. for a moment.

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35 THE COMMISSIONER: I've got one.

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37 MR BOLSTER: Oh, you've got one, good, thank you.

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39 THE COMMISSIONER: Is that the same one?

40

1. MR BOLSTER: Yes, it is, I'm sure it is. For the record
2. it's NIRC.020.001.0002. Do you recall receiving that
3. report?
4. A. Yes, I do, yes.

45

1. Q. This is the meeting I'm talking about, and there was
2. discussion about $4.2 million for a biosecurity cost; do
3. you recall that? If you could go, please, to page 3 in the
4. second paragraph.
5. A. Yes.

4

1. Q. You remember I've asked each of the councillors about
2. these issues?
3. A. Yes.

8

1. Q. So my question to you is, what do you recall being
2. told by staff over and above what's in here?
3. A. Okay, I'm glad you asked that because I did make a
4. note of that. And, just as a precursor and in defence of
5. the general manager: the general manager sent out an
6. invitation to councillors that we could view the contracts
7. in her office for a period of one and a half hours without
8. legal representation and not taking any notes, just to have
9. a look at the basis of those contracts, and you've
10. mentioned them here, there were three of them that had
11. the --

20

1. Q. The tenders, you mean?
2. A. The tenders, yes, the tenders.

23

1. Q. So, you had seen the individual tenders before this
2. meeting?
3. A. Yes.

27

1. Q. And you spent the one and a half hours?
2. A. Yes - well, I did, and so did Madam Mayor. I --

30

1. Q. Did any of the other councillors take part in that?
2. A. They may have done, but not to my knowledge.

33

1. Q. What did you glean from your reading of the tenders,
2. without please referring to any of the numbers and any of
3. the confidential information, but in substance?
4. A. It was totally beyond our expertise to understand the
5. contractual arrangements or tender arrangements that we
6. entered into. However, it was of great disturbance to us,
7. and we had seen this type of adjustment where a tender or a
8. terms of reference had been changed, that affected the
9. tenderer's ability to put in a factual and truthful tender
10. amount; that is, the provision of the rock had been changed
11. on the tender documents from the local provision of rock to
12. the importation of rock, and the councillors were not made
13. aware of that until we read it in The Norfolk Islander,
14. which was of great concern to us.

1

1. Q. Let me just clarify that. You read about that change
2. before this meeting?
3. A. Yes, and it was of great concern to us that that had
4. changed and that the provision of rock was going to be
5. imported and no other avenue was available; that excluded
6. some tenderers, of course.

8

1. Q. Is that one of the reasons why there was some
2. discussion about pursuing Island-sourced rock?
3. A. Definitely.

12

1. Q. Could you tell us how that discussion developed; what
2. was said, who was the protagonist? Was it Councillor
3. McCoy, who from my experience has a very close interest in
4. the rock situation on the Island?
5. A. Everybody on Norfolk Island, every Islander, everyone
6. in business has a close relationship and a protagonist.

19

1. Q. Just explain that to us: why is the rock issue so
2. important on the Island?
3. A. Because Norfolk Island is generally disease-free in a
4. lot of areas, we don't have midges here - I don't know
5. whether you know of what a midge is - and that is a
6. disastrous thing. If that should ever come to Norfolk
7. Island our tourism industry would virtually half overnight.
8. And we don't have snakes on Norfolk Island, we don't have
9. life-threatening spiders on Norfolk Island, we don't have a
10. lot of the other diseases, agricultural and otherwise that
11. could be imported in rock.

31

1. And this leads me to the question, is that, on
2. page 113 of the report, and this makes it very interesting
3. to --

35

1. Q. When you say "page 113", what are you talking about?
2. A. Regrettably, I think it may have been a report that we
3. received from the staff and I haven't got it any longer,
4. and this is just my file notes.

40

1. Q. This report, what did the report say?
2. A. My notes were:

43

1. *I understood from brief scanning of the*
2. *Boral and other contracts [which we did at*
3. *the general manager's office] and*
4. *information that has been provided to us*
5. *that the Norfolk Island Regional Council is*
6. *not the importer of the rock and therefore*
7. *the biosecurity screening costs is not our*
8. *responsibility. In addition, surely there*
9. *would be a detailed proof of what actions*
10. *were actually taken by biosecurity to*
11. *warrant any payment.*

8

9 So, what I'm saying is, the $4.2 million had been

1. earmarked long before it came to council. And that letter
2. that was written - if you may excuse me, Mr Bolster - that
3. letter that was presented by yourself in regards to the
4. interview with the council staff, Alistair Innes-Walker,
5. which was sent to him detailing that $4.2 million, that's
6. the first I've ever seen of that and I'm sure the other
7. councillors as me say the same.

17

1. Q. That letter, that letter, was some months later?
2. A. Months later, yes.

20

1. Q. In this report, have a look at page 3.
2. A. Yes, it mentions the 4.2. We weren't aware that Boral
3. was negotiating or discussing or contacting the staff in
4. relation to the $4.2 million in the manner that I
5. explained.

26

1. Q. That letter was a subsequent letter, it's sent by
2. Mr Innes-Walker, or sent by Boral to Mr Innes-Walker for
3. the purposes of trying to ascertain whether the
4. Commonwealth, since it required the biosecurity measures to
5. be taken and since the Commonwealth was the principal
6. funder of the airport runway project, it was prepared for
7. the purposes of seeing if the Commonwealth could meet that
8. cost?
9. A. Yes.

36

1. Q. Surely, that was a good idea, wasn't it?
2. A. Yes, definitely, it was.

39

1. Q. So, I don't understand what the problem is and what
2. that's got to do with the decision you made in February
3. 2019, almost a year earlier? I mean, let's try and cut
4. through here.
5. A. Okay.

45

1. Q. You knew, may I suggest, that the Commonwealth was
2. funding $43 million worth of the airport project?

1 A. Yes.

2

1. Q. You knew that you may have to pay for around 4.2,
2. maybe more, maybe less as biosecurity?
3. A. No. We knew of it but we didn't know that the Norfolk
4. Island Regional Council would be responsible for that cost.

7

|  |  |  |
| --- | --- | --- |
| 8 | Q. | Are you sure about that? |
| 9 | A. | Yeah, definitely. |
| 10 |  |  |
| 11 | Q. | Well, who was going to pay for that? |
| 12 | A. | Because Boral was the importer of the rock, Boral |

1. should have paid for it. It should have been part of that
2. contractual amount that was agreed for the upgrading of the
3. airport. It should not have been an imposition on the
4. Island, on the Regional Council.

17

1. Q. Are you saying that when you came to approve the
2. airport runway tender of Boral, that you believed that the
3. cost for biosecurity, should it be necessary for rock to
4. come from the mainland, was going to be met by Boral and
5. not visited on the council?
6. A. Yes, and there is --

24

1. Q. Are you sure about that?
2. A. Yes, and I challenge anyone to show us where the
3. council was told in black and white that you were going to
4. be responsible for the cost of that $4.2 million.

29

1. Q. You say you saw the tender documents?
2. A. Yes, briefly and, as I said, there were hundreds of
3. pages, sir.

33

1. Q. Might the witness be shown and not be publicly
2. displayed, please, NIRC.011.002.0004. Just familiarise
3. yourself with that two-paged letter. You see that?
4. A. Yes.

38

1. Q. Was that one of the documents you reviewed when you
2. spent one and a half hours in the Mayor's office reading
3. this?
4. A. Definitely not.

43

1. Q. Sorry?
2. A. Definitely not. This was not part of what we were
3. shown; we were shown purely the tender documents submitted
4. to the Norfolk Island Regional Council by the tenderer.
5. Q. If you could go down the page, please, to page 6. Can
6. I just remind you - if we perhaps go back to page 4, I'm
7. sorry. You see the first sentence there:

4

1. *Boral is pleased to submit its conforming*
2. *tender.*

7

1. A. I might be on the wrong page. Page 4 of the
2. document you've handed to me?

10

1. Q. No, no, no, no. Mr Snell, have a look at the screen
2. in front of you.
3. A. Okay.

14

1. Q. I'm asking you to familiarise yourself with the
2. document on the screen.
3. A. Yes.

18

1. Q. You see this letter dated 17 November 2018?
2. A. 17 December?

21

1. Q. November.
2. A. Well, we have a different letter. Now it's
3. 17 November.

25

1. Q. You see that?
2. A. Yes.

28

1. Q. So, this is the letter covering the tender. So, I'll
2. ask the question again because we were at cross-purposes
3. before. Does this look like the document that you saw in
4. the general manager's office?
5. A. No.

34

1. Q. Let's keep going down the page to page 0006, and you
2. should see a heading of, "Regional Procurement Division of
3. Strategic Services Australia." Do you see that? These are
4. the tender schedules?
5. A. It's still screening.

40

1. Q. It will come up in a minute, sorry. So, I'm after
2. NIRC.011.002.0004\_006. Do you see that, Mr Snell?
3. A. Not yet. Oh, yes, 006, yes, I see that. Now, "Tender
4. Schedules".

45

1. Q. "Tender Schedules", you see that?
2. A. Yes.

1

1. Q. Go to the next page, you see this is the tender for
2. Boral resources?
3. A. Yes.

5

1. Q. If we could go down to page 10, you see there the
2. tender price for Option 1?
3. A. Slow down, slow down.

9

1. Q. This is page \_10; do you have that?
2. A. Yes.

12

1. Q. Do you see there, it says "Schedule tender price
2. Option 1", then it has a whole list of blank dollar signs.
3. Do you see that?
4. A. Yes.

17

1. Q. If we go down two pages. And you'll see that Option 1
2. is "On Island crushed aggregate." That's at the top of the
3. page?
4. A. Oh, gosh.

22

1. Q. See where it says "Option 1" at the top of the page.
2. A. "On Island crushed aggregate", yes.

25

1. Q. Do you think this is the document you were shown?
2. A. Definitely not.

28

1. Q. But you say you were shown the tenders?
2. A. Only the tenders, only the tenders, no ancillary
3. documents at all.

32

1. Q. Mr Snell, this is the actual tender, this is Boral's
2. tender for the airport project.
3. A. It was part of the tender documents?

36

1. Q. This is the tender.
2. A. Okay, well, I can't recall having seen this.

39

1. Q. Okay. Go down to page 12.
2. A. Yes.

42

1. Q. You see there, this is the tender price for Option 2,
2. "Imported crushed aggregate." You see there --
3. A. Mr Bolster, this is news to me. Even though we saw
4. tender documents, I can't recall these being part of the
5. tender documents that we were privy to have a look at, but
6. nevertheless my recollection of things is not as good as it
7. used to be, so I have to plead innocence in this that it

3 may have been there but I can't recall it.

4

1. Q. In fairness to you, I want to take you to the critical
2. point which makes Boral's position crystal clear.
3. A. Yes.

8

1. Q. On page 18, \_18, you can see there about halfway down
2. the page you see, "Details of alternative proposal"?
3. A. "Details", yes.

12

1. Q. In the case of on Island rock it's got three
2. subparagraphs?
3. A. Yes.

16

1. Q. And the last one?
2. A. Yes. Yes, I see it now, yes:

19

20

21 *<Confidential>*

22

23

24

1. Q. Please don't read the number, please. Commissioner,
2. perhaps if you could make a direction that that number not
3. be published in any way, shape or form.
4. A. I'm sorry.

29

1. Q. The number that Mr Snell said, if you could make an
2. order to that effect, that would be appreciated.

32

33 THE COMMISSIONER: Yes, I make that order.

34

35 THE WITNESS: My apologies.

36

1. MR BOLSTER: Q. If we go then down to page 20, we see
2. "Reference 1", these are qualifications to the tender?
3. A. Yes.

40

1. Q. What I want to suggest to you, Mr Snell, is it was
2. readily apparent to you, whether you saw it in this
3. document or otherwise, or whether you found out about it at
4. the meeting on 20 February, that council was up for the
5. 4.2 for the cost of biosecurity, whatever amount it ended
6. up being on the contractual documentation?
7. A. There's something radically wrong here, if I may say
8. so. Up until the tender documents, the preparation of
9. tender documents, it was always understood that there was
10. hope that the quarries, both at Cascade and Headstone,
11. would be suitable for the provision of local rock for which
12. - in which case this provision would not have been
13. required. So, how come, at the submission of the tender,
14. this had already been decided?

8

1. Q. It hadn't been decided. With respect, it hadn't been
2. decided; there were two options?
3. A. It hadn't been decided but it had been included within
4. the tender itself: that's amazing.

13

1. Q. Why do you say "that's amazing"?
2. A. Because up until virtually the last minute - that's
3. only to quote a pun - the last, that we were always hoping
4. that the rock would be produced on Norfolk Island and here
5. we are, this is all part of the contract. Are we saying,
6. or is this saying that, with due respect, that really there
7. was no intention of ever getting local rock?

21

1. Q. Well, that's not the way the discussion went at the
2. council meeting, is it?
3. A. No.

25

1. Q. You approved the tender on the basis that you'd
2. explore the issue of local rock, you'd have until 31 March
3. to do it, and if you didn't do it you'd still proceed with
4. external rock?
5. A. Yes.

31

1. Q. You understood that?
2. A. Yes, I did; yes, I did.

34

1. Q. You understood that the cost of doing that included
2. $4.2 million for biosecurity remediation; correct?
3. A. No. We were - always understood that the biosecurity
4. costs would not be a cost to the Norfolk Island Regional
5. Council; that was my - always understanding, whether I be
6. right or wrong.

41

1. Q. Did you recall any discussion that went to the notion
2. that the council's Airport Business Enterprise would be
3. lending the council the money to do this?
4. A. Yes.

46

47 Q. What was the discussion about along those lines?

1. A. If I may just pause a few minutes, I did try and - I
2. anticipated this question. The Norfolk Island Airport
3. Enterprise consisted of a number of areas where revenue was
4. raised and, with the absence of the COVID pandemic, it was
5. believed that the airport enterprise of passengers' arrival
6. charges, the rental arrangements for traffic handling and
7. airport handling and any other rentals that were available
8. to the Norfolk Island Regional Council was sufficient to
9. service a loan to cover the overruns.

10

1. Q. A loan from who?
2. A. Norfolk Island Airport.

13

1. Q. Did it have that cash? Did it have 4, 5, $6 million
2. in cash?
3. A. No, it did not. No, it did not.

17

1. Q. How is it going to lend the council money?
2. A. On its earnings. On its earnings and the - and I go
3. to what was available to us in unrestricted cash back in
4. the budget of 2018/19; the unrestricted cash at that time
5. was, in my documents here - it could have changed a bit,
6. this is a draft document - was $11,474,000.

24

1. Q. Yes. And the figure at 12 months later ?
2. A. I don't have it in front of me.

27

28 Q. $660,000, $700,000.

1. A. Yes. Yes, but what I'm saying is, we thought we had a
2. buffer, a cash buffer and we thought that, all things being
3. equal, we would be able to service a loan to cover any
4. overruns. Now, we were hoping there would not be any
5. overruns. As Councillor McCoy rightly pointed out, there
6. were cost saving provisions built into the contract that
7. might have given the council some respite, some reduction
8. in the cost, and I was surprised - and this may be a little
9. out of this question you've asked, that - no, I won't say
10. that now, I'll wait until you ask.

39

|  |  |  |
| --- | --- | --- |
| 40 | Q. | The proposal from the officers on 20 February included |
| 41 | some | cost saving measures. |
| 42 | A. | Yes. |
| 43 |  |  |
| 44 | Q. | Council voted, or at least expressed an intention, |
| 45 | that | they didn't want to pursue them; correct? |
| 46 | A. | Didn't want to pursue them? |
| 47 |  |  |

1. Q. Did you hear what Mr Porter and Mr McCoy said
2. yesterday?
3. A. Yes, I did.

4

1. Q. They wanted to have the airport at the highest level
2. of quality, the highest level of rating; they didn't want
3. to cut any corners when it came to lighting, when it came
4. to the savings that were articulated in that paper.
5. A. Yes, on the understanding, on the understanding that
6. we had cash buffer available to be able to cover any - to
7. cover those extra facilities that were being provided at
8. the time.

13

1. Q. Councillor Snell, when you ran the government, you
2. were the Chief Minister in the Assembly for the last
3. government, did you have a position about a minimum amount
4. of cash that had to be in the bank or in investments
5. readily accessible to fund the ongoing business of
6. government?
7. A. Yes.

21

1. Q. What was that figure?
2. A. Generally we were very concerned if it dropped below
3. $3 million.

25

1. Q. $3 million?
2. A. Yes.

28

1. Q. So, were you not concerned about the cash position at
2. the time of this decision because you had $10 million in
3. the bank?
4. A. I wasn't at that time, no, because I was assured by
5. the documentation and the information that we'd been given
6. from the staff that we were in a healthy position
7. financially, and I rely on comments and information from
8. the then general manager and --

37

1. Q. What did she say?
2. A. That Norfolk Island - and I refer to her staff
3. (indistinct) for example, I'm sorry, on September 2019 and
4. the general manager's farewell message:

42

1. *As you would be aware I have provided my*
2. *resignation in the role of general manager*
3. *at Norfolk Island Regional Council. I have*
4. *completed what I was originally appointed*
5. *to do, to guide the setting up of a new*
6. *Regional Council on Norfolk Island in*
7. *line with the Local Government Act ...*
8. *[et cetera, et cetera] applied to Norfolk*
9. *Island.*

5

1. *I have done so with dedication and*
2. *commitment and the council is in a positive*
3. *financial position with capable staff to*
4. *execute the many projects that are now well*
5. *in progress. Funding has been received for*
6. *many of the capital projects and we have*
7. *successfully managed to increase the*
8. *financial assistance grants (FAGs)*
9. *substantially from the original amount.*

15

1. So in those and in other areas, her address to the
2. annual report, also states how very fortunate we are to be
3. in a good financial position even though she made a few
4. errors: she quoted the airport payment project secured
5. $42 million, should have been 43, but I guess that has been
6. corrected in the final draft of the annual report for which

|  |  |  |
| --- | --- | --- |
| 22 I haven't seen and I wasn't given a copy.  23 | | |
| 24 |  | She goes on to say that: |
| 25 |  |  |
| 26 |  | *The financials overall were on target and I* |
| 27 |  | *wish to congratulate the staff on their* |
| 28 |  | *budget management with a surplus result of* |
| 29 |  | *around $50,000 discounting the revenue* |
| 30 |  | *treatment of the airport loan of* |
| 31 |  | *$10.9 million that was written off by the* |
| 32 |  | *Commonwealth.* |
| 33 |  |  |
| 34 |  | So our budget to us, to me, in 2018/19 had balance and |
| 35 | that | we had that surplus of $11.74 million. |
| 36 |  |  |
| 37  38  39 | Q.  was  A. | What did you think the potential cost to the budget of council's responsibilities under the contract?  We were hoping that it would not exceed the $8 million |
| 40 | that | we had. |
| 41 |  |  |
| 42 | Q. | $8 million? |
| 43 | A. | Yes. |
| 44 |  |  |
| 45 | Q. | So you've got 10 in the bank, the risk is that you've |
| 46 | got | 8 that will have to leave the bank? |
| 47 | A. | Yeah, the risk, yes. |

1

1. Q. And the theory is that, so far the airport has
2. returned to profit?
3. A. Yes.

5

1. Q. Modest profit?
2. A. Yes.

8

1. Q. But that profit was funding the day-to-day operations
2. of the council?
3. A. Yes.

12

1. Q. It was funding whatever roads were repaired despite
2. there being an underspend on maintenance?
3. A. Yes.

16

1. Q. It was funding the gap in electricity, it was funding
2. the gap in sewerage replacement and maintenance, it along
3. with the bond; the bond and the airport seemed to be the
4. two things that were making substantial contributions to
5. the cost of the council meeting its obligations; correct?
6. A. And the land rates, of course.

23

1. Q. So, didn't you think it was questionable as to whether
2. you could burden the airport with repaying or meeting the
3. cost of the airport runway in those circumstances?
4. A. It --

28

1. Q. Did that --
2. A. You're quite right. Government is a very difficult
3. situation in financial, and let us look at what is
4. happening around the world today, what is happening in
5. Australia for example, what is happening in every council
6. within Australia: Norfolk Island is no different. I quite
7. understand what you're saying about being able to meet our
8. obligations. However, we relied very heavily on what
9. information we were given by staff.

38

1. Q. Okay.
2. A. There were queries, I had queries on a number of
3. issues within the budget process that we were given.

42

1. Q. Given that you understand that there was a potential
2. $8 million commitment on the airport, in July a proposal
3. comes to you about spending another $5 million on the
4. roads.
5. A. Yes. Yes, I was very upset at that.

1

1. Q. Did you oppose that?
2. A. I asked the general manager at the time of the
3. meeting, "Can we possibly get out of this contract?"

5

1. Q. Which contract?
2. A. For doing up the roads, or this agreement that we had
3. with Boral for doing up the roads.

9

1. Q. There was no agreement until you determined that their
2. offer be accepted.
3. A. Yes, but when it became very obvious to us, prior to
4. the commencement of the upgrading of the roads, that
5. Norfolk Island was in a dire financial situation --

15

1. Q. That's later.
2. A. Yes, it was later - I asked the general manager if it
3. was possible to rescind the contract for the upgrading of
4. the roads, and he said, "No".

20

1. Q. When did you do that?
2. A. Oh, at one of our meetings, but we had so many, I
3. can't determine.

24

1. Q. Was it after COVID hit and a lot of the financial
2. realities were coming home to roost?
3. A. Yes, it would be, yes.

28

1. Q. So, after April?
2. A. Yes. Yes, it was after April.

31

1. Q. Can you recall a meeting with Mr Roach in April where
2. he said, these are the facts, we will not have any cash
3. fairly soon --
4. A. Yes.

36

1. Q. -- unless we do something drastically different?
2. A. It may have been at that meeting; he said, no, we were
3. committed and that was it.

40

1. Q. You take the view that in hindsight the road
2. commitment to Boral in July 2019 was not a good idea?
3. A. Not a good idea, no.

44

1. Q. Did you think it was a good idea at the time?
2. A. Yes, yes, I thought it was an excellent idea.

47

1. Q. Why?
2. A. Because the machinery to do the asphalt laying, as
3. explained by Councillor Porter, we don't have that
4. opportunity very often and we would probably not ever get
5. another opportunity for another 15 years. However, the
6. roads to us, the roads to me as a Norfolk Islander, is not
7. a major importance that a lot of people have put on there
8. and it was, as I said, once a Commonwealth responsibility
9. and they very cleverly handed it over to the Regional
10. Council and I objected to it at the time and I object to it
11. today, but if we wanted to go further everything on this
12. Island is ours anyway.

13

1. Q. You voted to approve $5 million worth of
2. expenditure --
3. A. Yes, unfortunately.

17

1. Q. -- some months previously having voted to approve what
2. you thought could be expenditure as much as $8 million
3. against an available cash - an unrestricted cash base of
4. around $10 million, maybe $11 million?
5. A. Yes.

23

1. Q. If the roads aren't the priority, as you seem to
2. indicate in your evidence previously, why take the risk of
3. depleting council's cash assets at that time? It's a
4. radical departure from the budget?
5. A. Yes.

29

1. Q. Why?
2. A. We were given assurances that everything was rosy,
3. I've just mentioned some of the examples here. I was
4. starting to get very suspicious that they weren't even
5. before, and you read out a statement that I made at the
6. very start of the Norfolk Island Regional Council which is
7. correct. And I was always conscious of the need to justify
8. expenditure and I was very surprised, even up until
9. recently, at the conclusion when Alistair Innes-Walker said
10. that they'd purchased $300,000 worth of equipment from
11. Boral as - for whatever reason, that they wanted to upgrade
12. their fleet here. That was beyond me, I was incensed when
13. I heard about it because in times past it was one of our
14. contributions to the local industry that, if we wanted
15. machinery of the Bobcat types and so forth, we'd hire it
16. from private contractors, and to spend $300,000 on
17. secondhand machinery that had been worked to death on the
18. upgrading of the airport, to me, was not good management.

1

1. Q. In fairness to you and your evidence about what you
2. were told by the staff I'd ask you to have a look, please,
3. at this document. NIRC.023.001.0002, and if this could not
4. be displayed, it is a confidential exhibit. Do you see
5. that? NIRC.023.001.0002. We haven't got that? Perhaps if
6. we could go and get it and I'll move on to something else.

8

9 One for the witness, one for the Commissioner, one for

1. me and one for you. This was the briefing provided to
2. councillors on 17 July 2019. Do you see the words under,
3. "Discussion", and you will see there that - I don't believe
4. that this is confidential - it says:

14

1. *Operating expenditure of $2 million per*
2. *annum has been provided for each of the*
3. *next 10 years in the knowledge that only*
4. *$1 million can be achieved expended due to*
5. *the limitations of equipment currently*
6. *available on Island.*

21

1. So, expenditure of the equivalent of $2 million per
2. annum could be achieved through a one-off project such as
3. this. Do you recall that?
4. A. I can see it now, yes, but I don't recall it.

26

1. Q. See the graph which indicates that that limitation,
2. with the blue line showing what was available to be spent
3. and then the operational expenditure on roads in red?
4. A. Yes.

31

1. Q. You see, on page 2, you have the proposed roads to be
2. repaired?
3. A. Yes.

35

1. Q. Had there been any discussion before this meeting
2. about a priority set of road repairs or road projects that
3. councillors thought should be the focus of this sort of
4. maintenance and replacement?
5. A. No, not really. As far as I can understand, this was
6. the first indications. Now, the resolution which you've
7. referred to here of 17 July, as far as I can ascertain, was
8. the first; as far as I can remember is the first.

44

1. Q. You see, it was presented to you that Boral's "offered
2. this amount of money for us to resurface these roads"?
3. A. Boral was offered this amount of money to do these -

|  |  |  |
| --- | --- | --- |
| 1 | yes. |  |
| 2 |  |
| 3 | Q. | Yes, it offered a price to resurface these roads? |
| 4 | A. | Yes. |
| 5 |  |  |
| 6 | Q. | $5.065 million? |
| 7 | A. | Yes. |
| 8 |  |  |
| 9 | Q. | Was there any discussion about the roads? Did you |
| 10 | say, | well, hang on a minute, I don't think Douglas Drive |

1. needs to be replaced, why don't we do some more of the work
2. on Anson Bay Road?
3. A. Yeah, of course there was, there was discussion.

14

1. Q. How did the discussion develop?
2. A. These were roads that we thought that would benefit by
3. being upgraded. We know that there are difficulties with
4. the Anson Bay Road, we know there are difficulties with
5. Douglas Drive and so on.

20

1. Q. But these were put to you by the council staff?
2. A. Certainly.

23

1. Q. Did you as the leaders of the community who consult
2. with everyone say to yourselves, well, hang on a minute,
3. there's a particular dip on Anson Bay Road, there's quite a
4. steep decline and then a rise, there's a very dangerous
5. bank.
6. A. Yes.

30

1. Q. The road is full of potholes, one of these days
2. someone is going to go off that road there and it's going
3. to be disaster; just picking that as an example.
4. A. You're assuming that's what's going to happen. It
5. hasn't happened.

36

1. Q. But were there areas on the road system that you as an
2. elected leader who consults with the community thought that
3. that should be a priority other than these which had been
4. selected by the council staff?
5. A. These roads certainly are roads of concern,
6. particularly Anson Bay Road and Douglas Drive. However, I
7. agree with you, there are other roads on Norfolk Island
8. that could probably use treatment, upgrading.

45

1. Q. My question for you is, did you seek to debate this
2. issue?
3. A. We talked of it, yes, and it became very annoying that
4. over time - and I go to March 2020 and other times - that
5. the road suggestions for upgrading and improvements were
6. changing, and they said that the length of the roads will
7. be less than the original 9.37 kilometres, et cetera. They
8. said that the asphalt mix will still be achieved using
9. scalpings from the runway reseal project: that never
10. occurred. There were changes going on all the time.

9

1. Q. But this is the discussion when it's raised with you
2. for the first time that this is what happens?
3. A. Well, that's fine.

13

1. Q. It's the very first time?
2. A. Yeah.

16

1. Q. I want to suggest to you something that stands out to
2. me in reading resolutions made by the council that deal
3. with recommendations from staff. Generally, and there are
4. exceptions, when it comes to saving money, that is, raising
5. revenue, council did not accept the advice of staff: do you
6. agree with that proposition?
7. A. Yes, yes.

24

1. Q. And when this proposal comes up, $5 million, you've
2. just committed to potentially 8 and you've got 10 in the
3. bank, you accept it because it's an expenditure measure?
4. A. Yes.

29

1. Q. Can you explain to me why there is that difference of
2. approach?
3. A. Let's look at the financial implications, shall we?

33

1. Q. Yep.
2. A. Okay, cashflow. As at the year end 30 of 6 2019 total
3. cashflow is significantly higher than the operational
4. planned budget, 19/20 cashflow assumption. And I must
5. admit, this is something that really is, in a government
6. situation, is difficult to assess as well. When we did
7. some of our training to become councillors we were told
8. never to accept anything on assumption: regrettably we
9. never followed that through, so there was an assumption
10. here:

44

1. *Budget opening cash balance is ... compared*
2. *to actual $15.3 million ...*

47

|  |  |  |
| --- | --- | --- |
| 1 | Q. | Where are you reading from, just for the record? |
| 2 | A. | Sorry, page 3. |
| 3 |  |  |
| 4 | Q. | Page 3, yeah. |
| 5 | A. | Cashflow: |
| 6 |  |  |
| 7 |  | *Therefore as the proposed project of* |
| 8 |  | *$5 million is spread over two* |
| 9 |  | *financial years it will be achievable by* |
| 10 |  | *advancing its expenditure on roads over the* |
| 11 |  | *next two years. This would be within* |
| 12 |  | *acceptable parameters of the long-term* |
| 13 |  | *financial plan that projects total road* |
| 14 |  | *expenditure over the 10-year period is* |
| 15 |  | *$20.933 million.* |
| 16 |  |  |
| 17 |  | Those types of implications, those types of advice we |
| 18 | took | on board. |
| 19 |  |  |
| 20 | Q. | I accept that, I understand that, and the reason why I |

1. showed you this document was so that you would see it. But
2. the analysis there, you're a very experienced Member of
3. Parliament?
4. A. I wouldn't say that.

25

1. Q. Chief Minister?
2. A. Yes.

28

1. Q. You wrote budgets?
2. A. Yes.

31

1. Q. You would appreciate the advice there did not consider
2. the cash position at the end of 30 June 2020, did it?
3. A. No, it didn't, and I was get --

35

1. Q. So what it was doing, it was looking at things on an
2. income and revenue basis over 10 years --
3. A. Yes.

39

1. Q. -- and saying, three years from now we won't need to
2. spend a million dollars on roads because of what we're
3. doing now.
4. A. Yes.

44

1. Q. Okay?
2. A. Yes.

47

|  |  |  |
| --- | --- | --- |
| 1 | Q. | But that doesn't put cash in the bank now, does it? |
| 2 | A. | No, it doesn't; no, it doesn't. |
| 3 |  |  |
| 4 | Q. | That was the problem with this project, wasn't it? |
| 5 | A. | Yes. |
| 6 |  |  |
| 7 | Q. | And you knew that? |
| 8 | A. | Yes, and I voiced my concern on a number of occasions, |
| 9 | but | I can count and I know when I - well, it was like in |

1. Parliament, if you can't beat them, you join them; but, you
2. know, I did object to a number of things and --

12

1. Q. Did you object to this?
2. A. I think I may have but I can't recall, I wouldn't say
3. that for sure.

16

1. Q. You have seen that with each of Councillor Buffett,
2. Councillor Porter and Councillor McCoy, we raised with them
3. the particular provisions in the Local Government Act that
4. govern the way council should operate?
5. A. Yes.

22

1. Q. And you will have seen reference to a number of
2. principles?
3. A. Yes.

26

1. Q. You recall the debate?
2. A. Yes.

29

1. Q. Particularly the one about sustainably managing the
2. budget?
3. A. Yes.

33

1. Q. Matching expenditure with income?
2. A. Yes, yes.

36

1. Q. I want to suggest to you that council failed to do
2. that over a four-year period; that council failed to do it,
3. I'm not suggesting you did it personally. What's your
4. reaction, what's your response, what's your answer, to that
5. proposition?
6. A. As I indicated at the very outset, the system that was
7. given to us in 2016, because 2015/16 was an advisory
8. council and all the experts were here, the financial
9. officers appointed by the Commonwealth and so forth,
10. Mr Gesling and others, they were the experts in the field
11. of preparing the Norfolk Island Regional Council for its
12. future, and they estimated that they were going to get - we
13. were going to get financial assistance grants at millions
14. of dollars to assist us through the downfall that had
15. occurred with, they say, the Norfolk Island Government.

5

1. In the Norfolk Island Government in its day certainly
2. we had difficulties, we were cash-strapped, but we weren't
3. broke, we had a cashflow problem. Nevertheless, what you
4. are saying is right, we always tried to establish that
5. whatever we entered into we could pay for. It's not just a
6. council thing or - it's something that I was personally - I
7. never did anything that I could never afford to do and I
8. think a lot of the councillors felt the same way.

14

1. Q. When it came to asset maintenance and enhancement, how
2. would you describe the improvements that have been made to
3. the Norfolk Island asset base over the term of the council?
4. Was too much spent, was not enough spent?
5. A. Everything that was done was done with due
6. consideration for financial implications. The ability of
7. the Island to improve such things as the sewer network and
8. roads - well, we regrettably went backwards in some of the
9. areas, particularly waste management. But the improvements
10. have been really in areas of social welfare, in - well,
11. education's taking a tumble now too --

26

1. Q. But they're not dealt with by the council?
2. A. I know, they're federal, but they're community
3. interests to us, you know.

30

1. Q. You'd agree with me that the health options available
2. to people on Norfolk Island since 1 July 2016 have
3. significantly improved?
4. A. Oh, definitely, definitely.

35

1. Q. The education options available to children and people
2. needing education on Norfolk Island have improved
3. dramatically?
4. A. No.

40

1. Q. You don't agree with that?
2. A. No. I think the uncertainty with our education system
3. now has created such a stressful situation within the
4. school that it will have detrimental effects on the
5. students and teachers.

46

47 Q. Are you talking there about uncertainty surrounding

1. who will deliver education?
2. A. Exactly, that's just one part of it, yes.

3

1. Q. But, leaving aside that, the quality of the education?
2. A. The quality of the education on Norfolk Island has
3. always been good and, you know, I will not debate that it
4. wasn't. We have had some very, very talented people come
5. out of that school.

9

1. Q. No doubt about that, I'm not suggesting anything to
2. the contrary. Do you think you were provided with
3. sufficient risk management advice during the life of the
4. council to deal with the sorts of issues, real issues,
5. difficult issues, that confronted you as a governing body?
6. A. Yes. Yes, we were afforded good reports and we - and
7. this is another area of expenditure that came far too
8. commonplace in my opinion, my humble opinion now, that
9. reports were obtained from many places, KPMG and ANAO and
10. other areas that --

20

1. Q. I'm talking about the advice that you received from
2. council staff. Was there a substantial risk management
3. expertise amongst the council staff to assist you and the
4. other councillors manage the transition from the Assembly
5. to local government?
6. A. In my humble opinion, no.

27

1. Q. What steps did council take to establish effective
2. risk management programs?
3. A. The strategic plans and other plans that were put in
4. plans, operational plans, risk management plans, there were
5. plans put in place, those guided us in the areas you have
6. just quoted, in risk management et cetera, but they had -
7. they guided us but they didn't really provide solutions to
8. areas of problems.

36

1. Q. I want to suggest to you that the current Chair of the
2. audit committee, whose name escapes me for the moment -
3. Ms Sexton, Katie Sexton - since she has been Chair of that
4. audit committee there's been substantial changes made on
5. the risk management profile and procedures and practices of
6. council; do you agree with that?
7. A. Yes.

44

1. Q. What I want from you is your comparison between the
2. risk management practices when you started on 1 July 2016
3. compared to where they are today. They were inadequate
4. when you started, weren't they?
5. A. Yes, they were.

3

1. Q. And that was effectively a handover of the existing
2. risk management practices of the government; correct?
3. A. Yes.

7

1. Q. The asset registers, the depreciation plans for all of
2. the Island's assets, very quickly you understood that they
3. were deficient?
4. A. Yes. Oh, we knew we had problems in those areas, yes.

12

1. Q. No-one had any idea as to what the true value of the
2. assets were on handover, did they?
3. A. Well, we had a local valuation of them.

16

1. Q. $60 million-odd?
2. A. Yes.

19

1. Q. When they were revalued in March $128 million-odd?
2. A. Yes, because the Commonwealth decided to give us roads
3. that they valued at $60 million as an asset: you've got to
4. be kidding.

24

1. Q. Okay, accepting that. Once you found out that the
2. roads that you had to maintain were worth more than that --
3. A. To whom?

28

1. Q. Are you taking issue with the valuation?
2. A. Yeah, definitely.

31

1. Q. So, do I understand your position to be this: from a
2. Norfolk Island perspective we don't see the need to replace
3. the roads perhaps as regularly as someone from the mainland
4. might, we don't necessarily accept a mainland approach to
5. road maintenance?
6. A. Yes.

38

1. Q. Tell me if I'm wrong about that?
2. A. No, you're right.

41

1. Q. And, therefore, why should we value the roads on a
2. mainland basis and therefore have to maintain them on a
3. mainland basis?
4. A. On a mainland basis, exactly.

46

47 Q. That's been your philosophy, has it?

1 A. Definitely.

2

1. Q. And that's an explanation for why asset management was
2. dealt with in the way it was, firstly under the government
3. which you led and your approach to asset maintenance in the
4. council of which you're a member?
5. A. Yes, for me; I'm only speaking on behalf of myself.

8

1. MR BOLSTER: Commissioner, I'm almost finished and I was
2. going to suggest that we then take the morning tea
3. adjournment and move straight on to Councillor Adams if
4. that's convenient to her and her advisors.

13

14 THE COMMISSIONER: Okay.

15

1. MR BOLSTER: Q. The same principle applies to all of the
2. other assets of the council that it inherited from the
3. government, doesn't it, from your perspective? Tell me if
4. I'm wrong.
5. A. That there was a risk management --

21

1. Q. That there were significant changes that had to be
2. made to the asset management plans for all of the council's
3. assets; over time the initial plans were inadequate and
4. they had to be substantially beefed up?
5. A. They would be adequate to the new regime. They were
6. not inadequate to the regime of prior 2015. We were
7. running - certainly we had difficulties, there's no doubt
8. about that, we had difficulties; but what we were achieving
9. in those days was commendable. For example, the
10. replacement of the three generators at the airport, that
11. was commendable. The replacement of the fire - or the
12. purchasing of the fire tenders back in the days of the
13. Legislative Assembly; we needed to do that and we did. We
14. were surprised that the cranes - we had to purchase a new
15. crane when we had cranes within the works depot that
16. apparently only needed some minor repairs. Councillors
17. were quite limited in what they could discuss with staff,
18. what they could obtain from staff, what they were allowed
19. to see, what they were allowed to do, so we were hamstrung
20. in a number of areas.

42

1. MR BOLSTER: I have no further questions, thank you,
2. Commissioner.

45

46 THE COMMISSIONER: Okay.

47

1 MR SIMONE: I have no questions, Commissioner.

2

3 THE COMMISSIONER: I have a couple of questions, Mr Snell.

4

1. Q. On of the things you said earlier on in your giving of
2. evidence was that, in considering rates and other charges
3. increases, that there was never any due diligence or any
4. sort of impact studies undertaken at the handover.
5. A. Yes.

10

1. Q. Did the council seek, when the proposals were put
2. forward to increase rates and charges on various things, to
3. undertake impact studies?
4. A. Yes, we put them out for public consultation for
5. 28 days to seek what impacts or ramifications could occur
6. from such things. For example, we wanted to increase the
7. passenger services charge at the airport, and we received
8. such objections from businesses stating that it would be a
9. detrimental effect to the core business of the Island,
10. tourism, that we had to rethink, and to answer your
11. question --

22

1. Q. So, there were no formal contractor-type impact
2. studies that looked at broader economic impacts and so on?
3. A. No, and that was a great problem for us.

26

1. Q. So really it was just based on what community
2. sentiment was at the time?
3. A. Yes, and regrettably, as I just mentioned to
4. Mr Bolster, Commissioner, that standards elsewhere does not
5. necessarily apply here. This is an isolated community and,
6. as Councillor Porter said yesterday, in Bundaberg they have
7. five different areas where they could communicate or
8. transport, means of transportation: here we have one, or
9. two.

36

1. Q. Considering things such as rate charges, electricity
2. prices, waste management levies, all the charges, you know,
3. there are a lot of proposals that were put forward to the
4. council and there was many that were rejected and, you
5. know, I'm intrigued by your comment that there should have
6. been impact studies at the times of transition, and the
7. fact that there were no formal impact studies undertaken
8. over the last five years.
9. A. Yes. Commissioner, one of the principles that I
10. adopted as Chief Minister was the ability of the community
11. to pay. The community was very vulnerable and it still is
12. because of the circumstances surrounding Norfolk Island.
13. Some mainlanders who have come to the Island have expected
14. the same benefits on Norfolk Island that they have enjoyed
15. elsewhere and they expected to have it here, but to provide
16. those benefits affected all of the population in the
17. community to satisfy the whims of a few, and that was a
18. great difficulty for us, for me especially, and we tried to
19. avoid placing further imposts on a community that was
20. vulnerable anyway to their sources of revenue to satisfy
21. those that have decided to leave, where they've been before
22. and come here and regrettably tried to change what we
23. classify - as Colleen McCullough once said - "the fragile
24. butterfly within the Pacific."

14

1. Q. One of the earlier comments you also made was that
2. your view was that the establishment of council was a
3. system that was designed to fail.
4. A. Definitely.

19

1. Q. So, what made you become a councillor, if you were
2. going to join a system that you had a view was going to
3. fail?
4. A. I thought that I would be able to contribute better
5. being in the tent than outside of it. I thought that I
6. would be able to contribute more to the system to replace
7. what had been taken away from us. I never was in support
8. of Norfolk Island losing its democratic form of government.
9. The council is not a democratic form of government. And,
10. we had no choice. There are so many historic holistic
11. areas that should be looked at in greater degree.

31

1. And I appreciate very much, Commissioner, your
2. involvement or the Commonwealth's involvement in providing
3. us with this Inquiry to be able to air some of the concerns
4. that this community has, and you will no doubt have already
5. had submissions and I support one in particular.

37

1. Mr Bolster didn't ask my involvement in any other
2. group communities like he did some of the other
3. councillors. I am Executive Member of Norfolk Island
4. People for Democracy and they, Commissioner, have submitted
5. a submission to you which is very, very important in my
6. respect and I plead that you take note and read that
7. submission.

45

1. Q. Okay. So, if you thought that the council was
2. designed to fail and then you thought you would be more
3. helpful inside the tent rather than outside the tent, what
4. did you do specifically in your powers to avert the failure
5. of the council?
6. A. I always acknowledged that the council needed to be
7. funded, and whilst my personal opinion is that land tax,
8. land rate: land to Norfolk Islanders is very, very
9. important. The greatest impost that could apply on this
10. place is that Norfolk Island people have no longer the
11. avenue to have a meaningful say in how they are governed
12. and a meaningful say in the finances of the place.

11

1. Q. I understand, Mr Snell, your concerns about governance
2. and the government of the day and how that's set up, but
3. I'm interested in what specific things you did or you think
4. you did to avert the council failing.
5. A. Yes, I was coming to that. Whilst I objected to the
6. increase in the land rates, I had to agree to it because it
7. was a form of revenue to keep the Island going as a source
8. of revenue. I don't agree to a 10% increase, but I agreed
9. to the others. I am always surprised that the Commonwealth
10. would not allow us to have a form of GST as explained by
11. Councillor McCoy yesterday; that would have raised a lot
12. more revenue than land tax has ever done and will ever do.

24

1. I tried to look at areas where we could save money.
2. And, whilst I wasn't asked, in the annual report I was
3. disappointed, and I'm sure Mr Taylor who was the interim
4. acting general manager at the time was disappointed too, he
5. I think at the time expressed his concern to me that there
6. were areas in the financial statements that needed
7. explanation.

32

1. For example, and I may have mentioned this in my
2. submission to you, Commissioner, on page 19 of 66 of
3. Norfolk Island Regional Council notes to the financial
4. statements it stated that:

37

1. *Salaries and wages of 2018 were $7,344,281.*
2. *The actual in 2019, with a loss of two*
3. *staff, was $8,446,349, a very substantial*
4. *increase in the cost of the management of*
5. *Norfolk Island.*

43

1. And I wanted to query that with the financial officer
2. at the time, Mr Wilson, and he was not present. These
3. types of queries and difficulties - and when one tries to
4. read the voluminous amounts of paperwork that we had four
5. days to read - we were given them on Friday and the council
6. meeting was on the following Wednesday - it became very
7. difficult. What am I trying to say? I am trying to say
8. that there were areas where I tried to do my best to assist
9. in Norfolk Island having more say in its own affairs
10. covering the financial implications for the community of
11. this government.

8

1. Q. Okay.
2. A. Why they blocked the GST is beyond me.

11

1. Q. I'm just doing the maths in my own head, you know,
2. some of the decisions that were made: I fail to understand
3. how there wasn't a more probing inquiry.
4. A. Yes.

16

1. Q. And similarly, given that you at the very beginning of
2. the process thought that the council was going to fail.
3. A. Yes.

20

1. Q. The thing sort of was presented at a meeting and then
2. left to drift.
3. A. Yes.

24

1. Q. There wasn't a lot of follow through on pushing on of
2. council members to try and - that I've observed, say, to
3. try to prevent that failure.
4. A. Commissioner, just as a wind up and I know you're
5. ready to wind this up, but we were very fortunate that we
6. had a very talented and educated Mayor to be able to guide
7. us through this four, five years, and you will of course
8. appreciate that this afternoon.

33

1. THE COMMISSIONER: Okay, we'll get to the Mayor next.
2. Okay, well, thank you, Mr Snell.

36

1. MR BOLSTER: If we could get back from Mr Snell the two
2. confidential briefings that he was provided with.
3. Commissioner, I've had a discussion with my learned friend.
4. The suggestion is that we take a 45 minute break now, sort
5. of an early lunch.

42

1. THE COMMISSIONER: I'd prefer to take a 15 minute break
2. and then maybe go to lunch a bit later, and maybe a
3. 1 o'clock lunch, 15 minutes break?

46

47 MR BOLSTER: Thank you, Commissioner, we'll do that.

1

2 THE COMMISSIONER: Thank you.

3

4 THE WITNESS: Do you require me to attend after?

5

1. MR BOLSTER: And, if Mr Snell could be excused from his
2. summons.

8

1. THE COMMISSIONER: Thank you, Mr Snell, for your
2. contribution today.
3. A. Thank you, Commissioner.

12

# 13 <THE WITNESS WITHDREW

14

1. MR SIMONE: Before we break, we haven't had an opportunity
2. to speak with Ms Adams yet, we'd appreciate an opportunity
3. before she's called. The 15 minutes may not allow us that
4. time. Is it possible for perhaps a half an hour
5. adjournment to allow that to take place? Ms Adams can then
6. be called for a short period before lunch?

21

1. THE COMMISSIONER: Yes, that's fine. We'll still take
2. lunch at 1 o'clock.

24

25 MR SIMONE: Thank you.

26

# 27 SHORT ADJOURNMENT

28

29 THE COMMISSIONER: Okay, Mr Bolster.

30

1. MR BOLSTER: Thank you, Commissioner. The next witness is
2. Robin Adams, if she could come forward, please.

33

# 34 <ROBIN ELEANOR ADAMS, sworn: [12.20pm]

35

# 36 <EXAMINATION MR BOLSTER:

37

38 THE WITNESS: While I'm upstanding --

39

1. MR BOLSTER: Q. Would you have a seat, please. We just
2. need to identify you for the record and then we'll give you
3. the opportunity to do what you wanted to do. Could you
4. please for the record, for the transcript, give us your
5. full name?
6. A. Robin Eleanor Adams.

46

47 Q. Ms Adams, I understand you wish to make a cultural

1. acknowledgment before you give your evidence?
2. A. Thank you.

3

1. Q. Please do that.
2. A. Thank you. I acknowledge the Elders, past and
3. present, and I acknowledge the Norfolk Island people, the
4. traditional custodians of this island. Thank you,
5. Commissioner.

9

1. Q. Thank you very much. Ms Adams, you had a long history
2. in the Norfolk Island Government before 1 July 2016, didn't
3. you?
4. A. I did.

14

1. Q. That was both as a member of the staff of that
2. government?
3. A. Yes.

18

1. Q. And as a member of a number of the Assemblies,
2. Legislative Assemblies?
3. A. I was clerk to the Parliament.

22

1. Q. Clerk of the Parliament?
2. A. For 26 years, and then became a Speaker of the
3. Parliament. I stood, for some strange reason, and then in
4. the final Assembly I was a Minister in the government with
5. Councillor Snell.

28

1. Q. Would it be fair to say there are very few people that
2. know much more about what's going on on Norfolk Island than
3. you?
4. A. No, I'm not going to say that. Look, I've had a long
5. period in government and it's my passion.

34

1. Q. So, you're very familiar with the problems that the
2. Island faces and there are many problems, aren't there?
3. A. Yep.

38

1. Q. What's the most important problem that faces the
2. Island?
3. A. At this point in time?

42

1. Q. Yes.
2. A. Freight.

45

1. Q. And that --
2. A. Followed by land rates.

1

1. Q. Followed by land rates. Let's deal with freight.
2. There was competition on the maritime freight route for
3. some years?
4. A. Correct.

6

1. Q. You had two providers?
2. A. Correct.

9

1. Q. One of them disappeared?
2. A. Correct.

12

1. Q. You've got a monopoly operation?
2. A. Correct.

15

1. Q. Rates have gone up?
2. A. Rate has gone up?

18

1. Q. The rate of freight has gone up?
2. A. Yes.

21

1. Q. So you have to pay more to get your box of cornflakes
2. to the shelves in Burnt Pine?
3. A. And the latest that I have heard is that, if using the
4. barge, is $900 a tonne.

26

1. Q. $900 a tonne?
2. A. Which is absolutely ludicrous and out of control.

29

1. Q. Not only is the price an issue but the --
2. A. Frequency.

32

1. Q. -- the frequency is a major issue?
2. A. Yes.

35

1. Q. So, there are periods where there are significant
2. shortages on the Island?
3. A. Yes.

39

1. Q. After that, you've mentioned rates. Why is rates an
2. issue?
3. A. Well, in the eyes of the Norfolk Islander, and I can
4. only generalise, the land is heritage land and in the minds
5. of the grassroots Islanders Norfolk Island was gifted by
6. Queen Victoria to the Island people, the land was gifted;
7. that may not be the case at law, but it's the story that's
8. handed down over time.

1

1. Q. That's your connection to the land?
2. A. Absolutely, absolutely, and the idea being that
3. generally the land is passed on to your children.

5

1. Q. So, before rates came in in 2016, the way in which
2. services were paid for was through a broad based
3. consumption tax?
4. A. GST, yes.

10

1. Q. You didn't pay income tax?
2. A. No. Not direct.

13

1. Q. And you raised about $7 million or $8 million a year?
2. A. Six to seven, yeah.

16

1. Q. Six to seven, okay. That had to fund the health
2. system?
3. A. Mmm-hmm.

20

1. Q. The school system, police, and everything else, the
2. airport; you had to fund the airport?
3. A. Mmm-hmm.

24

1. Q. So, when the airport runway had to be resurfaced
2. before July 2016, the council had to do that, had to take
3. out a loan with the Commonwealth to do that?
4. A. Correct.

29

1. Q. But other than that --
2. A. But bearing in mind that the airport is equally as
3. valuable to the Commonwealth as it is to the Norfolk Island
4. people.

34

1. Q. It's probably even more valuable to the Norfolk Island
2. people, isn't it?
3. A. Well...

38

1. Q. It meets those from the mainland who come here, who
2. you rely on to come here and who ideally should come here
3. in greater numbers, that is the most significant positive
4. element of the economy, isn't it?
5. A. Correct.

44

1. Q. If we had more people coming from the mainland a
2. number of the problems wouldn't be as bad as they are
3. today; correct?

|  |  |  |
| --- | --- | --- |
| 1 | A. | No, I couldn't say that. |
| 2 |  |  |
| 3 | Q. | Wouldn't more visitors to the Island be better? |
| 4 | A. | We have - council put in place, with Air New Zealand |
| 5 | some | years back, that we would work towards 35,000 visitors |

1. a year, yep, and the number of aircraft to service that
2. number would be XYZ.

8

1. Q. And, have you ever got to 35,000?
2. A. We have in, I believe it was 2001, we got to 40,000
3. visitors to the Island. That's not a good number on an
4. island of this size.

13

1. Q. And, just too many people?
2. A. Too many people, too many cars.

16

1. Q. Too many hire cars driving the roads?
2. A. Absolutely.

19

1. Q. I understand. In the final year before COVID, so
2. 30 June 2019, how many visitors did you have to the Island?
3. A. Sorry, off the top of my head I don't know the answer.

23

1. Q. Was it anywhere near 35,000?
2. A. No; no, no, no. We would have been in the late 20s
3. maybe, I don't know; I'm honest, I don't know.

27

1. Q. Was that a figure that had been decreasing over time?
2. A. Yes.

30

1. Q. So, it had been put in --
2. A. Well, it fluctuates, it fluctuates over time and is
3. dependent on what's happening elsewhere. For example,
4. let's go back to two thousand and - in the global
5. financial --

36

37 Q. GFC 2009.

38 A. 2009?

39

40 Q. 2008.

1. A. 2008, yes, okay. The majority of visitors, I think
2. it's fair to say, are in the higher age bracket.

43

1. Q. They would be more experienced?
2. A. Yes, "more experienced", that's a good word.
3. Self-funded retirees, et cetera, and so - boom - the bottom
4. dropped out of the industry at which time Norfolk Island,
5. through circumstances, had a contract to Air Nauru and were
6. running the airline.

3

1. Q. You had your own airline, effectively?
2. A. Yes, and you can imagine what that did to our reserves
3. at that point of time.

7

1. Q. In 2010 though was when there was a wash-up of all of
2. this?
3. A. Yes.

11

1. Q. And the administration took a decision that things
2. could not go on the way they were going?
3. A. No, the government did.

15

1. Q. The government did?
2. A. Yes, and the --

18

1. Q. Did you disagree with that?
2. A. Sorry?

21

1. Q. Did you disagree with that decision?
2. A. It was done by the Chief Minister, and Minister for
3. Finance at that time went and paid a visit to Simon Crean
4. and advised Minister Crean that Norfolk Island was facing
5. financial difficulties at that time. Bearing in mind, we
6. are the only territory that administered federal, state and
7. local government. We funded, we paid the pensions to our
8. elderly, and those pensions were not income tested - no,
9. I've got that back-to-front, I think.

31

1. Q. They weren't asset tested?
2. A. Asset, they weren't asset tested, they were income
3. tested, correct.

35

1. Q. So for people on the Island who had their traditional
2. lands gifted to them by their parents from their parents
3. originally from the grant from the Crown, that value did
4. not affect their pension entirely; correct?
5. A. Correct. And so, the Norfolk Island Government signed
6. a memorandum of understanding with the Commonwealth on
7. 25 November 2010 - it's very much in my head - to come into
8. the Australian taxation and social welfare system provided
9. there was a net benefit to Norfolk Island, and that's the
10. wording in the memorandum of understanding. In exchange
11. for which we were requesting $3.2 million assistance
12. funding at that time. Bearing in mind, we were looking
13. after all responsibilities, federal, state, local, and I
14. defy anybody to say we didn't do a good job considering the
15. size of this population and our isolation.

4

1. So, that was signed and then the next step in the
2. process, the Commonwealth put through legislation - I think
3. it was called the Territories Legislation Amendment Bill --

8

1. Q. The name doesn't matter, that was in 2015.
2. A. Doesn't matter, and what they did was in fact, they
3. put in place a Commonwealth financial officer and virtually
4. removed from us our ability to manage our fiscus as we had
5. been able to do up until that point in time. In other
6. words, expenditure was dependent on whether this
7. Commonwealth financial officer said yes or no. We had
8. funding agreements so that, if we needed money - they were
9. a very contentious part of the arrangements simply because,
10. and for me personally having been the clerk, to be
11. requiring a government in a funding agreement to make
12. legislative changes in the Parliament was totally abhorrent
13. to the sovereignty of the Parliament, but however, you
14. know, that's how it was and I fought for some of them not
15. to happen.

24

1. Then, on 2 March 2011, Norfolk Island and Simon Crean
2. again signed the road map. You might have mentioned
3. Councillor Snell mention the road map this morning. Number
4. one in the road map was that we revisit the model of
5. government on Norfolk Island and look at handing back
6. federal responsibilities and maintaining state and local.
7. Resolution was passed through both the 13th Assembly and
8. the 14th Assembly that we would welcome a territory model
9. of governance in the Australian taxation social welfare
10. system, that we would be part of the GST system which,
11. through - they're called, whatever it's called - we would
12. get back from the GST pool, my memory tells me around about
13. either $13 million or $15 million which would have been
14. fine, would have been fine. I can hear Jamie Biggs today,
15. "You think you're a state." He did not agree with Norfolk
16. Island moving along that road, he eventually engaged the
17. Joint Standing Committee on national capital - national
18. capital, I think they're called, the JSC we knew them as -
19. and he tasked them with looking at the economy, I take it,
20. building the economy of Norfolk Island. Governance was not
21. allowed to be discussed in the JSC, and so, the government
22. endeavoured to put forward its model but was not allowed to
23. do it.

1

* 1. However, I don't quite understand how to this day the
  2. former Administrator was able to talk about the governance
  3. should change the department, could talk about the
  4. governance should change and on and on it went, and so, the
  5. end of the story was despite - and this is important - that
  6. Norfolk Island is part of the international body called the
  7. Commonwealth Parliamentary Association, and in the
  8. submissions that I put up one of them is the various
  9. articles that I wrote over time internationally about
  10. democracy failing on Norfolk Island.

12

1. Q. Do you think it has failed?
2. A. When you have an applied laws regime where other
3. legislation is made by, in this case the New South Wales
4. Parliament, and we had absolutely no representation in the
5. New South Wales Parliament, that's a democratic deficiency,
6. in my humble opinion. But if I could just finish with -
7. no, we'll leave it there.

20

1. Q. Come 1 July 2016, you had stood for election as a
2. member of the council?
3. A. I did.

24

1. Q. And I take it, you had a very negative view about the
2. reforms?
3. A. No.

28

1. Q. You didn't want there to be a council, did you? You
2. wanted something else?
3. A. It's, in my humble opinion, not appropriate that
4. self-government should have been removed from Norfolk
5. Island to the point that today I am advised by
6. constitutional lawyers that Australia is in breach of her
7. international obligations and the UN Charter. And so, on
8. that basis, yes, I believe - and I'm going to say this -
9. I believe it is the divine and inalienable right of every
10. human being to freedom, sovereignty and self-determination.
11. And, they're not my words, I sit behind them, they're the
12. words of the great Gandhi.

41

1. And on that basis, yes, but by the same token I am on
2. record when I stood for the council that I saw the council
3. had the potential to provide, despite the deficiency in
4. democracy and despite the state disconnect, it had the
5. potential, it had the potential to be a strong platform on
6. which to build whatever form the form of government is

1 going forward.

2

1. Q. While the bins are being dragged, as it distracts you,
2. it's certainly distracting me, I might just wait for the
3. bins to finish their journey. When you --
4. A. Could I read to you --

7

1. Q. No, no, just --
2. A. -- what I said?

10

1. Q. When did you say this?
2. A. When I stood for council.

13

1. Q. Is this effectively your statement of principles,
2. your --
3. A. No, no.

17

1. Q. What is it?
2. A. When I stood for council this is what went out to the
3. public:

21

1. *When I stood for council I acknowledged*
2. *that whilst the application of the New*
3. *South Wales Local Government Act 1993 to*
4. *Norfolk Island was part of the democratic*
5. *deficit that flowed from the Norfolk Island*
6. *Applied Laws Ordinance 2016 of the*
7. *Commonwealth. I did, however, hold the*
8. *view that the responsibilities of the*
9. *Regional Council, if managed well under the*
10. *Local Government Act, could become a firm*
11. *platform on which to build whatever model*
12. *of government was determined for the*
13. *Norfolk Island people going forward into*
14. *the future. The model allowed at the very*
15. *least for defined transparency and*
16. *accountability, good budgeting and audit*
17. *processes to mention just one or two of the*
18. *model's positive attributes.*

40

41 I subsequently changed my mind at the airport time.

42

1. Q. Well, we'll get to the airport, but what did you think
2. was needed to make it work? What was the most important
3. thing that you could bring to the table, someone who was
4. experienced in government, knew what was going on on
5. Norfolk Island, knew the people, had connections with the
6. people, understood their aspirations and their concerns,
7. what did you think was the thing that was needed to make
8. the Norfolk Island Regional Council work?
9. A. I'm going to turn to my witness statement which I'm
10. happy to tender as evidence which I really would like the
11. Commissioner to be aware of, and I'm going to read from the
12. audit report, Grassroots audit report.

8

1. Q. That's in evidence. You don't need to read from it.
2. If you want to highlight a provision.
3. A. I'm only going to read page 8 down the bottom under,
4. "Strengths and weaknesses":

13

1. *The analysis undertaken for this audit*
2. *report has highlighted that significant*
3. *legacy issues were inherited by NIRC upon*
4. *its establishment. It has recommended that*
5. *these issues as detailed in this audit be*
6. *addressed as a matter of urgency as*
7. *significant financial challenges and*
8. *environmental non-compliances continue to*
9. *exist.*

23

1. *Whilst it appears it was the expectation of*
2. *the Commonwealth for NIRC to take*
3. *responsibility for these issues [and this*
4. *is important ]NIRC does not have sufficient*
5. *funding capacity for the issues to be*
6. *addressed in a timely manner.*
7. *Consequently, there is an urgent need for a*
8. *long-term funded strategic and financial*
9. *plan to be developed in a collaborative*
10. *manner between NIRC and the Commonwealth.*
11. *This will help deliver a more robust*
12. *financial outcome, ensure greater*
13. *compliance for the established*
14. *environmental and public health standards*
15. *and prioritise infrastructure and service*
16. *projects to meet identified community*
17. *needs. To be effective the plan must*
18. *include the allocation of responsibilities,*
19. *actions and delivery timeframes.*

43

1. *The strategic and financial plan referenced*
2. *above should be informed by the audit's 84*
3. *recommendations which are presented in*
4. *section 7 of this report.*

1

1. That is what should have happened in 2015, and if you
2. have had an opportunity to study the Australian audit --

4

1. Q. The ANAO report on the transition is in evidence and
2. we have already referred to it.
3. A. Are we talking about the 2018/19 one?

8

1. Q. Yes, the report into the transition.
2. A. Okay.

11

1. Q. We've read that, we understand that, and it's in
2. evidence.
3. A. But I don't believe that it is understood, because
4. we've been talking about --

16

1. Q. What do we need to understand about it?
2. A. -- sustainability during this Inquiry. It says here
3. quite clearly. In fact, I'm going to go back to 2015 when
4. the department itself said that:

21

1. *The most appropriate method of future*
2. *service delivery will be compromised by*
3. *adherence to the 1 July deadline.*

25

1. In other words, they understood the timing was wrong,
2. it was being rushed, and there was no way what you were
3. going to end up was in the best interests - it continues to
4. go on:

30

1. *The 2015/16 financial statement audit*
2. *reflected that the NIRC's business model*
3. *"does not clearly demonstrate a*
4. *self-sustaining model that can fund capital*
5. *expenditure in the future to maintain or*
6. *upgrade facilities such as the airport.*
7. *The level of revenue generated by rates and*
8. *the GVEs are currently insufficient to both*
9. *fund short-term costs such as employees and*
10. *suppliers" ...*

41

42 And it goes on. This cannot be ignored --

43

1. Q. It's not being ignored.
2. A. -- in the overall consideration by this Public Inquiry
3. that it was bound to fail.

47

1. Q. I want to ask you questions about what you brought to
2. the table and where you sat on 1 July. What did you think
3. needed to be done? We can see what Grassroots said
4. four years later. What was your approach to making the
5. NIRC work? Your approach? Because we can read all of
6. that, that's already in evidence. What was your approach
7. to make it work?
8. A. First of all was to come and understand the local
9. government model.

10

1. Q. Do you think you were given the opportunity to
2. understand the local government model?
3. A. We had a very brief meeting - I think her name was
4. Susan Law - who was part of the transition team put in
5. place by the Commonwealth. You see, it's important to
6. remember, the government of Norfolk Island had gone in 2015
7. and you moved into the transition year, and so you had all
8. Commonwealth appointees, right.

19

1. Q. To Commonwealth positions?
2. A. No.

22

1. Q. The general manager was a Commonwealth appointee; is
2. that who you're talking about?
3. A. No, no, no, I'm certainly not.

26

1. Q. Who are you talking about?
2. A. No, no, no, I'm still back in the Norfolk Island
3. administration before it was handed over to the NIRC. I'm
4. talking about the transition here, the 12 months.

31

1. Q. The 12 months.
2. A. Okay, and the appointment of Mr Gesling, whom
3. I believe I heard you say you would be talking to?

35

1. Q. Yes.
2. A. In Sydney, and that's a good thing that you'll be
3. doing that. He will be able to explain to you that he was
4. the Commonwealth's delegate, the Commonwealth Minister's
5. delegate, and as the Commonwealth Minister's delegate he
6. had the authority, with the Commonwealth hat on, to
7. negotiate with the Commonwealth the transfer of lands
8. between the Commonwealth and Norfolk Island.

44

1. Q. What was wrong about --
2. A. I had raised that with the Minister, with Senator Nash
3. I think it was, did it happen on just terms.

1

1. Q. What was the transfer of lands, what was the problem
2. there? You received all of the Commonwealth lands: you got
3. the airport, you got the roads?
4. A. No, no.

6

1. Q. What didn't you get that you should have got?
2. A. No, no, no. Let's go back. Remembering that we
3. administered federal, state and local, and yes, the
4. Commonwealth owned the roads but we were responsible for
5. maintaining them and we did because we had all three tiers
6. of government. We didn't get finance from the Commonwealth
7. to do the roads. The only funding that came from the
8. Commonwealth was to stabilise Cascade cliff, for which we
9. took out a loan, we had to take a loan from the
10. Commonwealth.

17

1. Q. When you say "we", are you talking about the council
2. or the government?
3. A. No, we're back in the administration now.

21

1. Q. Can we turn to the council and the transfer of assets
2. to the council, because that's really what we're focused on
3. here?
4. A. I don't believe you can look at one without the other,
5. but however, that's your call.

27

1. Q. What was the problem with the transfer of assets from
2. the Commonwealth to the council in 2016?
3. A. What I just read from the Grassroots report, that we
4. didn't have the funding capacity to pick them up.

32

|  |  |  |
| --- | --- | --- |
| 33 | Q. | You appreciated that at the time, did you? |
| 34 | A. | No. |
| 35 |  |  |
| 36 | Q. | You didn't? |
| 37 | A. | No, these were gradual, by osmosis, coming to |

1. understand what it really meant. The land transfer
2. ordinance remembering, didn't happen until the 28th - I
3. could be wrong, but I think it's 28 May 2016, just before
4. the council came into being, okay?

42

1. Q. Well, let's go to December, and you heard me
2. discussing with Mr Snell this morning, December 2016 when
3. the first report about performance against the budget was
4. before council. You will recall that, although originally
5. there was a $4.2 million deficit budgeted, the report
6. indicated that it was going to be around $5.2 million --
7. A. Correct.

3

1. Q. -- $5.3 million, so it was worse than people had
2. thought. Did that concern you at the time?
3. A. Absolutely. The very first budget that the council
4. had was a deficit budget and that that's what we had
5. inherited from the transition --

9

1. Q. From the Administration --
2. A. From the transition period which was run by the
3. Commonwealth, not --

13

1. Q. By the Administration, that's your point?
2. A. -- under the - yes, exactly, all right?

16

1. Q. And then decisions had to be made about the budget
2. approach going forward over the long-term.
3. A. Yeah.

20

1. Q. What was the most significant thing that you thought
2. council needed to address in approaching the budget in the
3. long-term?
4. A. Working towards somehow balancing the budget. How
5. that was going to happen was still very much something to
6. be worked out in the climate that we were in.

27

1. Q. As someone experienced in government, what did you
2. think needed to be done to balance the budget, or did you
3. take a view, there's no point, it doesn't matter what we'll
4. do, we'll never be able to balance the budget?
5. A. No, no, no, no, I don't think like that.

33

1. Q. Right.
2. A. I try to be a positive person.

36

1. Q. Well, you're in a leadership position.
2. A. Yes, exactly.

39

1. Q. Tell us about the way in which you approached holding
2. that leadership position, the Mayoral position, what was
3. the most important thing to you in holding that office, an
4. important office on the Island and for the people of the
5. Island?
6. A. To work with the Commonwealth to get a good outcome
7. for Norfolk Island and, you know, from the outset I
8. proposed resolutions in the council seeking - for a start,
9. one of the very first motions was to the Minister of the
10. day that the Commonwealth consider - what's the word - the
11. loan, the airport loan which was around about $12 million.

4

1. Q. $10.5 million?
2. A. At that point in time, that the loan be waived. In
3. other words, "As a gesture of goodwill to the establishment
4. of the new model of governance on Norfolk Island" were the
5. words, something like that.

10

1. Q. And it was eventually waived but it took a couple
2. of years to do that?

13 A. 2019.

14

1. Q. And in the interim you had to make interest payments
2. on it?
3. A. What Senator Nash did, which we're very appreciative
4. of, was she reduced - she took away the payment of interest
5. for the next 12 months and reduced the payment of the loan
6. going forward. So, that was a --

21

|  |  |  |
| --- | --- | --- |
| 22 | Q. | That was a good result? |
| 23 | A. | That was a win, yes. |
| 24 |  |  |
| 25 | Q. | What other things then -- |
| 26 | A. | Not as good a win as we would like but it was a win. |
| 27 |  |  |
| 28 | Q. | What other things then did you bring to the task of |

1. balancing the budget?
2. A. No, I will be honest, my focus most of the time was on
3. governance, that was my strength, and so the next --

32

|  |  |  |
| --- | --- | --- |
| 33 | Q. | Self-government, can I suggest? |
| 34 | A. | Sorry? |
| 35 |  |  |
| 36 | Q. | And self-government? |
| 37 | A. | No, I wasn't pushing self-government. |
| 38 |  |  |
| 39 | Q. | Weren't you? |
| 40 | A. | At that point in time, no. |
| 41 |  |  |
| 42 | Q. | When did you start pushing self-government? |
| 43 | A. | No. In 2020, yes, I talked with each of the |

1. councillors. Because the community, it was so divided,
2. still staggering after what had happened to them.

46

47 Q. So, the two camps?

1. A. You could say that. I'm not going to say whether
2. there's two camps, it could be five camps for all I know.

3

1. Q. When you say it's divided, divided between what?
2. What's one view? One view would be your view that this was
3. all a mistake, we should have self-government?
4. A. No, I'm not saying all of this is a mistake --

8

1. Q. No? Well, what is your view?
2. A. -- there are no mistakes, it's something that
3. happened.

12

1. Q. It happened, okay.
2. A. Okay, that we as a community have been asked to live
3. with. There are some who are not prepared to live with it,
4. and so they continue to agitate.

17

1. Q. And others?
2. A. And that's their right, that's their absolute right.

20

1. Q. What about the other group that they're divided from?
2. A. And there are those who I believe are comfortable with
3. how it is today, yes.

24

1. Q. How have you seen the division play out?
2. A. It's the division that was concerning me in this
3. community.

28

1. Q. How was that playing out?
2. A. We needed to find a place of peace and the only way I
3. could see peace, a road to peace, was to advocate for a
4. Royal Commission into the model of governance, and we
5. passed a resolution - 3:2, it wasn't unanimous, and I
6. accept that that's, you know, the views of councillors,
7. that's democracy.

36

1. Q. Who were those in favour? Yourself --
2. A. I don't want - there's no need to go there as far as
3. I'm concerned. I'm happy to but --

40

1. Q. I just would like to know?
2. A. It's on the record.

43

1. Q. It's on the record, okay, all right.
2. A. It's on the record. Councillor Porter and Councillor
3. Buffett voted against the resolution; Councillor McCoy,
4. myself and Councillor Snell voted in favour of asking the
5. Federal Minister to advocate to government for a Royal
6. Commission on the model of governance going forward that
7. will bring peace to the Norfolk Island people. That's
8. purely my motivating force behind that.

5

1. Q. Do you think though that that sort of - and perfectly
2. understandable, perfectly reasonable, one can perfectly
3. understand why you would take that view: do you think that
4. that preoccupied aspects of council's deliberations?
5. A. No.

11

|  |  |  |
| --- | --- | --- |
| 12 | Q. | Do you think that affected its deliberations? |
| 13 | A. | I can't speak for how they -- |
| 14 |  |  |
| 15 | Q. | Well, you're the Mayor, you chaired -- |
| 16 | A. | -- think around - I went to each councillor in |

1. advance, individually, and spoke to them about where I was
2. thinking of moving. All I'm going to say is that we had
3. great conversations, Councillor Porter and Councillor
4. Buffett, but at the end of the day they had to live with
5. themselves and who they believed they represented and they
6. made their decision, which is how it works. Councillor
7. Snell and Councillor McCoy chose to agree the motion and
8. that's where we are today.

25

1. Q. That was an important leadership issue that you
2. thought required your involvement with?
3. A. Yes.

29

1. Q. What about from a financial perspective? The budget
2. was always in difficulty, wasn't it?
3. A. Well ...

33

1. Q. Was it? Wasn't there a constant problem over the
2. four years in making sure that you had enough money to
3. repair and maintain and replace a very ageing set of assets
4. on the Island?
5. A. Okay --

39

1. Q. Was that the case?
2. A. To a degree, but you can't look at that, those issues
3. in isolation of the model of governance that has been put
4. in place under the council, and so, probably the second key
5. resolution that I took to council was around the financial
6. assistance grants. And, knowing that, we had been given
7. $1.8 million, somewhere around there, and that was from the
8. New South Wales Grants Commission who of their own
9. admission said they were unable, they were unable to give
10. the proper - you know that.

3

1. Q. And ultimately, ultimately through that work you were
2. able to increase the financial assistance grants
3. considerably, weren't you?
4. A. What happened was, the Commonwealth engaged KPMG to
5. have a look at the - it's just another one of the issues
6. where there wasn't proper assessment done of the
7. implications of the model that was being put in place for
8. Norfolk Island and the same thing happened with rates.

12

1. Q. Let's just go back to my question. You were able to
2. resolve the issue about the financial assistance grants,
3. weren't you?
4. A. Yes.

17

1. Q. There were also issues about --
2. A. Well, yes and no. Yes and no. It became staggered --

20

1. Q. But you got more money?
2. A. Yes, we did, and it became staggered. But the sad
3. thing for me was, in writing to Senator Nash at the time
4. advising her of the resolution of the council and pointing
5. out - I'll read the resolution:

26

1. *The council request the Mayor to formally*
2. *write to the Commonwealth requesting urgent*
3. *recalculation for the 2016/17*
4. *financial year and future financial years*
5. *of the current financial assistance grant*
6. *of 1,893,690 to Norfolk Island to be at*
7. *least in line with the Western Australia*
8. *state grant commission for the Indian Ocean*
9. *territories modelling which awarded a*

36 *2015/16 the year before $4,084,000. In*

1. *addition to the calculations for Christmas*
2. *Island, Norfolk Island Regional Council has*
3. *the disabilities of running the airport,*
4. *electricity and a lack of accessible sea*
5. *port.*

42

1. I was taken to task by the Minister for having brought
2. the Indian Ocean territories into the mix, that I had no
3. business of doing that, and so, that had to have influenced
4. where we ended up.

47

1. Q. Ultimately the financial assistance grants and any
2. problems associated with the Commonwealth service delivery
3. agreement were rectified. By the end of 2019 the
4. Commonwealth grant under the service delivery agreement was
5. around $8 million, it virtually doubled; correct?
6. A. I take your word for it.

7

1. Q. And the position on the financial assistance grants
2. had improved considerably too?
3. A. Yes. Could we stay with the service delivery
4. agreement?

12

1. Q. Perhaps if we just --
2. A. It's very important.

15

1. Q. Okay, what do you want to say about the service
2. delivery agreement?
3. A. The fact is that council was not allowed, was not
4. privy to the service delivery agreement. I had to fight at
5. the Commonwealth level to be able to go eventually,
6. some years down the track, to the general manager's office
7. to have a look at the service delivery agreement which
8. affected council.

24

1. Q. And you saw it?
2. A. No, I didn't at that point in time. I continued to
3. fight that the service delivery agreement be published so
4. that this community as a whole could be aware of what that
5. funding was.

30

1. Q. And, was it?
2. A. And eventually it was. I still maintained in the
3. council that it should have come to us before it was
4. signed.

35

1. Q. The Commonwealth service delivery agreement though
2. guarantees a cost recovery for every dollar that you spend
3. as the council to deliver Commonwealth services, the
4. Commonwealth has to pay you for?
5. A. Correct.

41

1. Q. It's not as though you lost on that?
2. A. No, no, but can I say something, let's take the
3. opportunity here: somewhere over the last few days the
4. question of $3 million was raised around service delivery
5. agreement and nobody knew what it was called.

47

1. Q. What are you trying to say, I'm sorry, I don't
2. understand you?
3. A. Okay. The Australian Government to the general
4. manager who had provided me with this at the time, back
5. in December, this is when we were strapped for cash, dire
6. financial --

7

|  |  |  |
| --- | --- | --- |
| 8 | Q. | When? |
| 9 | A. | December. |
| 10 |  |  |
| 11 | Q. | December last year? |
| 12 | A. | Yes. |
| 13 |  |  |
| 14 | Q. | Yep. |
| 15 | A. | And this is from Sarah Vandenbroek, First Assistant |

1. Secretary, because I had asked for bridging finance. May I
2. read the letter, it's important?

18

1. Q. Yes.
2. A.
3. *I refer to the letter of 23 November 2020*
4. *from the Mayor, Ms Robin Adams, to the*
5. *Honourable Nola Marino seeking urgent*
6. *bridging finance of $8 million from the*
7. *Commonwealth to continue to pay employees,*
8. *meet financial obligations, replenish cash*
9. *reserves and assist in the delivery of the*
10. *outcomes from the two external audits over*
11. *the next 6-12 months.*

30

1. *I understand the urgency of NIRC's*
2. *financial position and the need to continue*
3. *paying staff and suppliers to avoid any*
4. *disruption to the delivery of services.*
5. *I am therefore willing to provide*
6. *short-term financial assistance while our*
7. *teams continue to work closely together to*
8. *understand the impact of the easing*
9. *COVID-19 restrictions and the costs of*
10. *implementing the recommendations of the two*
11. *recent audits.*

42

1. *As you are aware, $1.2 million granted to*
2. *NIRC through the 20/21 service delivery*
3. *agreement is yet to be provided to NIRC.*
4. *In the short term the $1.2 million will be*
5. *brought forward to alleviate some of the*
6. *financial pressure, and a further*
7. *$1.8 million of funding allocated to the*
8. *21/22 SDA will also be brought forward.*

4

1. In other words, they were money that would come to us
2. anyway, they brought them forward to alleviate the
3. financial stress:

8

1. *The financial sustainability assistance of*
2. *$3 million will be provided through a*
3. *variation of the existing SDA.*

12

1. *The department requests the NIRC provide an*
2. *updated cashflow and financial analysis by*
3. *31 January 21 to equip the funds provided.*

16

17 I just thought --

18

1. Q. You've heard the evidence, though, that the $3 million
2. has been clarified as a one-off grant not measured against
3. future delivery under any of the agreements, so it's a free
4. one-off grant, and I'm just wanting --
5. A. That was in lieu of the $8 million that we sought as
6. bridging finance, which I didn't agree with and nor did the
7. Minister because it had tremendously tough implications to
8. this community.

27

1. MR BOLSTER: Given the time I think, Commissioner, we'll
2. pause there for the luncheon break.

30

31 THE WITNESS: Sorry?

32

1. MR BOLSTER: And we'll come back at 2 o'clock,
2. Commissioner?

35

1. THE COMMISSIONER: All right. Thanks, Ms Adams,
2. Mr Bolster, we'll reconvene at 2 o'clock.

38

# 39 LUNCHEON ADJOURNMENT

40

41 THE COMMISSIONER: Okay, Mr Bolster.

42

43 MR BOLSTER: Thank you, Commissioner.

44

1. Q. Ms Adams, before the lunch adjournment we were
2. discussing your contribution from a leadership position in
3. a range of matters. I wonder if we could really focus on
4. the leadership that you sought to establish when it came to
5. balancing the budget, that is, having a sustainable budget
6. whereby expenditure was matched to income as best you
7. possibly could. And I understand we've discussed all of
8. the problems that were in the way of council from doing
9. that, but I just want to focus on the steps that you
10. initiated in your leadership role as Mayor over the
11. four years, okay? What are they?
12. A. That's a curly one. To communicate with the
13. Commonwealth. I put in place, with council's support, a
14. resolution around cooperation, collaboration and
15. partnership, and that came from my having attended - it was
16. the National General Assembly of local government and I
17. listened at the time to a minister who was addressing the
18. gathering.

16

1. Q. Who was that?
2. A. I can't remember, I didn't know him, sir, I didn't
3. know. And, he was talking about the importance of
4. collaboration, cooperation and partnership, and I picked
5. that up. We had the Federal Minister, Dr John McVeigh,
6. visiting us soon after that, and on the agenda that we put
7. in place that was the last item on the agenda. The first
8. item on the agenda, as you would know - the Bible for
9. council is this, the strategic plan, our plan for the
10. future, and both the Commonwealth and Norfolk Island
11. endeavoured to work in taking that forward.

28

1. And so, step No.1 with Dr McVeigh was, it is time for
2. the Commonwealth and Norfolk Island to take the strategic
3. plan and work out what does it actually mean in real terms,
4. our vision? And our vision is, "Norfolk Island, the best
5. small island in the world." That's our goal, it's been in
6. there since 2016. All decisions should be measured against
7. that vision, but first of all the question is, together we
8. needed to work out what that vision meant in real terms and
9. then every decision that's taken is measured against that
10. vision.

39

1. And so, on that basis it stood to reason that we
2. needed to collaborate/cooperate and --

42

1. Q. With the Commonwealth?
2. A. With the Commonwealth and partner, and if we did that
3. with open intent and a want to achieve the best outcome and
4. to achieve us being regarded as the best small island in
5. the world we would both be the winners.

1

1. Q. And I think before lunch you told us of some steps you
2. took that had positive outcomes in terms of financial
3. assistance grants and the service delivery agreement and
4. all of those things were positive impacts that you and the
5. council were able to achieve?
6. A. Yes.

8

1. Q. But do I understand your answer to be that you really
2. needed more from the Commonwealth to do anything about the
3. budget situation; is that what you're saying? It was up to
4. the Commonwealth?
5. A. No, not any more. I'm saying what Grassroots is
6. saying that I read to you this morning, that we need a
7. strategy, a community plan, sit down together, do it
8. together, and to get the community to agree.

17

1. Q. You had a long-term plan or a strategy, you agreed to
2. that in December 2016?
3. A. Yes, well that, and is, probably the first thing that
4. we did. You see, we arrived on the scene as the brand new
5. council, babes in the woods; make no apology for that
6. statement. And so, we found that in the transition year
7. the Commonwealth had prepared the community strategic plan
8. and handed it over and expected us to pick it up and make
9. it ours.

27

1. Q. You made your own plan though, didn't you?
2. A. What we did was, we went by resolution in council - it
3. was one of our first things that we do. We are having a
4. community meeting and we are bringing the community
5. together for them to determine what they want the community
6. strategic plan to be, not the Commonwealth.

34

1. Q. Did you do that?
2. A. Yes, we did.

37

1. Q. What came out of that? Did a long-term --
2. A. This document.

40

1. Q. Okay, so that was your document?
2. A. The council's document, yes.

43

1. Q. And this was something that the community had input in
2. to about the way in which you were going to approach the
3. task of the local government of the Island?
4. A. Yes.

1

1. Q. Okay. And over time there were pressures on that plan
2. when it came to getting enough income --
3. A. Of course.

5

1. Q. -- to meet the expenditure.
2. A. Yes.

8

1. Q. My question is, what were the things that you brought
2. to the table that assisted in raising more income to meet
3. obviously important expenditure?
4. A. I don't see that as a job that just I do.

13

1. Q. No, you did it in collaboration with your colleagues?
2. A. Councillors. Councillors do that.

16

1. Q. Okay, if you want to deal with it collectively. What
2. are the things that you and the governing body, the five of
3. you, were able to bring to the table on the revenue side to
4. help match revenue with the expenditure of the council?
5. A. Okay. I can't think of a specific at the moment but I
6. have to find the airport. Bear with me. I know you want
7. to come back to the airport, and that's fine.

24

1. Q. No, we will come back to the airport.
2. A. Okay.

27

1. Q. But I just would like you to be able to tell the
2. Commissioner what it was that you and your colleagues were
3. able to deliver in terms of meeting that serious challenge?
4. No-one underestimates - please accept this - no-one
5. underestimates the challenge that you faced on the income
6. side, but we wanted to get an appreciation of what you as a
7. group, what the group under your leadership was able to
8. achieve.
9. A. Okay. In the strategic plan it talks about what are
10. the top 10 most important issues to be addressed in the
11. future, and it spells them out. Number one, of course, is
12. financial sustainability and that - we continued to
13. struggle with that, okay.

41

1. Q. Why did you struggle with that? Because that seems to
2. be the most important thing that we're discussing here.
3. A. Yes.

45

1. Q. The reason why we're here. What did you do in
2. response to that issue?
3. A. That is an ongoing, there is no quick fix. The model
4. itself is viewed as being not conducive and, as I read out
5. this morning, the ANAO equally mentioned the issue of
6. sustainability, the difficulties of financial
7. sustainability. Waste infrastructure, there are
8. conversations ongoing. Renewable energy infrastructure:
9. we've put in place the new generators and the backup -
10. whatever you call them - batteries.

9

1. Q. The batteries, yes.
2. A. The batteries. The backup batteries which were
3. designed to remove - to reduce the cost of diesel, burning
4. up diesel to burn up excess power because of the solar
5. problem, that was a major by the council.

15

1. Q. Just pausing there. When it comes to electricity, you
2. obviously wanted to reduce the diesel that was required to
3. generate electricity; that was obviously an important
4. thing, would have been a good result. When it came to
5. making a price adjustment to make that a possibility, that
6. was rejected by council, wasn't it?
7. A. No, not at that time, no. No, we put in place a new
8. charging regime where people who had solar contributed in,
9. that was new. And I can't think what the other one is;
10. it'll come to me. There was another - oh, we put in a
11. charging regime so that people were paying for the poles
12. and lights.

28

1. Q. The poles and lights, yes.
2. A. Reticulation, yes. We didn't do that willingly, but
3. we did it, we knew we had to.

32

1. Q. What was the reason you had to do it?
2. A. Because the cost of - it was not sustainable to be
3. burning off diesel in a dummy load in order to stop the
4. power from failing which was what was happening? On a hot
5. sunny day, the power would go down, and so they had a
6. dummy - what they call a dummy load. And the cost of
7. diesel is very expensive, so it was a cost saving exercise.

40

1. Q. So --
2. A. Not favourable in the community but we had to make the
3. decision.

44

1. Q. But underlying that on electricity, it's never been a
2. self-supporting arm of the business arm of the government,
3. of the council, has it? It's always had to absorb money
4. from other council income-producing assets and divert money
5. away from other spending, hasn't it?
6. A. I can't answer that as a yes, because I was reading
7. just last night somewhere where electricity was not in
8. deficit.

6

1. Q. Was not in deficit. Most of the time --
2. A. No, I can't answer that, I'm sorry.

9

1. Q. Most of the time it was in deficit; you'd agree with
2. that?
3. A. No, I'm going to pass on that one.

13

1. Q. Okay, all right.
2. A. Are you aware of the nine point strategic action plan
3. that council has now put in place?

17

1. Q. Since Grassroots?
2. A. No, before Grassroots.

20

1. Q. Could you show me that, please?
2. A. This was the draft that the general manager first
3. brought to us.

24

1. Q. So this is when Mr Roach was first employed?
2. A. M'mm.

27

1. Q. And you employed him in January 2020?
2. A. Correct.

30

1. Q. You interviewed him as well?
2. A. Yes.

33

1. Q. Do you remember the interview?
2. A. Absolutely.

36

1. Q. Do you remember councillors mentioning to him at the
2. interview that, "We don't like rates here on Norfolk"?
3. A. No, I don't.

40

1. Q. You don't remember that at all?
2. A. It could have been said, I don't remember.

43

1. Q. Mr Roach prepared this document in advance of a
2. workshop that he held with --
3. A. Council.

47

|  |  |  |
| --- | --- | --- |
| 1 | Q. | -- all the councillors? |
| 2 | A. | Yes. |
| 3 |  |  |
| 4 | Q. | And you were pleased to receive this? |
| 5 | A. | Absolutely. Absolutely. |
| 6 |  |  |
| 7 | Q. | It was the sort of thing you were looking for from |
| 8 | your | general manager? |
| 9 | A. | I'm not going to answer that one. |
| 10 |  |  |
| 11 | Q. | Did you ask him to do this? |
| 12 | A. | No, it was his initiative. |
| 13 |  |  |
| 14 | Q. | And you thought it was a good initiative? |
| 15 | A. | Absolutely. |
| 16 |  |  |
| 17 | Q. | Did it -- |
| 18 | A. | And just for us to have in the final plan that we're |

1. going to be 100% renewable by 2025 is a huge goal, huge win
2. if we can achieve it. But it's in the first page that are
3. the nine points in the plan.

22

1. Q. Let me just see.
2. A. Yes, you've just gone past it.

25

26 Q. I'll read them onto the record:

27

1. *There are nine targets to be discussed*
2. *today: water security, renewable power,*
3. *Island freight, population strategy,*
4. *tourism regeneration, defence capability,*
5. *connectivity, environmental advancements*
6. *and finance and government.*

34

1. A. And all of those are spoken about on each of the
2. various pages in there.

37

1. Q. And it develops a plan for that, okay. What was the
2. discussion about finance and governance that you recall?
3. Perhaps if I go to the --
4. A. Good idea. Should be No.1, isn't it?

42

1. Q. No, it's actually target 9.
2. A. Okay. Bearing in mind that that's a draft.

45

1. Q. All right. There's talk about review of the planning
2. legislation, so that's a governance issue?

1 A. Yes, long overdue.

2

1. Q. A land rates debate, talk about that issue which, for
2. reasons which we've discussed, establish a long-term gravel
3. quarry which would deal with the --
4. A. Which is Cascade, yeah.

7

1. Q. -- sort of rock-related problems that, I take it, are
2. endemic when it comes to people wanting to build things on
3. the Island?
4. A. Correct.

12

1. Q.
2. *Asset management plans completed and inform*
3. *the long-term financial plan with the*
4. *production of schedules for maintenance,*
5. *depreciation and capital works.*

18

1. I don't know whether you have had a chance to look at
2. Mr Roach's statement, but he says that even today he still
3. cannot give an estimate of the amount of money that is
4. needed to maintain all of the assets on the Island on an
5. annualised basis. Were you aware of that?
6. A. No.

25

1. Q. What's your reaction to that?
2. A. Look, I could have been present when it was said but
3. so much goes through my world.

29

1. Q. What's your reaction to that? Or did you ever ask a
2. question to either Ms Jackson or Mr Roach, "Well, how much
3. does it cost or will it cost if we were to properly repair
4. and maintain and renew all of the assets that council
5. owns?"
6. A. I can't answer that other than to respond by saying,
7. it might be late in coming but it is the Grassroots report
8. that has given us that answer and, as far as I'm concerned,
9. that is the top issue that should be being handled by the
10. interim administrator and the existing council now, today.
11. They're running behind time. Because there were, from
12. memory, four or five - all of the recommendations of
13. Grassroots are categorised into very high, high, medium and
14. low, and there are a series of very high, the strategic
15. financial plan, et cetera, is --

45

1. Q. They all speak for themselves, don't they?
2. A. Top of the list, absolutely, absolutely.

1

1. Q. Can I ask why it got to that stage that it needed to
2. be a priority now? Why wasn't it a priority on 1 July
3. 2016? Why can General Manager Roach still not say today
4. how much it costs to renew, repair and maintain the assets?
5. A. I'm sorry, that's an operational matter and that's
6. something that would be, if the question were asked, I
7. would expect would be answered by the general manager.

9

1. Q. But wouldn't that be something that you would be
2. required to oversight? I mean, you're tasked with
3. maintaining the assets of the council, aren't you? You've
4. got to oversee the way in which council assets are managed;
5. yes?
6. A. On advice, yes.

16

1. Q. So, the fact that there's been a deficiency in
2. attending to asset maintenance, et cetera, you put that
3. down to council staff?
4. A. I'm not putting blame anywhere.

21

1. Q. Well, where does the responsibility rest?
2. A. I'm saying to you that one would expect in hindsight,
3. I'm wiser now after four years, that the operational arm
4. would be dealing with those issues and bringing to council
5. recommendations for us to consider, agree, disagree, amend,
6. whatever.

28

|  |  |  |
| --- | --- | --- |
| 29 | Q. | Okay, the next -- |
| 30 | A. | And I am quite sure it will -- |
| 31 |  |  |
| 32 | Q. | You're sure it'll happen now? |
| 33 | A. | -- it will be happening now, absolutely. |
| 34 |  |  |
| 35 | Q. | You have confidence that Mr Roach will be able to |

1. attend to that?
2. A. I do.

38

39 Q. The next dot point:

40

1. *Upgrade council intranet for improved*
2. *internal communications.*

43

44 Next dot point:

45

1. *Temporary resourcing to overcome*
2. *significant deficiencies in council*

1 *programs.*

2

1. This discussion occurred before the effects of the
2. COVID pandemic. What was the discussion with Mr Roach
3. about that? What sort of resourcing are we talking about?
4. A. Could you go to the page, please?

7

1. Q. That's the last page.
2. A. Go to the page that aligns with the one that you just
3. read out.

11

1. Q. It is the last page of the document.
2. A. Okay, all right.

14

1. Q. And it's the list of the financial and governance dot
2. points.
3. A. Okay, mmm-hmm.

18

1. Q. He then mentioned the Civica upgrade, including better
2. training of staff?
3. A. Yes, that's in the --

22

1. Q. What has been the problem with getting Civica to work?
2. A. Once again, that's operational, but the ANAO does
3. mention - I think it's the ANAO, it mentions Civica. But
4. they're operational.

27

1. Q. So, you say this is --
2. A. And let's remember that, okay, we were in financial
3. difficulties because of COVID --

31

1. Q. This was before COVID.
2. A. -- amongst other things.

34

1. Q. Yes, this is before COVID.
2. A. That was, yes, but because of the financial
3. difficulties that were emerging it was the council in
4. consultation with the general manager that recognised the
5. need for the audits. And I make this point: the department
6. is our state, is our regulator, the Commonwealth is our
7. state. Nobody either in the state or the regulator, as far
8. as I'm aware as Mayor - there might have been discussions
9. happening at operational level, certainly not with myself
10. or councillors - that we decided we needed to have the
11. audits. They were a Commonwealth initiative and we set, we
12. the council, set the terms of reference for those audits.
13. The Commonwealth was invited to pay and of course they did.

1

1. Q. We might get a copy of this and then tender it in due
2. course.
3. A. Okay.

5

1. Q. But let's talk about the audits that were ordered.
2. The impetus for that came at a meeting that you had with
3. Mr Roach on 17 June last year, and you were here when he
4. gave evidence about that?
5. A. Yep.

11

1. Q. And he later produced a note of his - a handwritten
2. note of the things that he discussed or that he think
3. recalls being discussed. It's not a word-for-word record
4. of what was said.
5. A. As to options that the council could pursue, yes.

17

1. Q. Do you remember the tenor of that discussion? How did
2. that discussion begin?
3. A. It was broad, it was broad-ranging, and I think you're
4. probably leading to - what was it called - one of the
5. options that you mentioned. Voluntary administration.

23

1. Q. Yeah.
2. A. That was in the mix just as options. I mean, we
3. talked about various options that council could follow and
4. that was just one thrown in the mix. It certainly wasn't
5. agreed.

29

1. Q. Okay, well, let's just put the options to one side,
2. we'll come back to those.
3. A. Yep.

33

1. Q. What did you need the options for? What was the
2. problem, what was the message from Mr Roach about why he
3. was talking to you and why he was going to suggest some
4. options to you? What was the problem?
5. A. Because there were financial difficulties.

39

1. Q. And what were they? What do you recall him saying?
2. You see, we weren't there, you were there.
3. A. Okay.

43

1. Q. What did he tell you?
2. A. I don't know whether that was the time, but there was
3. at one time discussion about us possibly running out of
4. finances, funds, yep.

1

1. Q. Did that come as a surprise to you?
2. A. No, not as a surprise; an understanding that, you
3. know, there were difficulties from what was being said to
4. us, yes.

6

1. Q. What was the way in which he told you that you were
2. running out of money, do you remember?
3. A. No. No, no, I can't.

10

1. Q. Did he tell you how much time you had until you ran
2. out of money as a council?
3. A. It was going to be by the end of the year.

14

1. Q. And he suggested, may I suggest to you, that
2. councillors should consider a financial audit be put in
3. place to look through the books?
4. A. I think it was more a collaborative decision, yes, as
5. a consequence of the conversations that we were having.
6. I'm just looking back on the Mayoral Minute and --

21

1. Q. Well, the minute was the following day on the 18th,
2. wasn't it?

24

1. A.
2. *Council for some months has been addressing*
3. *financial challenges in developing the*
4. *20/21 operational plan primarily resulting*
5. *from decisions by previous management and*
6. *which have been further magnified by the*
7. *effects of the COVID-19 pandemic.*

32

1. And that's the start of it, and so we then instructed
2. the general manager to bring to council terms of reference
3. for those audits.

36

1. Q. I want to suggest to you that the day before, at the
2. meeting that Mr Roach describes, he was the one who told
3. you of the problems?
4. A. Of course.

41

1. Q. And he was the one that suggested to you that an audit
2. was necessary; what do you say about that?
3. A. Look, you're playing with words; I don't know, I can't
4. answer that.

46

47 Q. There was also a suggestion --

1. A. What was important was the terms of reference and what
2. emerged out of those discussions.

3

1. Q. Someone wanted a forensic audit, didn't they? Someone
2. wanted to find out --
3. A. Look, that might have come out of my mouth, purely
4. through ignorance that I didn't even know what it was. I
5. was told what it was and I said, "No, that's not what I'm
6. talking about."

10

1. Q. What were you talking about? What did you want to
2. achieve?
3. A. I wanted an audit to find out what are our problems,
4. where are we heading, what needs to happen in order to fix
5. the problems, identify the problems first and they have,
6. and I can't applaud it more that it happened.

17

1. Q. Who raised the issue of voluntary administration?
2. A. I don't know, I don't know, it was just words thrown
3. around in the course of the conversation, yeah.

21

1. Q. You just read out your Mayoral Minute, I'm wondering
2. if you could just read again the first two sentences of

|  |  |  |
| --- | --- | --- |
| 24 | that | Mayoral Minute? |
| 25 | A. |  |
| 26 |  | *Council for some months now has been* |
| 27 |  | *addressing ...* |
| 28 |  |  |
| 29 |  | That one? |
| 30 |  |  |
| 31 | Q. | Yes. |
| 32 | A. |  |
| 33 |  | *... financial challenges in developing the* |
| 34 |  | *20/21 operational plan primarily resulting* |
| 35 |  | *from decisions by previous management and* |
| 36 |  | *which have been further magnified by the* |
| 37 |  | *effects of the COVID-19 pandemic. Whilst* |
| 38 |  | *the council is still receiving community* |
| 39 |  | *submissions on the operational plan* |
| 40 |  | *[knowing that it had to go out for* |
| 41 |  | *28 days], recently highlighted financial* |
| 42 |  | *exigencies now require council to take* |
| 43 |  | *decisive action to ensure council is able* |
| 44 |  | *to continue to deliver services and to* |
| 45 |  | *adopt a reduced business as usual plan on* |
| 46 |  | *30 June. Whilst this will allow council to* |
| 47 |  | *continue in a reduced capacity during these* |

* 1. *times of austerity I believe it is*
  2. *imperative that this elected council*
  3. *provide a newly elected council with a list*
  4. *of recommendations to allow them to start*
  5. *their term on the best possible footing.*

6

1. Q. Now, just going back to that first sentence. There
2. was a suggestion that there had been previous decisions of
3. management, along with COVID, that had put you in that
4. position. Do you see that first sentence?
5. A. Mmm-hmm.

12

1. Q. That's the way you expressed it. I'm sure no-one
2. wrote those words for you, they're your words, aren't they?
3. A. Nah-uh, it was a collaborative approach.

16

1. Q. That Mayoral Minute was something that was
2. discussed --
3. A. Collaborative, yes.

20

1. Q. -- with all the other members of council?
2. A. Absolutely, yes, and the general manager.

23

1. Q. What were the decisions, the previous decisions of
2. management that you were talking about in that first
3. sentence of your Mayoral Minute?
4. A. No, once again, that's operational. What I know is
5. confidential. I can't discuss issues around other
6. managers, that's for maybe this Inquiry to find out, it's
7. not for me to say.

31

1. Q. Were the previous decisions of management the airport
2. runway resurfacing contract and the roads?
3. A. No.

35

1. Q. So you didn't think that they were contributing to the
2. position you were in, the dire position you were in that
3. was relayed to you by Mr Roach on the 20th and 17th June.
4. It was something else, was it?
5. A. The general manager arrived and found issues within
6. the operational arm that needed to be addressed urgently
7. and he did so; end of story as far as I'm concerned.

43

1. Q. But they weren't the - that wasn't. Just so we can be
2. clear, it wasn't the airport contract --
3. A. No.

47

|  |  |  |
| --- | --- | --- |
| 1 | Q. | And it wasn't -- |
| 2 | A. | No. |
| 3 |  |  |
| 4 | Q. | -- the roads contract? |
| 5 | A. | No. |
| 6 |  |  |
| 7 | Q. | They weren't the reason why you were in financial |

1. difficulty on 17 June 2020?
2. A. Possibly a contributing factor.

10

1. Q. The other decisions that you're talking about,
2. although you don't want to go into them because you say
3. that they're confidential --
4. A. They're staffing matters.

15

1. Q. Staffing matters. What was the cost of those staffing
2. matters to the budget?
3. A. I can't tell you, I don't know.

19

1. Q. You don't know?
2. A. I don't know, and I mean that, I don't know.

22

1. Q. So, there were staffing matters. Were they decisions
2. of Ms Jackson? You just don't know?
3. A. I don't know, I don't know.

26

1. Q. And you're absolutely --
2. A. I know that's wide, it's a wide statement, but that's
3. as much as could be said.

30

1. Q. I just want to be fair to you, Ms Adams, because it
2. does --
3. A. I understand.

34

1. Q. -- strike me as very difficult to accept that the
2. airport runway and the road contract only may have
3. contributed to that Mayoral Minute.
4. A. I'm not saying that.

39

1. Q. I would have thought --
2. A. Maybe we can go to the airport.

42

1. Q. We will go to the airport. Weren't they the reason --
2. A. And you can talk about the roads and I'll put my view
3. on the table.

46

47 Q. Weren't they the reason why you were in the financial

1. position?
2. A. That's something for you and I to talk about.

3

1. Q. Okay. Well, I'm talking about your words, they're
2. your words?
3. A. Yes.

7

1. Q. You said that and I want to know what you meant and
2. I'm sure the Commissioner would be assisted by what you
3. meant by "decisions of previous management". Can you help
4. us?
5. A. As much as I can, I have.

13

1. Q. All right, okay.
2. A. It involves staff and there are issues and they're not
3. issues that I can talk about.

17

18 Q. Okay, all right?

19

20 THE COMMISSIONER: I'd just like to clarify.

21

1. Q. Ms Adams, you think it would be worth my while looking
2. at the staffing issues and any evidence we have relating to
3. staffing costs?
4. A. No, it's not to do with staffing costs.

26

1. Q. What I think I am understanding you saying is, there
2. were staffing issues that --
3. A. It was around finances.

30

1. Q. Related to delivery of proper financial information;
2. is that right?
3. A. Yes.

34

1. Q. But not in terms of payment of redundancies or things
2. like that?
3. A. No.

38

1. Q. So, in relation to the provision of acceptable
2. financial information?
3. A. M'mm.

42

43 THE COMMISSIONER: Okay.

44

1. MR BOLSTER: Q. Of course, at that time there had been
2. significant problems in engaging and retaining suitably
3. qualified staff on the Island, hadn't there?

|  |  |  |
| --- | --- | --- |
| 1 | A. | Correct, you're right. |
| 2 |  |  |
| 3 | Q. | An ongoing issue, very difficult? |
| 4 | A. | Absolutely. |
| 5 |  |  |
| 6 | Q. | Skills shortage? |
| 7 | A. | Absolutely, yep. |
| 8 |  |  |
| 9 | Q. | Particularly in the corporate financing area? |
| 10 | A. | Need for staff training, need for training in Civica, |
| 11 | need | for training across the board: obviously didn't |

1. happen, but that's not the role of the council until we
2. know about it.

14

1. Q. I understand that, and you knew Mr Roach had brought
2. someone in from Brisbane to look into the books?
3. A. Yes, you've had him here on, yes.

18

1. Q. Yes. He was the one, may I suggest, working with
2. Mr Roach, who identified these problems?
3. A. Some of them, m'mm.

22

1. Q. And they were financial problems?
2. A. They were known before he came.

25

1. Q. Can we talk about the airport then?
2. A. Okay.

28

1. Q. So, we have a tender in 2018 and there were three
2. tenderers.
3. A. Correct.

32

1. Q. We don't want to go into who the tenderers were other
2. than we know Boral was one, okay?
3. A. Yep.

36

1. Q. Mr Snell gave some evidence this morning that before
2. council came to consider the tenders, the general manager
3. afforded council an opportunity to go through each of the
4. tenders in a one and a half hour session in her office. Do
5. you remember that?
6. A. I sure do.

43

|  |  |  |
| --- | --- | --- |
| 44 | Q. | And it was Ms Jackson that did that -- |
| 45 | A. | Yes. |
| 46 |  |  |
| 47 | Q. | -- or was it Mr Taylor? |

|  |  |  |
| --- | --- | --- |
| 1 | A. | No, Ms Jackson. |
| 2 |  |  |
| 3 | Q. | Ms Jackson, okay, all right. And you and went through |
| 4 | the | tender? |
| 5 | A. | As much as one can. |
| 6 |  |  |
| 7 | Q. | What did you glean from it? What stood out from |

1. reading it when you had the opportunity to do so?
2. A. Not much the wiser. We weren't allowed to take notes,
3. we weren't allowed to discuss it, I couldn't discuss it
4. with Councillor Snell.

12

1. THE COMMISSIONER: Mr Bolster, I just want to ask a
2. question on this, please.

15

16 MR BOLSTER: Sure.

17

1. THE COMMISSIONER: Q. So, Ms Adams, when you're in that
2. meeting with the then general manager, was the process that
3. you just sort of sat there with the documents and you had
4. to wade your way through?
5. A. Uh-huh.

23

1. Q. Or did she take you through and guide you?
2. A. No, you summed it up. We had to take those documents
3. in --

27

1. Q. So, she just sat in the room while you looked at
2. them --
3. A. Yes.

31

1. Q. -- without answering any questions?
2. A. At her desk, yes.

34

35 THE COMMISSIONER: Okay.

36

1. MR BOLSTER: Q. Was your attention drawn to or did you
2. pick up the problem of the cost of the biosecurity aspect
3. of bringing rock to the Island?
4. A. No, that came as a surprise to me when Councillor
5. Snell was discussing that with you this morning. I mean, I
6. have here, and I suppose I'm not allowed to read it, but I
7. will say to you --

44

45 Q. You have the minute - is that the minute from the

46 20th --

47 A. I have the confidential council meeting agenda, two

1 pages of it, right-o.

2

1. Q. On 20 February?
2. A. February, correct.

5

1. Q. Okay.
2. A. Okay, and to this day I remain of the view that the
3. way this is worded and presented to us, that the cost of
4. the biosecurity was Boral's, not ours.

10

1. Q. So, you didn't think you had the risk of having to pay
2. for that?
3. A. That's absolutely right, and I have continued to talk
4. about that.

15

1. Q. If Boral was going to pay for that, let's assume that
2. was the case, what did you think the worst-case scenario
3. was on the costs of the airport contract for the council?
4. How much was the council at risk of having to spend to
5. complete the project?
6. A. What you have to understand, and I'm sure you do, in
7. order for us to get the grant funding that the Commonwealth
8. is promising, 43 - and I don't have that documentation any
9. more - we were to have crafted the resolution to say,
10. whatever the first paragraph is, had to say that, and we
11. had to confirm that council contributes any shortfall of
12. funding for the project. Those were the two:

28

1. *That the council elected members supports*
2. *the airport pavement repair and*
3. *reconstruction, design and construct (the*
4. *D&C project).*

33

1. That was the number one requirement of the
2. Commonwealth. Number two was, council contributes any
3. shortfall of funding for the project. The rest of what's
4. in there emerged over the time.

38

1. Q. And then at the meeting there was discussion about
2. trying to source the rock on the Island, giving you a time
3. period to do that?
4. A. Yep.

43

1. Q. And there was also some discussion about a loan from
2. the airport?
3. A. Mmm-hmm.

47

1. Q. Let's deal with each of those in turn, but can you
2. first just answer my very simple question: when you came to
3. vote to support accepting the tender of Boral, what did you
4. think the exposure of the council was under that contract?
5. Was it a range of figures, was it a set price? What did
6. you understand it was going to cost the council?
7. A. In dollar figures I can't answer that, but certainly
8. didn't include the 4.2.

9

1. Q. It didn't include the 4.2.
2. A. Biosecurity. And, to me, it is compounded by the fact
3. that Dr Greg White, who was the pavement specialist who had
4. been engaged obviously quite some time before this project,
5. came to councillors' desk, talks about the change in tender
6. processes, it begs the question in my mind: originally the
7. tender was on Island rock. Then, as Councillor Snell
8. pointed out, somewhere along the track that changed and
9. became imported rock.

19

1. Nowhere in the documentation to the best of my
2. knowledge that came across my desk, before 20 February, was
3. there any suggestion that council was going to be paying
4. for biosecurity costs.

24

1. Q. Are you sure about that?
2. A. Well, to the best of my knowledge. I can only go by -
3. I don't have any recall, like Councillor Snell didn't have
4. recall, that in that hour and a half that we had this
5. volume of tender documentation to wade through, that there
6. was any reference in there about the 4.2. But, however, in
7. this document that I have, and I'm happy to read it --

32

1. Q. How many pages have you got there?
2. A. Two.

35

1. Q. You've got page what?
2. A. I've got page 7 and page 6.

38

1. Q. All right. Let me give you a copy of the full
2. briefing. This is a six-paged document. Which of the six
3. pages do you have?
4. A. Okay, it starts with, "Boral has indicated in their
5. submission."

44

1. Q. You have the page that has, "Boral has ..."?
2. A. "... indicated in their submission", which on mine is
3. at the top, it's the first paragraph of page 7.

1

1. Q. Right, okay. For the record that is
2. NIRC.020.001.0002\_0003. Okay, and what's the other page
3. that you've got?
4. A. It goes - well, the other page I've got is No.6.

6

1. Q. What does that have you with?
2. A. And it says, "The evaluation criteria", at the top,
3. and then, "The formal panel assessment including
4. weighting." And --

11

1. Q. Just excuse me, that for the record is
2. NIRC.020.001.0002\_0002. Right now, if you can have a look
3. at the longer document that I've just given you.
4. A. Yeah, okay. Yes, where do you want me to go to?

16

1. Q. If you can go to the second-last page, you will see
2. there the paragraph, "The financial implications", and you
3. will see there that it's said that the costs of the project
4. from the recommended tender is an amount of money. The
5. Assistant Minister for Regional Development and Territories
6. has advised that Commonwealth funds are available for this
7. project. The council has been informed that the amount of
8. the funding available is 43, and for this funding to be
9. available a set of conditions must be met, and then you
10. have the words there that are reflected in the minute.
11. A. Yep, which I mentioned, yes.

28

1. Q. Yes. "Therefore council is required to be supportive
2. of the project", which you were?
3. A. M'mm.

32

1. Q. If you go back to the third page of that document,
2. which is the one that you have yourself. I just want to
3. read this to you:

36

1. *Boral has indicated in their submission*
2. *that their price does not include treatment*
3. *of bulk aggregate and sand for transport to*
4. *Norfolk Island.*

41

42 A. Mmm-hmm, I understand that.

43

1. Q. So it's not included in their price?
2. A. Correct, that's right, because it's an unknown at that
3. point, yeah.

47

1. Q. Surely you must have appreciated that, if it was not
2. included in their price and it was required at the end of
3. the day, Boral weren't going to be funding that themselves,
4. that aggregate?
5. A. I have no idea, why would Boral say, Boral in lieu of
6. knowing the accurate cost at this stage has estimated an
7. amount of...

8

9 Q. 4.2.

1. A. Yeah, to cover such a cost should it be required.
2. That's not saying that they don't believe they're
3. responsible for it, they just don't know what that amount
4. is. That's silent on it.

14

|  |  |  |
| --- | --- | --- |
| 15 | Q. | You read this at the time? |
| 16 | A. | Yes. |
| 17 |  |  |
| 18 | Q. | And you took it that -- |
| 19 | A. | M'mm, potentially Boral would be paying, yes, and I |

20 haven't changed my mind on that.

21

1. Q. And you read the tender as well?
2. A. I've explained that. In an hour and a half we had
3. this to try and wade through and there's no way.

25

1. Q. Okay, all right, if you could return the document we
2. just gave you, thank you. Did you have a look at the cash
3. position of council at the time of this decision or did you
4. just rely on the advice of the council staff?
5. A. I can only say, because I don't know, we had to have
6. relied on council staff.

32

1. Q. And we --
2. A. Because you see in here as well that there - which I
3. can't talk about - under the next paragraph down is the
4. suggestions that were there for cost savings.

37

|  |  |  |
| --- | --- | --- |
| 38 | Q. | Yes. |
| 39 | A. | Which didn't occur. |
| 40 |  |  |
| 41 | Q. | Why didn't they occur? |
| 42 | A. | I presume it was on the advice of Dr White. I can |

1. provide to you because you may not have seen it, Dr White -
2. and as far as I know it's not confidential - he prepared -
3. we had discussion and it was around his having alerted us
4. to the fact that he believed that the Minister for the
5. Environment may exempt Norfolk Island Regional Council from
6. all assessments and approvals under section 158 of that
7. Act, and the Australian Government Minister for the
8. Environment may exempt a person proposing to take an action
9. from the requirement to conduct an environmental
10. assessment.

6

1. Q. Yes.
2. A. So, on that basis - it was on that basis that I wrote
3. to the Minister seeking her assistance with the significant
4. development and, et cetera, et cetera, and I can make you a
5. copy of this if you want it.

12

1. Q. We'll have a look at that in due course, but I just
2. want to make it clear: you understood that the approval of
3. the Minister was about the environmental approval to extend
4. the existing quarries on the Island. They had to have --
5. A. Mmm-hmm, they were trying to reduce the timeframe in
6. order to access local rock.

19

1. Q. Correct. That didn't happen?
2. A. No.

22

1. Q. And you knew Boral did some drilling on the site of
2. the quarry?
3. A. Correct.

26

1. Q. And it came back that the quality of the rock was not
2. suitable for the airport runway; you understood that?
3. A. Yes, except I did hear Councillor McCoy mention, and I
4. had seen or heard that as well, that the rock on the knob
5. was rock that should be kept for good work down the track
6. for the community, m'mm. I recall that but I can't talk
7. about it.

34

1. Q. In any event, you went ahead with the project
2. importing the rock from off the Island.
3. A. M'mm.

38

1. Q. Now I want to show you, if we can bring up a minute
2. from 2020, to be fair to you. NIRC.PUB.001.0286\_0003.
3. This can be displayed publicly. Can you just read that to
4. yourself? It's a Mayoral Minute from you.
5. A. Yes.

44

1. Q. When the project is well underway, and you can see
2. there, I want to take you to - let's just set the
3. background to this.

1 A. I've got it here.

2

1. Q. Prior to 28 October there had been some talk, some
2. reportage on the Island about overruns?
3. A. Correct.

6

1. Q. And you wanted to take issue with this assertion that
2. there had been overruns?
3. A. And, if I could just say here: this document, and I
4. know he won't mind my saying so, was prepared for me by the
5. general manager to refute what was being said, and on this
6. basis I totally accepted what he said, yes.

13

1. Q. Do you see there --
2. A. That's not information that I would normally know.

16

1. Q. You see there though that the estimated total cost is
2. $48 million?
3. A. Mmm-hmm.

20

1. Q. Implicit in that is council's contribution of
2. $7 million at the second-last dot point, and that's made up
3. of the 4.2, 0.2, 0.2, and 0.5; do you see that?
4. A. Mmm-hmm, yep.

25

1. Q. Your evidence thus far has been that you never - you
2. didn't think that the 4.2 for biosecurity was something
3. council was going to have to pay. But here, in October
4. 2020, you are in a meeting --
5. A. Council is continuing to say that, yes, we are. I
6. still am of the view that it wasn't our responsibility from
7. the wording that came to council in our agenda, and that
8. Councillor McCoy - um, Snell is of the same view, we've
9. discussed it many times. Maybe it was just the way it was
10. worded at the time, but for me it meant that Boral was
11. paying.

37

1. Q. Well, why did you put forward that Mayoral Minute, if
2. you thought it was wrong?
3. A. We were now, we were now how many months down the
4. track?

42

1. Q. Well, this is October 2020.
2. A. Yes.

45

1. Q. People are criticising you and the council that
2. there'd been overruns, and you wanted to make it clear to
3. the community that there had been no overruns?
4. A. Uh-huh, yep.

3

1. Q. But there hadn't been, had there? You knew it was
2. going to cost this. Back in February 2019, 18 months
3. almost before this, you appreciated that the cost could be
4. as much as $48 million, didn't you?
5. A. On the advice that I was provided, and in the absence
6. of legal advice that supported what I was saying, had to
7. accept that this was the case.

11

1. Q. Well then --
2. A. But to this day I still am of the view that it wasn't
3. our responsibility. However, be that as it may.

15

1. Q. You have heard me say this a number of times before,
2. that on that basis on 20 February council told you you had
3. $10.5 million in unrestricted cash.
4. A. Okay.

20

1. Q. You were voting to support a project that had the risk
2. of costing council, let's just say $7 million, the figure
3. from your Mayoral figure: $7 million, okay. And then
4. in July 2019 council considered Boral's offer to resurface
5. around 9 kilometres of the Island's roads. Do you remember
6. that?
7. A. I certainly do.

28

1. Q. And you accepted that proposal, costing $5 million
2. from the cash reserves of the Island. Can I ask, why?
3. A. Okay. I'm going to digress and read a letter written
4. jointly by the general manager, Lotta, and myself to the
5. Honourable Sussan Ley on 15 March 2019, "The Roads to
6. Recovery Program Norfolk Island Regional Council." You
7. won't have this letter, so you're welcome to have it:

|  |  |  |
| --- | --- | --- |
| 36 |  | |
| 37 |  | *At our December meeting council formally* |
| 38 |  | *acknowledge with thanks your advice* |
| 39 |  | *received 18 December 2018 that the* |
| 40 |  | *Australian Government will be including the* |
| 41 |  | *Norfolk Island Regional Council in the* |
| 42 |  | *Roads to Recovery Program from 2019 to 2020* |
| 43 |  | *onwards.* |
| 44 |  |  |
| 45 |  | Certainly not made clear as to why we didn't get it |
| 46 | from | the beginning. However: |
| 47 |  |  |

* 1. *Council further noted the Roads to Recovery*
  2. *life of program allocation to Norfolk*
  3. *Island for the period 1 July 2019 to*

4 *30 June 2024 will be $331,715.*

5

1. *We note your acknowledgment that this is*
2. *the first opportunity that has presented*
3. *for your council to be included in the*
4. *program since self-government began.*

10

1. I don't know why they've used the word
2. "self-government" because that's a quote:

13

1. *We look forward to receiving detail of the*
2. *formal funding conditions that will apply.*

16

17 And this is the key:

18

1. *Notwithstanding our appreciation for these*
2. *funds, I trust the following historical*
3. *background to the roads network on Norfolk*
4. *Island will give some understanding of the*
5. *very real challenge for the Norfolk Island*
6. *Regional Council to bring the roads on the*
7. *Island to "a satisfactory standard."*

26

1. *From 1979 to 2010 the Norfolk Island*
2. *community funded the maintenance of the*
3. *roads network on the Island notwithstanding*
4. *that they were a Commonwealth owned asset.*

31

1. *On 28 June 2016 the majority of the*
2. *Commonwealth owned roads on the Island were*
3. *transferred under the Land Transfer*
4. *Ordinance 2016 (Cth) to the Norfolk Island*
5. *Administration/NIRC.*

37

1. *At the time of transfer on 8 June 2016*
2. *Robin Fleming, executive director of the*
3. *Local Government and Territories division*
4. *of DIRD, wrote to the administration of*
5. *Norfolk Island promising that...*

43

1. And that was to Peter Gesling, the Commonwealth's
2. delegate:

46

47 *... promising that "no disadvantage should*

1. *accrue to the new Norfolk Island Regional*
2. *Council as a result of the asset transfer*
3. *process." I have attached a copy of this*
4. *letter for your reference.*

5

1. A further report from 2015 by Beverley Parsons on
2. Norfolk's roads and I provided them with a link:

8

1. *Regrettably it is undeniable that with the*
2. *income stream currently available to NIRC*
3. *council will never be in a position to get*
4. *the roads up to a "satisfactory standard"*
5. *without the assistance of the Commonwealth*
6. *partnering with NIRC to do so.*

15

1. *To demonstrate I provide the maintenance*
2. *budget allocations for roads since council*
3. *commenced in July 2016.*

19

1. In 2016 to 17 we budgeted $600,000, actual was
2. $570,000. 2017 to 18 we budgeted $650,000 and the actual
3. was $580,000, and 18/19 we budgeted $700,000, the actual

23 was $650,000:

24

1. *In addition an allowance of between*
2. *$600,000 and $1 million was allocated for*
3. *capital works each year. Due to a number*
4. *of reasons including lack of available*
5. *labour and equipment and the need to*
6. *replace 169 culverts this capital work did*
7. *not proceed.*

32

33 Have you got that?

34

1. Q. No. In a minute we'll take it from you, get a copy
2. and we'll tender it. But your point is what in relation to
3. the Boral $5 million?
4. A. For the roads, okay.

39

1. Q. Are you saying that you thought that you'd get this
2. money from the Commonwealth?
3. A. Yes.

43

1. Q. And it would partly fund the $5 million?
2. A. Yes. I have written in Ministers consistently and
3. brought to their attention this letter from Robin Fleming
4. to Peter Gesling, the Minister's delegate:

1

* 1. *The principles that we have followed to*
  2. *guide the development of the asset transfer*
  3. *schedules between the Commonwealth and*
  4. *Norfolk Island include:*

6

1. *Asset ownership should reside with the tier*
2. *of government that is delivering the*
3. *function.*

10

11 That is, roads.

12

1. Q. The council.
2. A. Education, health.

15

1. Q. Okay.
2. A.

18

1. *Where possible the loan in property asset*
2. *transfers should be consistent with the*
3. *arrangements in place prior to Norfolk*
4. *Island becoming a self-governing territory*

23 *in 1979.*

24

1. *No disadvantage should accrue to the new*
2. *Norfolk Island Regional Council as a result*
3. *of the asset transfer process, and to the*
4. *extent possible the transfer of land and*
5. *property between the Commonwealth and the*
6. *ANI/NIRC should be of comparable value.*
7. *Private donations of land and property*
8. *should be appropriately recognised.*

33

34 However, she goes on to say:

35

1. *Consistent with these principles we have*
2. *agreed that all the roads currently owned*
3. *by the Commonwealth, unless they occur on*
4. *Commonwealth land, will be transferred to*
5. *become the responsibility of the NIRC.*

41

42 Needless to say they had been since 1979.

43

1. Q. Ms Adams, let's just focus on the Boral contract. So,
2. this was $300,000-odd. What's the date of the letter
3. again?
4. A. This is 8 June 2016.

1

2 Q. 2016.

3 A. Correct.

4

1. Q. So this was --
2. A. This was part of the new council arrangement.

7

1. Q. -- an offer of the Commonwealth to provide better
2. roads funding in August 2016; correct?
3. A. Sorry?

11

1. Q. This is your answer to my question about why you
2. approved, you voted to approve with the other four
3. councillors the Boral offer that would cost the council
4. $5 million, and you referred to this letter, and I want to
5. know what's the point you're trying to make?
6. A. That it wasn't our responsibility to fund for Boral to
7. do those roads, and I have consistently brought this
8. point to the Commonwealth since 2016.

20

1. Q. If it wasn't the Norfolk Island Regional Council's
2. responsibility, why did you agree to do it and spend
3. $5 million of the council's funds?
4. A. Right, okay, I see where you're leading.

25

1. Q. If it was someone else's responsibility, why did you
2. do it?
3. A. Yes, yes. Yes, yes, yes, because it was being dealt
4. with at another level. Yes, I see what you're saying, yep.
5. I intended that it'd come back to us. I mean, that's - I
6. think I said at the time that we met when you were on the
7. Island before, that the issue of who's responsible for
8. funding the roads, that it's not council, and the cost of
9. the biosecurity collectively would have meant that we
10. wouldn't be having this Public Inquiry, we would be
11. absolutely solvent.

37

1. Q. But, to be fair to the biosecurity issue, it was a
2. very contentious issue, the importation of the rock. A lot
3. of people on the Island, a lot of people from this island
4. took the view, legitimately one might think, that they
5. didn't want rock being brought onto the Island --
6. A. Absolutely.

44

1. Q. -- that might bring with it pests, insects, someone
2. mentioned snakes, and people were protesting about that and
3. laying down in front of bulldozers, I think is one of
4. the --
5. A. I don't know.

3

1. Q. You tell me. But it was a live issue, wasn't it?
2. A. Absolutely. I'm missing what your - your point.

6

1. Q. My point is this: you were under pressure in terms of
2. the budget by reference to both the airport contract which
3. was up to $7 million, and then you had $5 million by reason
4. of the proposed road contract. Both of those expenditures
5. were approved within a few months of each other, they had
6. the ability to take $12 million out of the cash balance of
7. the council, and may I suggest it was those decisions that
8. led to the advice that you received from Mr Roach in June
9. that led to your Mayoral Minute and the resolutions the
10. following day. Do you accept that?
11. A. No, I'm not entering into that. Because the letter of
12. - Roads to Recovery was 15 March 2019 in which I alerted
13. the Commonwealth, yet again, that it's the Commonwealth's
14. responsibility to fund the roads and it was --

21

1. Q. I thought you said it was 2016?
2. A. No, the Land Transfer Ordinance was passed in 2016.

24

1. Q. Correct.
2. A. We wrote on Roads to Recovery on 15 March 2019 and it
3. wasn't until 18 March 2020 that we dealt with the roads.

28

1. Q. But hadn't you been told previously, if we have that,
2. that the Roads to Recovery funding would be made available,
3. that was before the $5 million roads decision was made in
4. June?
5. A. Yes.

34

1. Q. Sorry, on 19 --
2. A. 18 December, we were advised.

37

38 Q. 18 December 2018?

39 A. 18, yes.

40

1. Q. And that, from 1 July 19 to 30 June 2024 the Roads to
2. Recovery program was going to contribute $331,000?
3. A. Yeah. Yes. The cost, um --

44

1. Q. I just don't understand --
2. A. The estimates for doing all the roads worked out by
3. Local Government Engineering Services New South Wales

1 in August 2018 equals $19,026,000.

2

1. Q. Is that why you voted to approve the $5 million
2. expenditure?
3. A. Because I was continuing to work with the Commonwealth
4. on that, on that issue, that it was the Commonwealth's
5. responsibility to fund the roads.

8

1. Q. Other than saying that, if it's the Commonwealth's
2. responsibility, why would you spend any money?
3. A. I understand what you're saying, but I'm sure you can
4. understand where I'm coming from too?

13

1. Q. I understand that, I understand that. But if you had
2. been told that you were getting Roads to Recovery funding
3. and the Commonwealth was going to be making contributions
4. in that regard, why then --
5. A. That's a long way from $19,026,000.

19

1. Q. So, the $5 million was acceptable to you, you didn't
2. try and get a better price out of Boral and try and get
3. more kilometres?
4. A. I certainly didn't, that's an operational matter. I
5. know you asked that question of some of the other
6. councillors, yes.

26

1. Q. Wouldn't you have been - I mean, this hadn't gone out
2. to tender. Ordinarily for a project of this size you'd go
3. to tender, wouldn't you?
4. A. Yeah, Councillor McCoy answered that yesterday as to
5. the reasoning why under the Local Government Act the power
6. is there to do what was done, yes.

33

1. Q. But surely, it would have occurred to you that you
2. might at least try and get a better deal out of Boral?
3. A. Easy to be wise, 2020, yeah.

37

1. Q. But do you accept that?
2. A. I've given you my point of view. I don't believe that
3. we would have ended up paying for it, but regrettably we
4. have at this point in time and it remains an issue that -
5. for the Commonwealth to make a decision on as to whether or
6. not they agree that they, in 2015, agreed that there would
7. be no financial burden with the transfer of the roads
8. across, and whilst we talked --

46

47 Q. I understand that.

1. A. Whilst we're talking about that, I made enquiries just
2. last week. It's all such a mess. The roads have not even
3. been able to be transferred across to us, notwithstanding
4. that Commonwealth legislation overrides state or local
5. legislation. The Land Transfer Ordinance said, we will do
6. this - boom, boom, boom, boom. And we have Land Title
7. legislation that, in order to get the titles onto the
8. Norfolk Island Lands Register so that somebody doing a Land
9. Title search would see, "Oh, Norfolk Island owns all the
10. roads. Oh, the Commonwealth owns all the hospital."

11

1. In fact, in respect of the hospital, there are only
2. two portions that have been converted to guaranteed title
3. and they need to be registered which will require the
4. Certificate of Title to be lodged with the registry office
5. and for the transfers form to be executed and lodged with
6. this office. In respect of the three other portions, that
7. will need to be converted to guaranteed title by the
8. council which requires the statutory periods of -
9. da-da-da-da-da. Then what has to be done is that the
10. Minister has to do certain things. It's a mess.

22

1. The roads cannot be registered on the Norfolk Island
2. system until the Surveyor General has made a decision as to
3. whether or not every road on Norfolk Island has to be
4. surveyed. I mean, come on.

27

1. Q. Are you saying that that registration issue has
2. stopped maintenance of those particular portions of the
3. road?
4. A. No, I'm not saying that at all.

32

1. Q. Did it have any bearing on the decision?
2. A. I'm just trying to show you --

35

1. Q. I understand.
2. A. -- that all is not well in the world of land.

38

1. Q. I accept the point.
2. A. Good.

41

1. Q. What do you say though to the proposition that came
2. from Mr Snell this morning, that people on the Island can
3. get by with the roads the way they are? Do you agree with
4. that? Do you think it's a priority to fix the roads?
5. A. Look, I'm at the same old school as Lisle, and I came
6. to live here in 66, I drove on dirt roads and we had chains
7. on our wheels in order to get up through the mud. You
8. know, a pothole or two. In fact, somebody's --

3

1. Q. That's not --
2. A. -- somebody's planted a banana in a pothole once.

6

1. Q. It's not 1966 now, is it?
2. A. No.

9

1. Q. And the community --
2. A. I know that, yeah.

12

1. Q. Do you think the community is really happy just to --
2. A. Probably not.

15

1. Q. -- leave the roads as they are?
2. A. Not overall, probably not, I don't know, I haven't -
3. it's not an issue that I canvassed. There are obviously -
4. from time to time there are letters in the paper from
5. visitors to the Island complaining about our roads, so I
6. understand that.

22

1. Q. I'm going to return --
2. A. But we want to deal with them anyway.

25

1. Q. Going back to your strategic plan. Your one, we'll
2. give you your original one, Ms Adams.
3. A. I wouldn't have minded a nice clean one.

29

1. Q. If a copy of that can be tendered, and I think we're
2. up to Exhibit 5.

32

# 33 #EXHIBIT 5 - COUNCIL'S STRATEGIC ACTION PLAN.

34

1. MR BOLSTER: Q. Now, was there a letter that you wanted
2. to show me in relation to the roads issue that you wish to
3. put in evidence?
4. A. I don't know whether you want to put it in evidence,
5. it was just for clarity. There's been much talk about
6. (indistinct) draft something to help. For clarity, we've
7. talked much about 20 February. That was the day that the
8. confidential issue came to council, but in the knowledge
9. that the community, a wide representation from the
10. community were very much against the importation of rock,
11. and in the discussions in confidential we had come to the
12. understanding that we really had no choice in the matter to
13. import rock, that it was time to talk to the community and
14. let the community know what was going on. So, what we did
15. was - and regrettably the minutes from council don't
16. reflect outwardly. It should have said 20 and 22 February,
17. because we adjourned the meeting on the 20th and reconvened
18. a community meeting at Rawson Hall at which Dr White --

6

1. Q. Explained the situation to you, yes.
2. A. -- explained to the community and then on - yes, that
3. was Thursday, 21. Then in the weekend, I think it was that
4. weekend's press, all of the options that were available
5. were published for the community so that they had a record
6. to look at and his presentation was put on to NIRC's
7. website. That was the best that we felt we were able to
8. do. We were over a barrel with CASA --

15

|  |  |  |
| --- | --- | --- |
| 16 | Q. | You had to repair the airport. |
| 17 | A. | -- we had to do the airport, you know. |
| 18 |  |  |
| 19 | Q. | Understood, understood. |
| 20 | A. | Yep. |
| 21 |  |  |
| 22 | Q. | We're going to tender that document, there's a copy |

1. being made of it. I just wanted to, as we come to the end
2. of the examination, I wanted to give you the opportunity
3. to - oh, that's a bit high. We'll turn that down. Turn
4. that down, please.

27

28 THE COMMISSIONER: I hope it stays up there.

29

1. MR BOLSTER: Q. I'm just getting a bit - I don't know
2. about you Ms Adams - it's just getting a bit stuffy in
3. here, I thought we might benefit from a bit of fresh air.
4. A. Thank you. Absentee landowners, you wanted to know
5. about that.

35

1. Q. We'll come to that in a minute, let's just tender
2. this. Can I return to your original document.
3. Commissioner, I tender and this should be part, I believe,
4. of tender Exhibit 6 as a confidential exhibit. It's
5. headed, "Attachment 4, airport pavement repair and
6. reconstruction design and construct D&C project. Request
7. for urgent ministerial intervention", that should be
8. Exhibit 6.

44

# #EXHIBIT 6 - (CONFIDENTIAL) DOCUMENT HEADED "ATTACHMENT 4

1. **AIRPORT PAVEMENT REPAIR AND RECONSTRUCTION DESIGN AND**

# CONSTRUCT D&C PROJECT. REQUEST FOR URGENT MINISTERIAL

|  |  |  |
| --- | --- | --- |
| 1 | **INTERVENTION".** |  |
| 2 |  |
| 3 | Q. The absentee landowners levy, how did it work? |
| 4 | A. I know you don't want me to read but I have to | to make |
| 5 | sense. It's not long. |  |
| 6 |  |  |
| 7 | Q. Are you able to explain it or? |  |
| 8 | A. It's a law, therefore read the words. |  |
| 9 |  |  |
| 10 | Q. Okay. |  |
| 11 | A. |  |
| 12 | *The Absentee Landowners Levy Act 1976 was* |  |
| 13 | *an Act [is an Act, because it's still* |  |
| 14 | *operative, it's still alive] to impose a* |  |
| 15 | *levy on absentee landowners and for other* |  |
| 16 | *purposes.* |  |
| 17 |  |  |
| 18 | And clause 3 reads: |  |
| 19 |  |  |
| 20 | *For the purposes of this Act an absentee in* |  |
| 21 | *relation to a year of levy means: (a) a* |  |
| 22 | *person who is not a company or an exempt* |  |
| 23 | *person and has been absent from Norfolk* |  |
| 24 | *Island for a period of or periods* |  |
| 25 | *aggregating 183 days or more during* |  |
| 26 | *the year of levy.* |  |
| 27 |  |  |
| 28 | And (b): |  |
| 29 |  |  |
| 30 | *A company other than a company that:* |  |
| 31 |  |  |
| 32 | *(i) has during the year of levy been* |  |
| 33 | *approved as a local company under* |  |
| 34 | *Section 638 of the Companies Act 1985 or;* |  |
| 35 |  |  |
| 36 | *(ii) has during more than one half of* |  |
| 37 | *the year of levy been principally engaged* |  |
| 38 | *in Norfolk Island in a prescribed business.* |  |
| 39 |  |  |
| 40 | So, moving forward we have land rates. |  |
| 41 |  |  |
| 42 | Q. The absentee landowner levy, is that something | that |
| 43 | should be maintained? |  |
| 44 | A. Well, I'll read to you what happened. |  |

45

1. Q. No, no, just your thoughts. Is it something that
2. should be maintained or not?
3. A. No, it's only maintained today in order to allow
4. recovery that might still be outstanding under the --

3

1. Q. Of the old, of the unpaid, okay?
2. A. Yes, and the Commonwealth under the Norfolk Island
3. Continuous Laws Amendment 2017 Measures No.2 Ordinance of

7 2017 --

8

1. Q. Got rid of it?
2. A. -- amends the operation of the Absentee Landowners
3. Levy Act by ceasing the assessment of the levy after the
4. assessment date of 15 September 2016 but have retained
5. amounts for 16 and previous years already assessed would
6. still have to be recovered.

15

1. Q. Okay.
2. A. Yeah, okay?

18

1. Q. Is some sort of fee or charge like it a good idea to
2. complement the rates issue, the money that's raised from
3. rates?
4. A. I don't have a thought about that.

23

1. Q. You don't have a view about that?
2. A. No.

26

1. Q. And, we haven't got your view about rates. It's fair
2. to say that you joined with other members of the council to
3. oppose any rate increases that were put forward by council
4. staff other than those that had already been legislated.
5. Why was that? Why your reluctance, along with the other
6. members of council, to increase rates in an attempt to
7. raise some more income for council?
8. A. I did make enquiries through legal officers offshore,
9. friends, around the possibility, because there is a view
10. within the community that it should be GST rather than
11. rates, and that's not across the board, believe me. You
12. know, there are businesses here who say "no way".

39

1. Q. The community is divided about this.
2. A. Absolutely, the community is divided around the issues
3. of rates and GST, and my understanding from the response I
4. got was - because they're not charged in the Indian Ocean
5. territories as well - there is a constitutional issue.
6. That was the response to me, and so, I haven't bothered to
7. pursue it any further.

47

1. Q. Has the council ever thought to raise that issue or?
2. A. What we did do by resolution, because of the amount of
3. representation council did have from members of the
4. community, including from the Council of Elders on behalf
5. of the Elders of the community, we resolved that the New
6. South Wales Local Government Association visit the Island
7. and - it was around ad valorem time and we were moving
8. into - Year 1 we had to raise $500,000, Year 2 no less than
9. $1 million, and then year 3 and onwards ad valorem, to come
10. and explain the rating system around ad valorem and
11. possibilities. And yes, they came - out of that meeting
12. with the community which was very well attended a
13. resolution came to council, a suggestion for a resolution
14. came to council from the Council of Elders which we put up
15. in council asking the New South Wales Local Government
16. Association to explore for us - give us options, et cetera,
17. et cetera. We never received - I spoke with the Mayor
18. under New South Wales Local Government Association
19. arrangements as a legal officer in that association. I
20. don't have a legal officer within the council. And his
21. words to me were, "Robin, it's a road to nowhere. There's
22. no point in my trying to take it anywhere", so it went
23. nowhere, regrettably.

24

1. The difficulty is, as it's been explained, land to the
2. Norfolk Islanders is heritage lands and it's an anathema
3. that they're paying rates, but on the other side of the
4. coin we have to pay our way. I understand that, I
5. understand that, and that's a very difficult one for the
6. council.

31

1. Q. Well, if you don't increase the rates - just getting
2. back to my question from earlier on - how can you pay your
3. way?
4. A. I'm not arguing with you. I'm not arguing with you.
5. It's, I just understand all sides of the coin and that's my
6. role, to talk with the broad spectrum of the community and
7. understand their concerns, and I do.

39

1. Q. In conclusion, you'd be familiar by now with the
2. provision in the Local Government Act about sustainably
3. managing the budget, matching expenditure to revenue?
4. A. Yes.

44

1. Q. What would you say to the Commissioner about the way
2. in which council --
3. A. Going forward?

1

1. Q. -- tried to do that in the last four years? Was it
2. successful in doing that, sustainably? The word
3. "sustainable".
4. A. Well, I take you back again to the ANAO report which
5. said we were not set up in a sustainable way, and so, we
6. were behind the 8-ball to begin with. Brand new council,
7. brand new legislation, brand new world here and an unhappy
8. community across the board. I'm not making excuses, I'm
9. stating a fact. I believe that we have done the very best
10. in the circumstances that we have been able to do
11. irrespective of where we might be financially.

13

1. Perhaps, who knows, if COVID hadn't arrived, who
2. knows. Perhaps if the Commonwealth had agreed that there
3. should be no cost with the transfer of the roads and was
4. prepared to fund the roads going forward, different story.
5. I can't give you a...

19

1. Q. Just before we finish, was there anything else that
2. you wanted to say relevant to the terms of reference, given
3. that you're the Mayor, that you wanted to tell the
4. Commissioner because I've just about finished by questions?
5. A. We have an opportunity now as a result of the audits
6. to move forward with facts and recommendations; that will
7. be up to - and I'm hoping that the Minister will see her
8. way clear to continue the Norfolk Island Regional Council,
9. and of course the Public Inquiry will have an impact on
10. whether that is to happen.

30

1. As I said earlier, I only want peace in the Pacific,
2. in the Pacific of Norfolk Island. This isolated little dot
3. in the middle of the Pacific Ocean deserves better, is
4. really all I'm going to say.

35

1. Q. Anything else?
2. A. No.

38

1. MR BOLSTER: Those are my questions. Thank you,
2. Commissioner.

41

1. THE WITNESS: I want to thank you, Commissioner. Thank
2. you.

44

45 THE COMMISSIONER: Let's see what they're doing here.

46

47 THE WITNESS: Who knows.

1

1. MR BOLSTER: No, that's all from me and I don't think my
2. learned friend has any questions.

4

5 MR SIMONE: No questions.

6

1. THE COMMISSIONER: Okay. Ms Adams, I'd really like to
2. thank you for your detailed evidence. I thought your
3. preparation for the Inquiry was excellent. Thank you for
4. reading out things that you felt were very important that I
5. did hear and for drawing my attention to things that you
6. think I need to seriously consider. So, I thank you for
7. your evidence today.

14

15 THE WITNESS: Thank you.

16

1. THE COMMISSIONER: On that note, I think we are ending the
2. day.

19

20 MR BOLSTER: We're finished for the day.

21

1. THE COMMISSIONER: And we will reconvene tomorrow morning
2. at 10am; is that correct?

24

1. MR BOLSTER: I'll just check the time, Commissioner - 10.
2. Thank you, Commissioner, and Ms Adams is excused from
3. further attendance.

28

29 THE WITNESS: Thank you.

30

31 MR BOLSTER: Thank you.

32

# 33 <THE WITNESS WITHDREW

34

# AT 3.26PM THE PUBLIC INQUIRY WAS ADJOURNED

1. **TO FRIDAY, 4 JUNE 2021 AT 10.00AM**

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