

**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.

2

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

5

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

7

8 <EXAMINATION BY MR BOLSTER:

9

10 THE WITNESS: Excuse me Commissioner, do you mind if I  
11 take some documents, have some documents with me?

12

13 MR BOLSTER: No, not at all.

14 A. Thank you.

15

16 Q. For the record, could you state your full name,  
17 please?

18 A. My name is Lisle Dennis Snell.

19

20 Q. You were elected as a member of the Norfolk Island  
21 Regional Council in May 2016?

22 A. That's correct.

23

24 Q. In December 2016 there was a meeting of the council at  
25 which you came to discuss a long-term financial plan; do  
26 you remember that?

27 A. We had many meetings around that time, but to be  
28 honest I can't recall the exact details of that meeting,  
29 but nevertheless, yes, there probably would have been.

30

31 Q. This was a significant meeting because it was the  
32 first meeting at which you had been given a report about  
33 the performance of the council in its first three months;  
34 do you remember that issue broadly?

35 A. No, I don't; no, I don't.

36

37 Q. It was also the meeting at which officers of council  
38 presented their 10-year long-term financial plan --

39 A. Oh, yes.

40

41 Q. -- a series of asset management plans and a series of  
42 other plans in relation to the assets of the council; do  
43 you remember that now?

44 A. Yes, I do now, yes.

45

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

1 the plan itself:

2

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

16

17 *Rating revenue is increased to a minimum of*  
18 *\$1 million as legislated. I can't see how*  
19 *we're going to get out of that without a*  
20 *new governance arrangement.*

21

22 There's then some discussion about the absentee  
23 landowner's levy, depreciation coming down, and then you  
24 say this:

25

26 *Capital grants of \$5 million are received*  
27 *to help fund renewable critical assets.*

28

29 Just pausing there. You appreciated that what council  
30 staff were proposing for you on a break-even budget  
31 involved the Commonwealth paying \$5 million a year for  
32 capital asset renewal?

33 A. Yes; yes, it was.

34

35 Q.

36 *Core services of telecom, electricity,*  
37 *sewerage waste and the airport are fully*  
38 *costed and funded through their operations*  
39 *including provisions for asset renewals.*

40

41 A. Yes.

42

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

46

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  
7           *As council will be unable to fund its basic*  
8           *services and critical services in the near*  
9           *future there will be no cash available to*  
10          *be used on any asset renewal as it will*  
11          *essentially exhaust all cash reserves*  
12          *immediately and the council will not be a*  
13          *going concern.*

14  
15          Do you remember all of that?

16       A.   Yes, incredible, isn't it? Yes, I do.

17  
18       Q.   Let's put a bit of context around those comments. At  
19       that time there were three options presented, weren't  
20       there? There was a business as usual, that is, keep going  
21       the way we're going?

22       A.   Yes.

23  
24       Q.   And you recall that the forecast there was for rapidly  
25       depleting cash?

26       A.   Yes.

27  
28       Q.   And that's the no cash scenario that you were  
29       concerned about; correct?

30       A.   Yes.

31  
32       Q.   The second alternative involved fully meeting the cost  
33       of operating the council.

34       A.   Yes.

35  
36       Q.   Implicit in that was \$5 million a year from the  
37       Commonwealth as a capital grant.

38       A.   Yes.

39  
40       Q.   And that showed a slightly improved capital position  
41       in terms of cash and showed cash increasing over time, the  
42       aim being that by around 21/22 you'd have around  
43       \$18 million or \$19 million available in the event that the  
44       airport had to be dealt with; do you agree with that?

45       A.   Yes.

46  
47       Q.   The third option involved effectively carving out the

1 airport, giving it back to the Commonwealth --

2 A. Yes.

3

4 Q. -- so that the depreciation cost of the airport would  
5 not be a weight on the budget; do you remember that?

6 A. It was discussed, but not - no action was taken upon  
7 it on that scenario of giving the airport away; it was  
8 decided to keep the airport as a major --

9

10 Q. Why was that?

11 A. It is a major asset of Norfolk Island and it was  
12 viewed at the time that the airport could fund itself  
13 through the various charges that were imposed on visitors  
14 and business enterprises within the airport structure  
15 itself.

16

17 Q. And, to a point, that's what it did over the next  
18 three years, didn't it?

19 A. Yes.

20

21 Q. It certainly added to the budget?

22 A. Yes.

23

24 Q. And meant that you, to some degree, didn't need to  
25 raise revenue in other sources because of that valuable  
26 asset?

27 A. It was part of the government's philosophy and modus  
28 operandi that we would always try each Government Business  
29 Enterprise to fund itself. Certainly in the days of the  
30 Legislative Assembly we adopted that principle, but  
31 sometimes we had to rob Peter to pay Paul from some of  
32 those government business enterprises, but generally they  
33 all funded themselves.

34

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

42

43 Q. You though, along with the other councillors, all five  
44 of you, adopted a budgetary approach whereby you would  
45 effectively seek to make each business unit fund itself?

46 A. Yes, that was the intention.

47

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  
8 them one-by-one. Does electricity today fund itself on  
9 Norfolk Island?

10 A. I'm surprised that it doesn't.

11

12 Q. Why doesn't it?

13 A. That's a very good question, why doesn't it fund  
14 itself? The details of the costs of the importation of  
15 fuel, the details of the many other expenses that the  
16 electricity undertakes was certainly taken into  
17 consideration at budget time.

18

19 Now we did, as a council, introduce additional charges  
20 particularly for those that are on solar voltaic, myself  
21 included. Some that had been, back in the days of the  
22 Legislative Assembly had been encouraged to take up solar  
23 voltaic were not contributing much at all to the cost of  
24 the generation of electricity for those that weren't  
25 fortunate to have it, and even though the polls and wires  
26 and other infrastructure of the electricity undertaking was  
27 used for solar voltaic and they couldn't be functional  
28 without them, so we introduced additional charges for those  
29 with photovoltaic to cover, assist to cover the costs of  
30 the operation.

31

32 Q. Over time, and we're talking very generally - we can't  
33 really focus on each separate electricity decision, they're  
34 all there in black and white in the records - but over time  
35 the opportunity was there, over three and a half, nearly  
36 four years, for the budget to match the expenditure on  
37 electricity with income, and I want to suggest to you,  
38 Mr Snell, that was never achieved?

39 A. No, that was - no, that's right. Our managerial costs  
40 and our costs for such things as the Hydro Tasmania reports  
41 and so forth were costly to the electricity undertaking;  
42 they were all part of the budget process for electricity  
43 even though there were reports commissioned to assist us in  
44 our deliberations about electricity on the Island.

45

46 The issue with raising charges, as you're well aware,  
47 have undergone a mandatory process of being placed on

1 public exhibition, so whenever we had the necessity to  
2 increase any charges they had to be put out for public  
3 comment.  
4

5 Now we as a democratic society, we abide by those  
6 constituents who elected us. Now, if the community says  
7 they don't want an increase in electricity charges or an  
8 increase in anything else, we must take that into  
9 consideration.  
10

11 Q. So, is what your saying: well, council staff suggested  
12 all of these ways in which we could bring the electricity  
13 budget into a position where it funded itself; we allowed  
14 the community to see what those plans and we as a council  
15 that was connected with the community spoke to people and  
16 came up with the position that charges should not be  
17 increased in the manner suggested; is that it effectively?  
18

19 A. Yeah, that's correct, and as I mentioned before, the  
20 feedback from consultation cannot be ignored. And, a price  
21 increase would have to be consequent of pushing business to  
22 reduced staff, reduced trading; the impact is  
23 counterproductive, so we had all that to balance.  
24

25 Q. Let's use electricity as an example. But that means  
26 that some money has to come from somewhere else in the  
27 budget to fund that deficit.  
28

29 A. Yes.  
30

31 Q. It's recorded in the council papers, and I'll be very  
32 interested for your thoughts on this, that there was a road  
33 underspend, there is a road maintenance underspend of  
34 \$1.8 million over the first three years of the council's  
35 operations. Do you accept that proposition?  
36

37 A. "Road underspend"?  
38

39 Q. An underspend in terms of the need to replace roads?  
40

41 A. Yes.  
42

43 Q. You don't need to drive very far out of Burnt Pine to  
44 see evidence of an underspend.  
45

46 A. That's correct.  
47

48 Q. Do you agree with that?  
49

50 A. Yes, I do.  
51

52 Q. Do you think that when you consulted with the  
53 community and the community was told what these electricity  
54

1 prices would be, that they were being told that it was  
2 being funded by, for example, amongst other things - and I  
3 know this is to a degree an oversimplification but it shows  
4 the principle - do you think that the community understood  
5 that there was an underspend on their roads of that  
6 magnitude?

7 A. Certainly some did, certainly some did, but --

8  
9 Q. How did they find out about it?

10 A. Through the councillors themselves and also through  
11 the 28 day consultation period that was offered in all  
12 circumstances where any increase in charges were to be  
13 made; it was put out for public consultation.

14  
15 Q. When it was put out for public consultation, however  
16 it was put out, do you think it was put out - do you recall  
17 whether it was put out on the basis that keeping the  
18 electricity fees pegged at 62 cents, 64 cents a kilowatt  
19 will mean that we're not able to spend as much money on  
20 roads, that we're not able to spend as much money on  
21 sewerage replacement leading to problems down on flows into  
22 the ocean? Do you think that that need to balance the  
23 budget, balance expenditure with income, was conveyed to  
24 the community in your consultation processes?

25 A. Possibly not, but the community here is not stupid and  
26 the community here would rather pay less for electricity  
27 and drive on roads that are already established.

28  
29 The road network for Norfolk Island as far as an  
30 Islander is concerned is quite adequate, and the emphasis  
31 that had been placed, not only by yourselves and within  
32 this Inquiry on the terrible conditions of the road - and I  
33 quote yourself - we don't consider those roads terrible at  
34 all, and I have travelled many places where the roads have  
35 been a lot worse, so the community understands that and  
36 they would certainly, in my opinion and the opinion of my  
37 constituents, that to drive on a road that we have now as  
38 it is, in comparison to having the electricity charges  
39 raised, they would rather continue driving on those roads  
40 and have just the basic maintenance programs.

41  
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.



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  
5 Q. Can I suggest to you, just playing devil's advocate,  
6 that there will be people out there for whom the roads  
7 would be a significant issue?  
8 A. Yes, yes, certainly.  
9  
10 Q. There's people out there for whom the sewerage system  
11 and making sure that that's up-to-date and modern, they  
12 would place that at the top of their queue, top of their  
13 list of priorities?  
14 A. Yes.  
15  
16 Q. What I want to suggest to you, Mr Snell, is that the  
17 task of yourselves as councillors was to balance all of  
18 that?  
19 A. Yes, that's quite right. In an ideal world we'd love  
20 to be able to balance all of that, but we have to take into  
21 account the impact on those that cannot afford to pay, and  
22 we always took that - well, I did, always took that into  
23 account.  
24  
25 Q. When that first report came to you from council it  
26 said some critical things about the state of the assets and  
27 infrastructure on the Island. Do you recall that?  
28 A. Yes.  
29  
30 Q. And you took umbrage with that?  
31 A. Yes.  
32  
33 Q. Am I right in summarising your position at the time,  
34 and tell me if I'm wrong, please tell me what the actual  
35 position was, but that you took a view that, okay, we  
36 hadn't been spending the sort of money on infrastructure  
37 that you might spend on the mainland but what we were doing  
38 was enough in the circumstances and it was getting us by?  
39 A. Yes.  
40  
41 Q. Was that the sort of approach that you took to your  
42 deliberations on council after 1 July 2016?  
43 A. I was always, as you already pointed out, I was always  
44 concerned at the financial implications of council, and  
45 I'll be quite honest with you, Mr Bolster and Commissioner,  
46 that I consider that even the very establishment of the  
47 council was designed to fail, and in consequence here we

1 are today and we have failed.

2  
3 Q. Why do you say that?

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

16  
17 Now, we should go back within this Inquiry to the road  
18 map that was established in 2010. The road map of that  
19 time and the discussions within the Commonwealth and within  
20 the Parliament at that time indicated, and we accepted  
21 this, indicated that Norfolk Island needed to dissolve  
22 itself of the three tiers of government: the federal, state  
23 and local government areas. The federal parts of the  
24 responsibilities of a territory under the authority of  
25 Australia and external territories like Norfolk Island  
26 should be placed on an equal footing with other places.

27  
28 Now, we wanted to work out with the Commonwealth a  
29 plan - and we did the road map - of how we can arrange and  
30 we agreed to come into the fiscal system of Australia for  
31 taxation and other imposts of that nature to counterbalance  
32 what we had hoped to receive from the Commonwealth when  
33 they took over the other expenses that we were already  
34 operating off the federal responsibilities.

35  
36 They blocked that as long as they possibly could;  
37 nothing happened, but we recognised back in 2010 that we  
38 had financial problem and it continues to this day.

39  
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.

4  
5 Q. -- to sustainably match expenditure and revenue in  
6 respect of the assets, the income and the liabilities of  
7 Norfolk Island Regional Council for the next four years.

8 A. Certainly.

9  
10 Q. Understanding, accepting all of the difficulties about  
11 that, it would seem when one looks at the decisions made on  
12 the revenue side about increasing revenue, there was a  
13 significant reluctance to take any revenue measures to  
14 improve the budget over those four years. Do you agree  
15 with that as a broad proposition?

16 A. Again, this is an island and it comes back to the  
17 impact studies that should have been done of what the  
18 transition arrangements were in 2015, of how it was going  
19 to impact on the community of this Island. Certainly, the  
20 increasing of revenue to us as Norfolk Islanders, we don't  
21 expect to get blood out of a stone, and to get revenue out  
22 of some of the people on Norfolk Island would have been  
23 impossible without dire consequences to their way of life  
24 and to the culture and traditions of this place.

25  
26 And we all - myself and other councillors - always  
27 took that into consideration, of the community's ability to  
28 pay increased charges. The community was prepared to go  
29 without in some instances, like not having the roads  
30 upgraded. Certainly infrastructure such as the sewerage  
31 was a major problem, but only a very minute part of the  
32 island at that time was connected to the sewerage scheme,  
33 so some people were excluded from it all. So, as  
34 Councillor McCoy said, you had one part of the community  
35 accepting full responsibility and costs for an  
36 infrastructure that others didn't have to contribute to at  
37 all.

38  
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

14 There is also, of course, the question of the CPI, the  
15 Consumer Price Index, which as you well know the Consumer  
16 Price Index measures the cost of living on the Island, and  
17 a lot of Island people will do without luxury items if they  
18 couldn't afford it, and it is among one of the casualties  
19 of the previous Administration, was to establish the CPI  
20 system which provided a measured indicator of local  
21 inflation which was published monthly; so, we didn't have  
22 that in the council, so we were at a bit of a loss there as  
23 well.  
24

25 Q. If you took the Consumer Price Index for the Island  
26 and looked at it in isolation, it would be significantly  
27 higher than the mainland?

28 A. Well, definitely.  
29

30 Q. It has to factor in the incredible cost of freight  
31 whether it's by air or by sea?

32 A. Yes.  
33

34 Q. It has to reflect the fact that there's been a  
35 reduction in competition on the sea freight route which has  
36 increased prices, particularly over the last 18 months to  
37 two years?

38 A. Yes.  
39

40 Q. It has to recognise the increased fuel costs?

41 A. Yes.  
42

43 Q. You're not self-sufficient when it comes to food or  
44 not even close to it, and that everything effectively that  
45 needs to be eaten on the Island has got to come from the  
46 mainland?

47 A. May I correct you on that? A Norfolk Islander, up

1 until 50 years ago maybe, or even 30 years ago, we could be  
2 self-sufficient except for the basic items of flour, sugar  
3 and a few other things. When I grew up here as a child  
4 150 years ago we were self-sufficient. Sure, we didn't  
5 have all the luxuries that we have today, but we could  
6 survive, and a Norfolk Islander will survive.

7  
8 Q. Let's turn then, shall we, to the issue of the two  
9 substantial decisions of council that have greatly affected  
10 the financial position over the last four years. You've  
11 been present throughout the hearings?

12 A. Yes.

13  
14 Q. And you've seen the minutes for both the road contract  
15 and the airport contract?

16 A. The minutes?

17  
18 Q. The minutes, the minuted decisions?

19 A. Yes.

20  
21 Q. So, the resolutions?

22 A. Yes, yes, yes.

23  
24 Q. The resolutions that recorded the way in which council  
25 made its decisions on both of those contracts?

26 A. Yes.

27  
28 Q. You've seen that we've made reference to the cash  
29 position before each of those decisions?

30 A. Yes.

31  
32 Q. And the unrestricted cash that was available?

33 A. Yes.

34  
35 Q. So, on 19 February when the decision was made in  
36 relation to the airport, you recall that there was about  
37 \$10 million in unrestricted cash?

38 A. Yes.

39  
40 Q. Can you tell us as best you can recall what was  
41 discussed at the meeting on the 19th? Looking back, how  
42 did that meeting play out? What was said?

43 A. The 19th in relation to the --

44  
45 Q. Of February.

46 A. 19 February in relation to the?

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

3 A. Yes.

4  
5 Q. So, there's been a long history of the airport being  
6 an issue in terms of the runway?

7 A. Yes.

8  
9 Q. You knew at some point in time the runway would have  
10 to be repaired?

11 A. Yes.

12  
13 Q. That meeting, what was being proposed?

14 A. The councillors understood that the airport had to be  
15 upgraded for the standard and the type of aircraft which  
16 was operating to Norfolk Island at this time. The airport  
17 was upgraded to a 737 standard of the 400 series maximum,  
18 and now we have 737, 800s and A320 aircrafts which is a  
19 hell of a lot heavier and needed more space, et cetera,  
20 et cetera. We understand that the lighting system was past  
21 its used by date and so on, so we knew there had to be  
22 major works done on that airport.

23  
24 There was, and I correct Mr Buffett's earlier  
25 assumption or his hearsay that the airlines were  
26 threatening to pull out. We had never been notified  
27 officially that that was the case from any airline that I  
28 know.

29  
30 Q. It was CASA's certification that was the issue, wasn't  
31 it?

32 A. Yes, yes. CASA, as they're known, were getting very  
33 concerned at the break-up in parts of the airport itself,  
34 but they were prepared, as Councillor McCoy said, they were  
35 prepared on a dispensation to continue to give exemptions  
36 to aircraft to fly to Norfolk Island if proper maintenance  
37 was controlled. However, all that aside, we were aware  
38 that the airport needed to be attended to in due course, we  
39 did.

40  
41 Q. Take your mind back to that meeting on 20 February  
42 2019; how did the issue come up? What do you recall was  
43 discussed?

44 A. How did the issue come up? It has been on our program  
45 for quite a number of years.

46  
47 Q. No, no, just focus on the meeting.

1 A. Yes.

2

3 Q. And what was said at the meeting. Do you recall what  
4 was said at that meeting?

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

18

19 Q. I think you and I may be at cross-purposes and we may  
20 be talking about a different meeting.

21 A. Oh.

22

23 Q. The meeting I'm talking about was after that, it was  
24 after tenders had been called for, after the Commonwealth  
25 had indicated the extent of its grant, and this was the  
26 meeting where you received a report from staff about the  
27 tender evaluation process. Can I perhaps show you a copy  
28 of the briefing that you were provided? You recall being  
29 provided with that report?

30 A. Yes. Yes, I do.

31

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

34

35 THE COMMISSIONER: I've got one.

36

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

38

39 THE COMMISSIONER: Is that the same one?

40

41 MR BOLSTER: Yes, it is, I'm sure it is. For the record  
42 it's NIRC.020.001.0002. Do you recall receiving that  
43 report?

44 A. Yes, I do, yes.

45

46 Q. This is the meeting I'm talking about, and there was  
47 discussion about \$4.2 million for a biosecurity cost; do

1 you recall that? If you could go, please, to page 3 in the  
2 second paragraph.

3 A. Yes.

4

5 Q. You remember I've asked each of the councillors about  
6 these issues?

7 A. Yes.

8

9 Q. So my question to you is, what do you recall being  
10 told by staff over and above what's in here?

11 A. Okay, I'm glad you asked that because I did make a  
12 note of that. And, just as a precursor and in defence of  
13 the general manager: the general manager sent out an  
14 invitation to councillors that we could view the contracts  
15 in her office for a period of one and a half hours without  
16 legal representation and not taking any notes, just to have  
17 a look at the basis of those contracts, and you've  
18 mentioned them here, there were three of them that had  
19 the --

20

21 Q. The tenders, you mean?

22 A. The tenders, yes, the tenders.

23

24 Q. So, you had seen the individual tenders before this  
25 meeting?

26 A. Yes.

27

28 Q. And you spent the one and a half hours?

29 A. Yes - well, I did, and so did Madam Mayor. I --

30

31 Q. Did any of the other councillors take part in that?

32 A. They may have done, but not to my knowledge.

33

34 Q. What did you glean from your reading of the tenders,  
35 without please referring to any of the numbers and any of  
36 the confidential information, but in substance?

37 A. It was totally beyond our expertise to understand the  
38 contractual arrangements or tender arrangements that we  
39 entered into. However, it was of great disturbance to us,  
40 and we had seen this type of adjustment where a tender or a  
41 terms of reference had been changed, that affected the  
42 tenderer's ability to put in a factual and truthful tender  
43 amount; that is, the provision of the rock had been changed  
44 on the tender documents from the local provision of rock to  
45 the importation of rock, and the councillors were not made  
46 aware of that until we read it in The Norfolk Islander,  
47 which was of great concern to us.



1  
2 Q. Let me just clarify that. You read about that change  
3 before this meeting?  
4 A. Yes, and it was of great concern to us that that had  
5 changed and that the provision of rock was going to be  
6 imported and no other avenue was available; that excluded  
7 some tenderers, of course.  
8  
9 Q. Is that one of the reasons why there was some  
10 discussion about pursuing Island-sourced rock?  
11 A. Definitely.  
12  
13 Q. Could you tell us how that discussion developed; what  
14 was said, who was the protagonist? Was it Councillor  
15 McCoy, who from my experience has a very close interest in  
16 the rock situation on the Island?  
17 A. Everybody on Norfolk Island, every Islander, everyone  
18 in business has a close relationship and a protagonist.  
19  
20 Q. Just explain that to us: why is the rock issue so  
21 important on the Island?  
22 A. Because Norfolk Island is generally disease-free in a  
23 lot of areas, we don't have midges here - I don't know  
24 whether you know of what a midge is - and that is a  
25 disastrous thing. If that should ever come to Norfolk  
26 Island our tourism industry would virtually half overnight.  
27 And we don't have snakes on Norfolk Island, we don't have  
28 life-threatening spiders on Norfolk Island, we don't have a  
29 lot of the other diseases, agricultural and otherwise that  
30 could be imported in rock.  
31  
32 And this leads me to the question, is that, on  
33 page 113 of the report, and this makes it very interesting  
34 to --  
35  
36 Q. When you say "page 113", what are you talking about?  
37 A. Regrettably, I think it may have been a report that we  
38 received from the staff and I haven't got it any longer,  
39 and this is just my file notes.  
40  
41 Q. This report, what did the report say?  
42 A. My notes were:  
43  
44 *I understood from brief scanning of the*  
45 *Boral and other contracts [which we did at*  
46 *the general manager's office] and*  
47 *information that has been provided to us*

1           *that the Norfolk Island Regional Council is*  
2           *not the importer of the rock and therefore*  
3           *the biosecurity screening costs is not our*  
4           *responsibility. In addition, surely there*  
5           *would be a detailed proof of what actions*  
6           *were actually taken by biosecurity to*  
7           *warrant any payment.*

8  
9           So, what I'm saying is, the \$4.2 million had been  
10          earmarked long before it came to council. And that letter  
11          that was written - if you may excuse me, Mr Bolster - that  
12          letter that was presented by yourself in regards to the  
13          interview with the council staff, Alistair Innes-Walker,  
14          which was sent to him detailing that \$4.2 million, that's  
15          the first I've ever seen of that and I'm sure the other  
16          councillors as me say the same.

17  
18          Q.    That letter, that letter, was some months later?

19          A.    Months later, yes.

20  
21          Q.    In this report, have a look at page 3.

22          A.    Yes, it mentions the 4.2. We weren't aware that Boral  
23          was negotiating or discussing or contacting the staff in  
24          relation to the \$4.2 million in the manner that I  
25          explained.

26  
27          Q.    That letter was a subsequent letter, it's sent by  
28          Mr Innes-Walker, or sent by Boral to Mr Innes-Walker for  
29          the purposes of trying to ascertain whether the  
30          Commonwealth, since it required the biosecurity measures to  
31          be taken and since the Commonwealth was the principal  
32          funder of the airport runway project, it was prepared for  
33          the purposes of seeing if the Commonwealth could meet that  
34          cost?

35          A.    Yes.

36  
37          Q.    Surely, that was a good idea, wasn't it?

38          A.    Yes, definitely, it was.

39  
40          Q.    So, I don't understand what the problem is and what  
41          that's got to do with the decision you made in February  
42          2019, almost a year earlier? I mean, let's try and cut  
43          through here.

44          A.    Okay.

45  
46          Q.    You knew, may I suggest, that the Commonwealth was  
47          funding \$43 million worth of the airport project?

1 A. Yes.  
2  
3 Q. You knew that you may have to pay for around 4.2,  
4 maybe more, maybe less as biosecurity?  
5 A. No. We knew of it but we didn't know that the Norfolk  
6 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  
13 should have paid for it. It should have been part of that  
14 contractual amount that was agreed for the upgrading of the  
15 airport. It should not have been an imposition on the  
16 Island, on the Regional Council.  
17  
18 Q. Are you saying that when you came to approve the  
19 airport runway tender of Boral, that you believed that the  
20 cost for biosecurity, should it be necessary for rock to  
21 come from the mainland, was going to be met by Boral and  
22 not visited on the council?  
23 A. Yes, and there is --  
24  
25 Q. Are you sure about that?  
26 A. Yes, and I challenge anyone to show us where the  
27 council was told in black and white that you were going to  
28 be responsible for the cost of that \$4.2 million.  
29  
30 Q. You say you saw the tender documents?  
31 A. Yes, briefly and, as I said, there were hundreds of  
32 pages, sir.  
33  
34 Q. Might the witness be shown and not be publicly  
35 displayed, please, NIRC.011.002.0004. Just familiarise  
36 yourself with that two-paged letter. You see that?  
37 A. Yes.  
38  
39 Q. Was that one of the documents you reviewed when you  
40 spent one and a half hours in the Mayor's office reading  
41 this?  
42 A. Definitely not.  
43  
44 Q. Sorry?  
45 A. Definitely not. This was not part of what we were  
46 shown; we were shown purely the tender documents submitted  
47 to the Norfolk Island Regional Council by the tenderer.

1 Q. If you could go down the page, please, to page 6. Can  
2 I just remind you - if we perhaps go back to page 4, I'm  
3 sorry. You see the first sentence there:  
4

5 *Boral is pleased to submit its conforming*  
6 *tender.*  
7

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

10  
11 Q. No, no, no, no. Mr Snell, have a look at the screen  
12 in front of you.

13 A. Okay.  
14

15 Q. I'm asking you to familiarise yourself with the  
16 document on the screen.

17 A. Yes.  
18

19 Q. You see this letter dated 17 November 2018?

20 A. 17 December?  
21

22 Q. November.

23 A. Well, we have a different letter. Now it's  
24 17 November.  
25

26 Q. You see that?

27 A. Yes.  
28

29 Q. So, this is the letter covering the tender. So, I'll  
30 ask the question again because we were at cross-purposes  
31 before. Does this look like the document that you saw in  
32 the general manager's office?

33 A. No.  
34

35 Q. Let's keep going down the page to page 0006, and you  
36 should see a heading of, "Regional Procurement Division of  
37 Strategic Services Australia." Do you see that? These are  
38 the tender schedules?

39 A. It's still screening.  
40

41 Q. It will come up in a minute, sorry. So, I'm after  
42 NIRC.011.002.0004\_006. Do you see that, Mr Snell?

43 A. Not yet. Oh, yes, 006, yes, I see that. Now, "Tender  
44 Schedules".  
45

46 Q. "Tender Schedules", you see that?

47 A. Yes.

1  
2 Q. Go to the next page, you see this is the tender for  
3 Boral resources?  
4 A. Yes.  
5  
6 Q. If we could go down to page 10, you see there the  
7 tender price for Option 1?  
8 A. Slow down, slow down.  
9  
10 Q. This is page \_10; do you have that?  
11 A. Yes.  
12  
13 Q. Do you see there, it says "Schedule tender price  
14 Option 1", then it has a whole list of blank dollar signs.  
15 Do you see that?  
16 A. Yes.  
17  
18 Q. If we go down two pages. And you'll see that Option 1  
19 is "On Island crushed aggregate." That's at the top of the  
20 page?  
21 A. Oh, gosh.  
22  
23 Q. See where it says "Option 1" at the top of the page.  
24 A. "On Island crushed aggregate", yes.  
25  
26 Q. Do you think this is the document you were shown?  
27 A. Definitely not.  
28  
29 Q. But you say you were shown the tenders?  
30 A. Only the tenders, only the tenders, no ancillary  
31 documents at all.  
32  
33 Q. Mr Snell, this is the actual tender, this is Boral's  
34 tender for the airport project.  
35 A. It was part of the tender documents?  
36  
37 Q. This is the tender.  
38 A. Okay, well, I can't recall having seen this.  
39  
40 Q. Okay. Go down to page 12.  
41 A. Yes.  
42  
43 Q. You see there, this is the tender price for Option 2,  
44 "Imported crushed aggregate." You see there --  
45 A. Mr Bolster, this is news to me. Even though we saw  
46 tender documents, I can't recall these being part of the  
47 tender documents that we were privy to have a look at, but

1 nevertheless my recollection of things is not as good as it  
2 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  
5 Q. In fairness to you, I want to take you to the critical  
6 point which makes Boral's position crystal clear.

7 A. Yes.

8  
9 Q. On page 18, \_18, you can see there about halfway down  
10 the page you see, "Details of alternative proposal"?

11 A. "Details", yes.

12  
13 Q. In the case of on Island rock it's got three  
14 subparagraphs?

15 A. Yes.

16  
17 Q. And the last one?

18 A. Yes. Yes, I see it now, yes:

19  
20  
21 <Confidential>

22  
23  
24  
25 Q. Please don't read the number, please. Commissioner,  
26 perhaps if you could make a direction that that number not  
27 be published in any way, shape or form.

28 A. I'm sorry.

29  
30 Q. The number that Mr Snell said, if you could make an  
31 order to that effect, that would be appreciated.

32  
33 THE COMMISSIONER: Yes, I make that order.

34  
35 THE WITNESS: My apologies.

36  
37 MR BOLSTER: Q. If we go then down to page 20, we see  
38 "Reference 1", these are qualifications to the tender?

39 A. Yes.

40  
41 Q. What I want to suggest to you, Mr Snell, is it was  
42 readily apparent to you, whether you saw it in this  
43 document or otherwise, or whether you found out about it at  
44 the meeting on 20 February, that council was up for the  
45 4.2 for the cost of biosecurity, whatever amount it ended  
46 up being on the contractual documentation?

47 A. There's something radically wrong here, if I may say

1 so. Up until the tender documents, the preparation of  
2 tender documents, it was always understood that there was  
3 hope that the quarries, both at Cascade and Headstone,  
4 would be suitable for the provision of local rock for which  
5 - in which case this provision would not have been  
6 required. So, how come, at the submission of the tender,  
7 this had already been decided?

8  
9 Q. It hadn't been decided. With respect, it hadn't been  
10 decided; there were two options?

11 A. It hadn't been decided but it had been included within  
12 the tender itself: that's amazing.

13  
14 Q. Why do you say "that's amazing"?

15 A. Because up until virtually the last minute - that's  
16 only to quote a pun - the last, that we were always hoping  
17 that the rock would be produced on Norfolk Island and here  
18 we are, this is all part of the contract. Are we saying,  
19 or is this saying that, with due respect, that really there  
20 was no intention of ever getting local rock?

21  
22 Q. Well, that's not the way the discussion went at the  
23 council meeting, is it?

24 A. No.

25  
26 Q. You approved the tender on the basis that you'd  
27 explore the issue of local rock, you'd have until 31 March  
28 to do it, and if you didn't do it you'd still proceed with  
29 external rock?

30 A. Yes.

31  
32 Q. You understood that?

33 A. Yes, I did; yes, I did.

34  
35 Q. You understood that the cost of doing that included  
36 \$4.2 million for biosecurity remediation; correct?

37 A. No. We were - always understood that the biosecurity  
38 costs would not be a cost to the Norfolk Island Regional  
39 Council; that was my - always understanding, whether I be  
40 right or wrong.

41  
42 Q. Did you recall any discussion that went to the notion  
43 that the council's Airport Business Enterprise would be  
44 lending the council the money to do this?

45 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  
11 Q. A loan from who?

12 A. Norfolk Island Airport.

13  
14 Q. Did it have that cash? Did it have 4, 5, \$6 million  
15 in cash?

16 A. No, it did not. No, it did not.

17  
18 Q. How is it going to lend the council money?

19 A. On its earnings. On its earnings and the - and I go  
20 to what was available to us in unrestricted cash back in  
21 the budget of 2018/19; the unrestricted cash at that time  
22 was, in my documents here - it could have changed a bit,  
23 this is a draft document - was \$11,474,000.

24  
25 Q. Yes. And the figure at 12 months later ?

26 A. I don't have it in front of me.

27  
28 Q. \$660,000, \$700,000.

29 A. Yes. Yes, but what I'm saying is, we thought we had a  
30 buffer, a cash buffer and we thought that, all things being  
31 equal, we would be able to service a loan to cover any  
32 overruns. Now, we were hoping there would not be any  
33 overruns. As Councillor McCoy rightly pointed out, there  
34 were cost saving provisions built into the contract that  
35 might have given the council some respite, some reduction  
36 in the cost, and I was surprised - and this may be a little  
37 out of this question you've asked, that - no, I won't say  
38 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?



1 Q. Did you hear what Mr Porter and Mr McCoy said  
2 yesterday?

3 A. Yes, I did.  
4

5 Q. They wanted to have the airport at the highest level  
6 of quality, the highest level of rating; they didn't want  
7 to cut any corners when it came to lighting, when it came  
8 to the savings that were articulated in that paper.

9 A. Yes, on the understanding, on the understanding that  
10 we had cash buffer available to be able to cover any - to  
11 cover those extra facilities that were being provided at  
12 the time.  
13

14 Q. Councillor Snell, when you ran the government, you  
15 were the Chief Minister in the Assembly for the last  
16 government, did you have a position about a minimum amount  
17 of cash that had to be in the bank or in investments  
18 readily accessible to fund the ongoing business of  
19 government?

20 A. Yes.  
21

22 Q. What was that figure?

23 A. Generally we were very concerned if it dropped below  
24 \$3 million.  
25

26 Q. \$3 million?

27 A. Yes.  
28

29 Q. So, were you not concerned about the cash position at  
30 the time of this decision because you had \$10 million in  
31 the bank?

32 A. I wasn't at that time, no, because I was assured by  
33 the documentation and the information that we'd been given  
34 from the staff that we were in a healthy position  
35 financially, and I rely on comments and information from  
36 the then general manager and --  
37

38 Q. What did she say?

39 A. That Norfolk Island - and I refer to her staff  
40 (indistinct) for example, I'm sorry, on September 2019 and  
41 the general manager's farewell message:  
42

43 *As you would be aware I have provided my*  
44 *resignation in the role of general manager*  
45 *at Norfolk Island Regional Council. I have*  
46 *completed what I was originally appointed*  
47 *to do, to guide the setting up of a new*

1           *Regional Council on Norfolk Island in*  
2           *line with the Local Government Act ...*  
3           *[et cetera, et cetera] applied to Norfolk*  
4           *Island.*

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

15  
16          So in those and in other areas, her address to the  
17          annual report, also states how very fortunate we are to be  
18          in a good financial position even though she made a few  
19          errors: she quoted the airport payment project secured  
20          \$42 million, should have been 43, but I guess that has been  
21          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          Q.   What did you think the potential cost to the budget  
38          was of council's responsibilities under the contract?

39          A.   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  
2 Q. And the theory is that, so far the airport has  
3 returned to profit?  
4 A. Yes.  
5  
6 Q. Modest profit?  
7 A. Yes.  
8  
9 Q. But that profit was funding the day-to-day operations  
10 of the council?  
11 A. Yes.  
12  
13 Q. It was funding whatever roads were repaired despite  
14 there being an underspend on maintenance?  
15 A. Yes.  
16  
17 Q. It was funding the gap in electricity, it was funding  
18 the gap in sewerage replacement and maintenance, it along  
19 with the bond; the bond and the airport seemed to be the  
20 two things that were making substantial contributions to  
21 the cost of the council meeting its obligations; correct?  
22 A. And the land rates, of course.  
23  
24 Q. So, didn't you think it was questionable as to whether  
25 you could burden the airport with repaying or meeting the  
26 cost of the airport runway in those circumstances?  
27 A. It --  
28  
29 Q. Did that --  
30 A. You're quite right. Government is a very difficult  
31 situation in financial, and let us look at what is  
32 happening around the world today, what is happening in  
33 Australia for example, what is happening in every council  
34 within Australia: Norfolk Island is no different. I quite  
35 understand what you're saying about being able to meet our  
36 obligations. However, we relied very heavily on what  
37 information we were given by staff.  
38  
39 Q. Okay.  
40 A. There were queries, I had queries on a number of  
41 issues within the budget process that we were given.  
42  
43 Q. Given that you understand that there was a potential  
44 \$8 million commitment on the airport, in July a proposal  
45 comes to you about spending another \$5 million on the  
46 roads.  
47 A. Yes. Yes, I was very upset at that.

1  
2 Q. Did you oppose that?  
3 A. I asked the general manager at the time of the  
4 meeting, "Can we possibly get out of this contract?"  
5  
6 Q. Which contract?  
7 A. For doing up the roads, or this agreement that we had  
8 with Boral for doing up the roads.  
9  
10 Q. There was no agreement until you determined that their  
11 offer be accepted.  
12 A. Yes, but when it became very obvious to us, prior to  
13 the commencement of the upgrading of the roads, that  
14 Norfolk Island was in a dire financial situation --  
15  
16 Q. That's later.  
17 A. Yes, it was later - I asked the general manager if it  
18 was possible to rescind the contract for the upgrading of  
19 the roads, and he said, "No".  
20  
21 Q. When did you do that?  
22 A. Oh, at one of our meetings, but we had so many, I  
23 can't determine.  
24  
25 Q. Was it after COVID hit and a lot of the financial  
26 realities were coming home to roost?  
27 A. Yes, it would be, yes.  
28  
29 Q. So, after April?  
30 A. Yes. Yes, it was after April.  
31  
32 Q. Can you recall a meeting with Mr Roach in April where  
33 he said, these are the facts, we will not have any cash  
34 fairly soon --  
35 A. Yes.  
36  
37 Q. -- unless we do something drastically different?  
38 A. It may have been at that meeting; he said, no, we were  
39 committed and that was it.  
40  
41 Q. You take the view that in hindsight the road  
42 commitment to Boral in July 2019 was not a good idea?  
43 A. Not a good idea, no.  
44  
45 Q. Did you think it was a good idea at the time?  
46 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

14 Q. You voted to approve \$5 million worth of  
15 expenditure --

16 A. Yes, unfortunately.

17

18 Q. -- some months previously having voted to approve what  
19 you thought could be expenditure as much as \$8 million  
20 against an available cash - an unrestricted cash base of  
21 around \$10 million, maybe \$11 million?

22 A. Yes.

23

24 Q. If the roads aren't the priority, as you seem to  
25 indicate in your evidence previously, why take the risk of  
26 depleting council's cash assets at that time? It's a  
27 radical departure from the budget?

28 A. Yes.

29

30 Q. Why?

31 A. We were given assurances that everything was rosy,  
32 I've just mentioned some of the examples here. I was  
33 starting to get very suspicious that they weren't even  
34 before, and you read out a statement that I made at the  
35 very start of the Norfolk Island Regional Council which is  
36 correct. And I was always conscious of the need to justify  
37 expenditure and I was very surprised, even up until  
38 recently, at the conclusion when Alistair Innes-Walker said  
39 that they'd purchased \$300,000 worth of equipment from  
40 Boral as - for whatever reason, that they wanted to upgrade  
41 their fleet here. That was beyond me, I was incensed when  
42 I heard about it because in times past it was one of our  
43 contributions to the local industry that, if we wanted  
44 machinery of the Bobcat types and so forth, we'd hire it  
45 from private contractors, and to spend \$300,000 on  
46 secondhand machinery that had been worked to death on the  
47 upgrading of the airport, to me, was not good management.

1  
2 Q. In fairness to you and your evidence about what you  
3 were told by the staff I'd ask you to have a look, please,  
4 at this document. NIRC.023.001.0002, and if this could not  
5 be displayed, it is a confidential exhibit. Do you see  
6 that? NIRC.023.001.0002. We haven't got that? Perhaps if  
7 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  
10 me and one for you. This was the briefing provided to  
11 councillors on 17 July 2019. Do you see the words under,  
12 "Discussion", and you will see there that - I don't believe  
13 that this is confidential - it says:  
14

15 *Operating expenditure of \$2 million per*  
16 *annum has been provided for each of the*  
17 *next 10 years in the knowledge that only*  
18 *\$1 million can be achieved expended due to*  
19 *the limitations of equipment currently*  
20 *available on Island.*  
21

22 So, expenditure of the equivalent of \$2 million per  
23 annum could be achieved through a one-off project such as  
24 this. Do you recall that?

25 A. I can see it now, yes, but I don't recall it.  
26

27 Q. See the graph which indicates that that limitation,  
28 with the blue line showing what was available to be spent  
29 and then the operational expenditure on roads in red?  
30

31 A. Yes.  
32

33 Q. You see, on page 2, you have the proposed roads to be  
34 repaired?  
35

36 A. Yes.  
37

38 Q. Had there been any discussion before this meeting  
39 about a priority set of road repairs or road projects that  
40 councillors thought should be the focus of this sort of  
41 maintenance and replacement?  
42

43 A. No, not really. As far as I can understand, this was  
44 the first indications. Now, the resolution which you've  
45 referred to here of 17 July, as far as I can ascertain, was  
46 the first; as far as I can remember is the first.  
47

48 Q. You see, it was presented to you that Boral's "offered  
49 this amount of money for us to resurface these roads"?  
50

51 A. Boral was offered this amount of money to do these -  
52

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  
11       needs to be replaced, why don't we do some more of the work  
12       on Anson Bay Road?

13       A.    Yeah, of course there was, there was discussion.

14

15       Q.    How did the discussion develop?

16       A.    These were roads that we thought that would benefit by  
17       being upgraded. We know that there are difficulties with  
18       the Anson Bay Road, we know there are difficulties with  
19       Douglas Drive and so on.

20

21       Q.    But these were put to you by the council staff?

22       A.    Certainly.

23

24       Q.    Did you as the leaders of the community who consult  
25       with everyone say to yourselves, well, hang on a minute,  
26       there's a particular dip on Anson Bay Road, there's quite a  
27       steep decline and then a rise, there's a very dangerous  
28       bank.

29       A.    Yes.

30

31       Q.    The road is full of potholes, one of these days  
32       someone is going to go off that road there and it's going  
33       to be disaster; just picking that as an example.

34       A.    You're assuming that's what's going to happen. It  
35       hasn't happened.

36

37       Q.    But were there areas on the road system that you as an  
38       elected leader who consults with the community thought that  
39       that should be a priority other than these which had been  
40       selected by the council staff?

41       A.    These roads certainly are roads of concern,  
42       particularly Anson Bay Road and Douglas Drive. However, I  
43       agree with you, there are other roads on Norfolk Island  
44       that could probably use treatment, upgrading.

45

46       Q.    My question for you is, did you seek to debate this  
47       issue?

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

9  
10 Q. But this is the discussion when it's raised with you  
11 for the first time that this is what happens?

12 A. Well, that's fine.

13  
14 Q. It's the very first time?

15 A. Yeah.

16  
17 Q. I want to suggest to you something that stands out to  
18 me in reading resolutions made by the council that deal  
19 with recommendations from staff. Generally, and there are  
20 exceptions, when it comes to saving money, that is, raising  
21 revenue, council did not accept the advice of staff: do you  
22 agree with that proposition?

23 A. Yes, yes.

24  
25 Q. And when this proposal comes up, \$5 million, you've  
26 just committed to potentially 8 and you've got 10 in the  
27 bank, you accept it because it's an expenditure measure?

28 A. Yes.

29  
30 Q. Can you explain to me why there is that difference of  
31 approach?

32 A. Let's look at the financial implications, shall we?

33  
34 Q. Yep.

35 A. Okay, cashflow. As at the year end 30 of 6 2019 total  
36 cashflow is significantly higher than the operational  
37 planned budget, 19/20 cashflow assumption. And I must  
38 admit, this is something that really is, in a government  
39 situation, is difficult to assess as well. When we did  
40 some of our training to become councillors we were told  
41 never to accept anything on assumption: regrettably we  
42 never followed that through, so there was an assumption  
43 here:

44  
45 *Budget opening cash balance is ... compared*  
46 *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  
21 showed you this document was so that you would see it. But  
22 the analysis there, you're a very experienced Member of  
23 Parliament?

24 A. I wouldn't say that.

25

26 Q. Chief Minister?

27 A. Yes.

28

29 Q. You wrote budgets?

30 A. Yes.

31

32 Q. You would appreciate the advice there did not consider  
33 the cash position at the end of 30 June 2020, did it?

34 A. No, it didn't, and I was get --

35

36 Q. So what it was doing, it was looking at things on an  
37 income and revenue basis over 10 years --

38 A. Yes.

39

40 Q. -- and saying, three years from now we won't need to  
41 spend a million dollars on roads because of what we're  
42 doing now.

43 A. Yes.

44

45 Q. Okay?

46 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  
10 Parliament, if you can't beat them, you join them; but, you  
11 know, I did object to a number of things and --  
12  
13 Q. Did you object to this?  
14 A. I think I may have but I can't recall, I wouldn't say  
15 that for sure.  
16  
17 Q. You have seen that with each of Councillor Buffett,  
18 Councillor Porter and Councillor McCoy, we raised with them  
19 the particular provisions in the Local Government Act that  
20 govern the way council should operate?  
21 A. Yes.  
22  
23 Q. And you will have seen reference to a number of  
24 principles?  
25 A. Yes.  
26  
27 Q. You recall the debate?  
28 A. Yes.  
29  
30 Q. Particularly the one about sustainably managing the  
31 budget?  
32 A. Yes.  
33  
34 Q. Matching expenditure with income?  
35 A. Yes, yes.  
36  
37 Q. I want to suggest to you that council failed to do  
38 that over a four-year period; that council failed to do it,  
39 I'm not suggesting you did it personally. What's your  
40 reaction, what's your response, what's your answer, to that  
41 proposition?  
42 A. As I indicated at the very outset, the system that was  
43 given to us in 2016, because 2015/16 was an advisory  
44 council and all the experts were here, the financial  
45 officers appointed by the Commonwealth and so forth,  
46 Mr Gesling and others, they were the experts in the field  
47 of preparing the Norfolk Island Regional Council for its

1 future, and they estimated that they were going to get - we  
2 were going to get financial assistance grants at millions  
3 of dollars to assist us through the downfall that had  
4 occurred with, they say, the Norfolk Island Government.

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

14  
15 Q. When it came to asset maintenance and enhancement, how  
16 would you describe the improvements that have been made to  
17 the Norfolk Island asset base over the term of the council?  
18 Was too much spent, was not enough spent?

19 A. Everything that was done was done with due  
20 consideration for financial implications. The ability of  
21 the Island to improve such things as the sewer network and  
22 roads - well, we regrettably went backwards in some of the  
23 areas, particularly waste management. But the improvements  
24 have been really in areas of social welfare, in - well,  
25 education's taking a tumble now too --

26  
27 Q. But they're not dealt with by the council?

28 A. I know, they're federal, but they're community  
29 interests to us, you know.

30  
31 Q. You'd agree with me that the health options available  
32 to people on Norfolk Island since 1 July 2016 have  
33 significantly improved?

34 A. Oh, definitely, definitely.

35  
36 Q. The education options available to children and people  
37 needing education on Norfolk Island have improved  
38 dramatically?

39 A. No.

40  
41 Q. You don't agree with that?

42 A. No. I think the uncertainty with our education system  
43 now has created such a stressful situation within the  
44 school that it will have detrimental effects on the  
45 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  
4 Q. But, leaving aside that, the quality of the education?  
5 A. The quality of the education on Norfolk Island has  
6 always been good and, you know, I will not debate that it  
7 wasn't. We have had some very, very talented people come  
8 out of that school.  
9  
10 Q. No doubt about that, I'm not suggesting anything to  
11 the contrary. Do you think you were provided with  
12 sufficient risk management advice during the life of the  
13 council to deal with the sorts of issues, real issues,  
14 difficult issues, that confronted you as a governing body?  
15 A. Yes. Yes, we were afforded good reports and we - and  
16 this is another area of expenditure that came far too  
17 commonplace in my opinion, my humble opinion now, that  
18 reports were obtained from many places, KPMG and ANAO and  
19 other areas that --  
20  
21 Q. I'm talking about the advice that you received from  
22 council staff. Was there a substantial risk management  
23 expertise amongst the council staff to assist you and the  
24 other councillors manage the transition from the Assembly  
25 to local government?  
26 A. In my humble opinion, no.  
27  
28 Q. What steps did council take to establish effective  
29 risk management programs?  
30 A. The strategic plans and other plans that were put in  
31 plans, operational plans, risk management plans, there were  
32 plans put in place, those guided us in the areas you have  
33 just quoted, in risk management et cetera, but they had -  
34 they guided us but they didn't really provide solutions to  
35 areas of problems.  
36  
37 Q. I want to suggest to you that the current Chair of the  
38 audit committee, whose name escapes me for the moment -  
39 Ms Sexton, Katie Sexton - since she has been Chair of that  
40 audit committee there's been substantial changes made on  
41 the risk management profile and procedures and practices of  
42 council; do you agree with that?  
43 A. Yes.  
44  
45 Q. What I want from you is your comparison between the  
46 risk management practices when you started on 1 July 2016  
47 compared to where they are today. They were inadequate

1 when you started, weren't they?  
2 A. Yes, they were.  
3  
4 Q. And that was effectively a handover of the existing  
5 risk management practices of the government; correct?  
6 A. Yes.  
7  
8 Q. The asset registers, the depreciation plans for all of  
9 the Island's assets, very quickly you understood that they  
10 were deficient?  
11 A. Yes. Oh, we knew we had problems in those areas, yes.  
12  
13 Q. No-one had any idea as to what the true value of the  
14 assets were on handover, did they?  
15 A. Well, we had a local valuation of them.  
16  
17 Q. \$60 million-odd?  
18 A. Yes.  
19  
20 Q. When they were revalued in March \$128 million-odd?  
21 A. Yes, because the Commonwealth decided to give us roads  
22 that they valued at \$60 million as an asset: you've got to  
23 be kidding.  
24  
25 Q. Okay, accepting that. Once you found out that the  
26 roads that you had to maintain were worth more than that --  
27 A. To whom?  
28  
29 Q. Are you taking issue with the valuation?  
30 A. Yeah, definitely.  
31  
32 Q. So, do I understand your position to be this: from a  
33 Norfolk Island perspective we don't see the need to replace  
34 the roads perhaps as regularly as someone from the mainland  
35 might, we don't necessarily accept a mainland approach to  
36 road maintenance?  
37 A. Yes.  
38  
39 Q. Tell me if I'm wrong about that?  
40 A. No, you're right.  
41  
42 Q. And, therefore, why should we value the roads on a  
43 mainland basis and therefore have to maintain them on a  
44 mainland basis?  
45 A. On a mainland basis, exactly.  
46  
47 Q. That's been your philosophy, has it?

1 A. Definitely.

2

3 Q. And that's an explanation for why asset management was  
4 dealt with in the way it was, firstly under the government  
5 which you led and your approach to asset maintenance in the  
6 council of which you're a member?

7 A. Yes, for me; I'm only speaking on behalf of myself.

8

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

13

14 THE COMMISSIONER: Okay.

15

16 MR BOLSTER: Q. The same principle applies to all of the  
17 other assets of the council that it inherited from the  
18 government, doesn't it, from your perspective? Tell me if  
19 I'm wrong.

20 A. That there was a risk management --

21

22 Q. That there were significant changes that had to be  
23 made to the asset management plans for all of the council's  
24 assets; over time the initial plans were inadequate and  
25 they had to be substantially beefed up?

26 A. They would be adequate to the new regime. They were  
27 not inadequate to the regime of prior 2015. We were  
28 running - certainly we had difficulties, there's no doubt  
29 about that, we had difficulties; but what we were achieving  
30 in those days was commendable. For example, the  
31 replacement of the three generators at the airport, that  
32 was commendable. The replacement of the fire - or the  
33 purchasing of the fire tenders back in the days of the  
34 Legislative Assembly; we needed to do that and we did. We  
35 were surprised that the cranes - we had to purchase a new  
36 crane when we had cranes within the works depot that  
37 apparently only needed some minor repairs. Councillors  
38 were quite limited in what they could discuss with staff,  
39 what they could obtain from staff, what they were allowed  
40 to see, what they were allowed to do, so we were hamstrung  
41 in a number of areas.

42

43 MR BOLSTER: I have no further questions, thank you,  
44 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

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

9 A. Yes.

10

11 Q. Did the council seek, when the proposals were put  
12 forward to increase rates and charges on various things, to  
13 undertake impact studies?

14 A. Yes, we put them out for public consultation for  
15 28 days to seek what impacts or ramifications could occur  
16 from such things. For example, we wanted to increase the  
17 passenger services charge at the airport, and we received  
18 such objections from businesses stating that it would be a  
19 detrimental effect to the core business of the Island,  
20 tourism, that we had to rethink, and to answer your  
21 question --

22

23 Q. So, there were no formal contractor-type impact  
24 studies that looked at broader economic impacts and so on?

25 A. No, and that was a great problem for us.

26

27 Q. So really it was just based on what community  
28 sentiment was at the time?

29 A. Yes, and regrettably, as I just mentioned to  
30 Mr Bolster, Commissioner, that standards elsewhere does not  
31 necessarily apply here. This is an isolated community and,  
32 as Councillor Porter said yesterday, in Bundaberg they have  
33 five different areas where they could communicate or  
34 transport, means of transportation: here we have one, or  
35 two.

36

37 Q. Considering things such as rate charges, electricity  
38 prices, waste management levies, all the charges, you know,  
39 there are a lot of proposals that were put forward to the  
40 council and there was many that were rejected and, you  
41 know, I'm intrigued by your comment that there should have  
42 been impact studies at the times of transition, and the  
43 fact that there were no formal impact studies undertaken  
44 over the last five years.

45 A. Yes. Commissioner, one of the principles that I  
46 adopted as Chief Minister was the ability of the community  
47 to pay. The community was very vulnerable and it still is

1 because of the circumstances surrounding Norfolk Island.  
2 Some mainlanders who have come to the Island have expected  
3 the same benefits on Norfolk Island that they have enjoyed  
4 elsewhere and they expected to have it here, but to provide  
5 those benefits affected all of the population in the  
6 community to satisfy the whims of a few, and that was a  
7 great difficulty for us, for me especially, and we tried to  
8 avoid placing further imposts on a community that was  
9 vulnerable anyway to their sources of revenue to satisfy  
10 those that have decided to leave, where they've been before  
11 and come here and regrettably tried to change what we  
12 classify - as Colleen McCullough once said - "the fragile  
13 butterfly within the Pacific."  
14

15 Q. One of the earlier comments you also made was that  
16 your view was that the establishment of council was a  
17 system that was designed to fail.

18 A. Definitely.  
19

20 Q. So, what made you become a councillor, if you were  
21 going to join a system that you had a view was going to  
22 fail?

23 A. I thought that I would be able to contribute better  
24 being in the tent than outside of it. I thought that I  
25 would be able to contribute more to the system to replace  
26 what had been taken away from us. I never was in support  
27 of Norfolk Island losing its democratic form of government.  
28 The council is not a democratic form of government. And,  
29 we had no choice. There are so many historic holistic  
30 areas that should be looked at in greater degree.  
31

32 And I appreciate very much, Commissioner, your  
33 involvement or the Commonwealth's involvement in providing  
34 us with this Inquiry to be able to air some of the concerns  
35 that this community has, and you will no doubt have already  
36 had submissions and I support one in particular.  
37

38 Mr Bolster didn't ask my involvement in any other  
39 group communities like he did some of the other  
40 councillors. I am Executive Member of Norfolk Island  
41 People for Democracy and they, Commissioner, have submitted  
42 a submission to you which is very, very important in my  
43 respect and I plead that you take note and read that  
44 submission.  
45

46 Q. Okay. So, if you thought that the council was  
47 designed to fail and then you thought you would be more



1 helpful inside the tent rather than outside the tent, what  
2 did you do specifically in your powers to avert the failure  
3 of the council?

4 A. I always acknowledged that the council needed to be  
5 funded, and whilst my personal opinion is that land tax,  
6 land rate: land to Norfolk Islanders is very, very  
7 important. The greatest impost that could apply on this  
8 place is that Norfolk Island people have no longer the  
9 avenue to have a meaningful say in how they are governed  
10 and a meaningful say in the finances of the place.

11  
12 Q. I understand, Mr Snell, your concerns about governance  
13 and the government of the day and how that's set up, but  
14 I'm interested in what specific things you did or you think  
15 you did to avert the council failing.

16 A. Yes, I was coming to that. Whilst I objected to the  
17 increase in the land rates, I had to agree to it because it  
18 was a form of revenue to keep the Island going as a source  
19 of revenue. I don't agree to a 10% increase, but I agreed  
20 to the others. I am always surprised that the Commonwealth  
21 would not allow us to have a form of GST as explained by  
22 Councillor McCoy yesterday; that would have raised a lot  
23 more revenue than land tax has ever done and will ever do.

24  
25 I tried to look at areas where we could save money.  
26 And, whilst I wasn't asked, in the annual report I was  
27 disappointed, and I'm sure Mr Taylor who was the interim  
28 acting general manager at the time was disappointed too, he  
29 I think at the time expressed his concern to me that there  
30 were areas in the financial statements that needed  
31 explanation.

32  
33 For example, and I may have mentioned this in my  
34 submission to you, Commissioner, on page 19 of 66 of  
35 Norfolk Island Regional Council notes to the financial  
36 statements it stated that:

37  
38 *Salaries and wages of 2018 were \$7,344,281.*  
39 *The actual in 2019, with a loss of two*  
40 *staff, was \$8,446,349, a very substantial*  
41 *increase in the cost of the management of*  
42 *Norfolk Island.*

43  
44 And I wanted to query that with the financial officer  
45 at the time, Mr Wilson, and he was not present. These  
46 types of queries and difficulties - and when one tries to  
47 read the voluminous amounts of paperwork that we had four

1 days to read - we were given them on Friday and the council  
2 meeting was on the following Wednesday - it became very  
3 difficult. What am I trying to say? I am trying to say  
4 that there were areas where I tried to do my best to assist  
5 in Norfolk Island having more say in its own affairs  
6 covering the financial implications for the community of  
7 this government.

8  
9 Q. Okay.

10 A. Why they blocked the GST is beyond me.

11  
12 Q. I'm just doing the maths in my own head, you know,  
13 some of the decisions that were made: I fail to understand  
14 how there wasn't a more probing inquiry.

15 A. Yes.

16  
17 Q. And similarly, given that you at the very beginning of  
18 the process thought that the council was going to fail.

19 A. Yes.

20  
21 Q. The thing sort of was presented at a meeting and then  
22 left to drift.

23 A. Yes.

24  
25 Q. There wasn't a lot of follow through on pushing on of  
26 council members to try and - that I've observed, say, to  
27 try to prevent that failure.

28 A. Commissioner, just as a wind up and I know you're  
29 ready to wind this up, but we were very fortunate that we  
30 had a very talented and educated Mayor to be able to guide  
31 us through this four, five years, and you will of course  
32 appreciate that this afternoon.

33  
34 THE COMMISSIONER: Okay, we'll get to the Mayor next.  
35 Okay, well, thank you, Mr Snell.

36  
37 MR BOLSTER: If we could get back from Mr Snell the two  
38 confidential briefings that he was provided with.  
39 Commissioner, I've had a discussion with my learned friend.  
40 The suggestion is that we take a 45 minute break now, sort  
41 of an early lunch.

42  
43 THE COMMISSIONER: I'd prefer to take a 15 minute break  
44 and then maybe go to lunch a bit later, and maybe a  
45 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  
6 MR BOLSTER: And, if Mr Snell could be excused from his  
7 summons.  
8  
9 THE COMMISSIONER: Thank you, Mr Snell, for your  
10 contribution today.  
11 A. Thank you, Commissioner.  
12  
13 <THE WITNESS WITHDREW  
14  
15 MR SIMONE: Before we break, we haven't had an opportunity  
16 to speak with Ms Adams yet, we'd appreciate an opportunity  
17 before she's called. The 15 minutes may not allow us that  
18 time. Is it possible for perhaps a half an hour  
19 adjournment to allow that to take place? Ms Adams can then  
20 be called for a short period before lunch?  
21  
22 THE COMMISSIONER: Yes, that's fine. We'll still take  
23 lunch at 1 o'clock.  
24  
25 MR SIMONE: Thank you.  
26  
27 SHORT ADJOURNMENT  
28  
29 THE COMMISSIONER: Okay, Mr Bolster.  
30  
31 MR BOLSTER: Thank you, Commissioner. The next witness is  
32 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  
40 MR BOLSTER: Q. Would you have a seat, please. We just  
41 need to identify you for the record and then we'll give you  
42 the opportunity to do what you wanted to do. Could you  
43 please for the record, for the transcript, give us your  
44 full name?  
45 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  
4 Q. Please do that.  
5 A. Thank you. I acknowledge the Elders, past and  
6 present, and I acknowledge the Norfolk Island people, the  
7 traditional custodians of this island. Thank you,  
8 Commissioner.  
9  
10 Q. Thank you very much. Ms Adams, you had a long history  
11 in the Norfolk Island Government before 1 July 2016, didn't  
12 you?  
13 A. I did.  
14  
15 Q. That was both as a member of the staff of that  
16 government?  
17 A. Yes.  
18  
19 Q. And as a member of a number of the Assemblies,  
20 Legislative Assemblies?  
21 A. I was clerk to the Parliament.  
22  
23 Q. Clerk of the Parliament?  
24 A. For 26 years, and then became a Speaker of the  
25 Parliament. I stood, for some strange reason, and then in  
26 the final Assembly I was a Minister in the government with  
27 Councillor Snell.  
28  
29 Q. Would it be fair to say there are very few people that  
30 know much more about what's going on on Norfolk Island than  
31 you?  
32 A. No, I'm not going to say that. Look, I've had a long  
33 period in government and it's my passion.  
34  
35 Q. So, you're very familiar with the problems that the  
36 Island faces and there are many problems, aren't there?  
37 A. Yep.  
38  
39 Q. What's the most important problem that faces the  
40 Island?  
41 A. At this point in time?  
42  
43 Q. Yes.  
44 A. Freight.  
45  
46 Q. And that --  
47 A. Followed by land rates.

1  
2 Q. Followed by land rates. Let's deal with freight.  
3 There was competition on the maritime freight route for  
4 some years?  
5 A. Correct.  
6  
7 Q. You had two providers?  
8 A. Correct.  
9  
10 Q. One of them disappeared?  
11 A. Correct.  
12  
13 Q. You've got a monopoly operation?  
14 A. Correct.  
15  
16 Q. Rates have gone up?  
17 A. Rate has gone up?  
18  
19 Q. The rate of freight has gone up?  
20 A. Yes.  
21  
22 Q. So you have to pay more to get your box of cornflakes  
23 to the shelves in Burnt Pine?  
24 A. And the latest that I have heard is that, if using the  
25 barge, is \$900 a tonne.  
26  
27 Q. \$900 a tonne?  
28 A. Which is absolutely ludicrous and out of control.  
29  
30 Q. Not only is the price an issue but the --  
31 A. Frequency.  
32  
33 Q. -- the frequency is a major issue?  
34 A. Yes.  
35  
36 Q. So, there are periods where there are significant  
37 shortages on the Island?  
38 A. Yes.  
39  
40 Q. After that, you've mentioned rates. Why is rates an  
41 issue?  
42 A. Well, in the eyes of the Norfolk Islander, and I can  
43 only generalise, the land is heritage land and in the minds  
44 of the grassroots Islanders Norfolk Island was gifted by  
45 Queen Victoria to the Island people, the land was gifted;  
46 that may not be the case at law, but it's the story that's  
47 handed down over time.

1  
2 Q. That's your connection to the land?  
3 A. Absolutely, absolutely, and the idea being that  
4 generally the land is passed on to your children.  
5  
6 Q. So, before rates came in in 2016, the way in which  
7 services were paid for was through a broad based  
8 consumption tax?  
9 A. GST, yes.  
10  
11 Q. You didn't pay income tax?  
12 A. No. Not direct.  
13  
14 Q. And you raised about \$7 million or \$8 million a year?  
15 A. Six to seven, yeah.  
16  
17 Q. Six to seven, okay. That had to fund the health  
18 system?  
19 A. Mmm-hmm.  
20  
21 Q. The school system, police, and everything else, the  
22 airport; you had to fund the airport?  
23 A. Mmm-hmm.  
24  
25 Q. So, when the airport runway had to be resurfaced  
26 before July 2016, the council had to do that, had to take  
27 out a loan with the Commonwealth to do that?  
28 A. Correct.  
29  
30 Q. But other than that --  
31 A. But bearing in mind that the airport is equally as  
32 valuable to the Commonwealth as it is to the Norfolk Island  
33 people.  
34  
35 Q. It's probably even more valuable to the Norfolk Island  
36 people, isn't it?  
37 A. Well...  
38  
39 Q. It meets those from the mainland who come here, who  
40 you rely on to come here and who ideally should come here  
41 in greater numbers, that is the most significant positive  
42 element of the economy, isn't it?  
43 A. Correct.  
44  
45 Q. If we had more people coming from the mainland a  
46 number of the problems wouldn't be as bad as they are  
47 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  
6 a year, yep, and the number of aircraft to service that  
7 number would be XYZ.  
8  
9 Q. And, have you ever got to 35,000?  
10 A. We have in, I believe it was 2001, we got to 40,000  
11 visitors to the Island. That's not a good number on an  
12 island of this size.  
13  
14 Q. And, just too many people?  
15 A. Too many people, too many cars.  
16  
17 Q. Too many hire cars driving the roads?  
18 A. Absolutely.  
19  
20 Q. I understand. In the final year before COVID, so  
21 30 June 2019, how many visitors did you have to the Island?  
22 A. Sorry, off the top of my head I don't know the answer.  
23  
24 Q. Was it anywhere near 35,000?  
25 A. No; no, no, no. We would have been in the late 20s  
26 maybe, I don't know; I'm honest, I don't know.  
27  
28 Q. Was that a figure that had been decreasing over time?  
29 A. Yes.  
30  
31 Q. So, it had been put in --  
32 A. Well, it fluctuates, it fluctuates over time and is  
33 dependent on what's happening elsewhere. For example,  
34 let's go back to two thousand and - in the global  
35 financial --  
36  
37 Q. GFC 2009.  
38 A. 2009?  
39  
40 Q. 2008.  
41 A. 2008, yes, okay. The majority of visitors, I think  
42 it's fair to say, are in the higher age bracket.  
43  
44 Q. They would be more experienced?  
45 A. Yes, "more experienced", that's a good word.  
46 Self-funded retirees, et cetera, and so - boom - the bottom  
47 dropped out of the industry at which time Norfolk Island,

1 through circumstances, had a contract to Air Nauru and were  
2 running the airline.

3

4 Q. You had your own airline, effectively?

5 A. Yes, and you can imagine what that did to our reserves  
6 at that point of time.

7

8 Q. In 2010 though was when there was a wash-up of all of  
9 this?

10 A. Yes.

11

12 Q. And the administration took a decision that things  
13 could not go on the way they were going?

14 A. No, the government did.

15

16 Q. The government did?

17 A. Yes, and the --

18

19 Q. Did you disagree with that?

20 A. Sorry?

21

22 Q. Did you disagree with that decision?

23 A. It was done by the Chief Minister, and Minister for  
24 Finance at that time went and paid a visit to Simon Crean  
25 and advised Minister Crean that Norfolk Island was facing  
26 financial difficulties at that time. Bearing in mind, we  
27 are the only territory that administered federal, state and  
28 local government. We funded, we paid the pensions to our  
29 elderly, and those pensions were not income tested - no,  
30 I've got that back-to-front, I think.

31

32 Q. They weren't asset tested?

33 A. Asset, they weren't asset tested, they were income  
34 tested, correct.

35

36 Q. So for people on the Island who had their traditional  
37 lands gifted to them by their parents from their parents  
38 originally from the grant from the Crown, that value did  
39 not affect their pension entirely; correct?

40 A. Correct. And so, the Norfolk Island Government signed  
41 a memorandum of understanding with the Commonwealth on  
42 25 November 2010 - it's very much in my head - to come into  
43 the Australian taxation and social welfare system provided  
44 there was a net benefit to Norfolk Island, and that's the  
45 wording in the memorandum of understanding. In exchange  
46 for which we were requesting \$3.2 million assistance  
47 funding at that time. Bearing in mind, we were looking



1 after all responsibilities, federal, state, local, and I  
2 defy anybody to say we didn't do a good job considering the  
3 size of this population and our isolation.  
4

5 So, that was signed and then the next step in the  
6 process, the Commonwealth put through legislation - I think  
7 it was called the Territories Legislation Amendment Bill --  
8

9 Q. The name doesn't matter, that was in 2015.

10 A. Doesn't matter, and what they did was in fact, they  
11 put in place a Commonwealth financial officer and virtually  
12 removed from us our ability to manage our fiscus as we had  
13 been able to do up until that point in time. In other  
14 words, expenditure was dependent on whether this  
15 Commonwealth financial officer said yes or no. We had  
16 funding agreements so that, if we needed money - they were  
17 a very contentious part of the arrangements simply because,  
18 and for me personally having been the clerk, to be  
19 requiring a government in a funding agreement to make  
20 legislative changes in the Parliament was totally abhorrent  
21 to the sovereignty of the Parliament, but however, you  
22 know, that's how it was and I fought for some of them not  
23 to happen.  
24

25 Then, on 2 March 2011, Norfolk Island and Simon Crean  
26 again signed the road map. You might have mentioned  
27 Councillor Snell mention the road map this morning. Number  
28 one in the road map was that we revisit the model of  
29 government on Norfolk Island and look at handing back  
30 federal responsibilities and maintaining state and local.  
31 Resolution was passed through both the 13th Assembly and  
32 the 14th Assembly that we would welcome a territory model  
33 of governance in the Australian taxation social welfare  
34 system, that we would be part of the GST system which,  
35 through - they're called, whatever it's called - we would  
36 get back from the GST pool, my memory tells me around about  
37 either \$13 million or \$15 million which would have been  
38 fine, would have been fine. I can hear Jamie Biggs today,  
39 "You think you're a state." He did not agree with Norfolk  
40 Island moving along that road, he eventually engaged the  
41 Joint Standing Committee on national capital - national  
42 capital, I think they're called, the JSC we knew them as -  
43 and he tasked them with looking at the economy, I take it,  
44 building the economy of Norfolk Island. Governance was not  
45 allowed to be discussed in the JSC, and so, the government  
46 endeavoured to put forward its model but was not allowed to  
47 do it.

1  
2           However, I don't quite understand how to this day the  
3 former Administrator was able to talk about the governance  
4 should change the department, could talk about the  
5 governance should change and on and on it went, and so, the  
6 end of the story was despite - and this is important - that  
7 Norfolk Island is part of the international body called the  
8 Commonwealth Parliamentary Association, and in the  
9 submissions that I put up one of them is the various  
10 articles that I wrote over time internationally about  
11 democracy failing on Norfolk Island.  
12

13       Q.    Do you think it has failed?

14       A.    When you have an applied laws regime where other  
15 legislation is made by, in this case the New South Wales  
16 Parliament, and we had absolutely no representation in the  
17 New South Wales Parliament, that's a democratic deficiency,  
18 in my humble opinion. But if I could just finish with -  
19 no, we'll leave it there.  
20

21       Q.    Come 1 July 2016, you had stood for election as a  
22 member of the council?

23       A.    I did.  
24

25       Q.    And I take it, you had a very negative view about the  
26 reforms?

27       A.    No.  
28

29       Q.    You didn't want there to be a council, did you? You  
30 wanted something else?

31       A.    It's, in my humble opinion, not appropriate that  
32 self-government should have been removed from Norfolk  
33 Island to the point that today I am advised by  
34 constitutional lawyers that Australia is in breach of her  
35 international obligations and the UN Charter. And so, on  
36 that basis, yes, I believe - and I'm going to say this -  
37 I believe it is the divine and inalienable right of every  
38 human being to freedom, sovereignty and self-determination.  
39 And, they're not my words, I sit behind them, they're the  
40 words of the great Gandhi.  
41

42           And on that basis, yes, but by the same token I am on  
43 record when I stood for the council that I saw the council  
44 had the potential to provide, despite the deficiency in  
45 democracy and despite the state disconnect, it had the  
46 potential, it had the potential to be a strong platform on  
47 which to build whatever form the form of government is

1 going forward.

2

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

6 A. Could I read to you --

7

8 Q. No, no, just --

9 A. -- what I said?

10

11 Q. When did you say this?

12 A. When I stood for council.

13

14 Q. Is this effectively your statement of principles,  
15 your --

16 A. No, no.

17

18 Q. What is it?

19 A. When I stood for council this is what went out to the  
20 public:

21

22 *When I stood for council I acknowledged*  
23 *that whilst the application of the New*  
24 *South Wales Local Government Act 1993 to*  
25 *Norfolk Island was part of the democratic*  
26 *deficit that flowed from the Norfolk Island*  
27 *Applied Laws Ordinance 2016 of the*  
28 *Commonwealth. I did, however, hold the*  
29 *view that the responsibilities of the*  
30 *Regional Council, if managed well under the*  
31 *Local Government Act, could become a firm*  
32 *platform on which to build whatever model*  
33 *of government was determined for the*  
34 *Norfolk Island people going forward into*  
35 *the future. The model allowed at the very*  
36 *least for defined transparency and*  
37 *accountability, good budgeting and audit*  
38 *processes to mention just one or two of the*  
39 *model's positive attributes.*

40

41 I subsequently changed my mind at the airport time.

42

43 Q. Well, we'll get to the airport, but what did you think  
44 was needed to make it work? What was the most important  
45 thing that you could bring to the table, someone who was  
46 experienced in government, knew what was going on on  
47 Norfolk Island, knew the people, had connections with the

1 people, understood their aspirations and their concerns,  
2 what did you think was the thing that was needed to make  
3 the Norfolk Island Regional Council work?

4 A. I'm going to turn to my witness statement which I'm  
5 happy to tender as evidence which I really would like the  
6 Commissioner to be aware of, and I'm going to read from the  
7 audit report, Grassroots audit report.

8  
9 Q. That's in evidence. You don't need to read from it.  
10 If you want to highlight a provision.

11 A. I'm only going to read page 8 down the bottom under,  
12 "Strengths and weaknesses":

13  
14 *The analysis undertaken for this audit*  
15 *report has highlighted that significant*  
16 *legacy issues were inherited by NIRC upon*  
17 *its establishment. It has recommended that*  
18 *these issues as detailed in this audit be*  
19 *addressed as a matter of urgency as*  
20 *significant financial challenges and*  
21 *environmental non-compliances continue to*  
22 *exist.*

23  
24 *Whilst it appears it was the expectation of*  
25 *the Commonwealth for NIRC to take*  
26 *responsibility for these issues [and this*  
27 *is important ]NIRC does not have sufficient*  
28 *funding capacity for the issues to be*  
29 *addressed in a timely manner.*  
30 *Consequently, there is an urgent need for a*  
31 *long-term funded strategic and financial*  
32 *plan to be developed in a collaborative*  
33 *manner between NIRC and the Commonwealth.*  
34 *This will help deliver a more robust*  
35 *financial outcome, ensure greater*  
36 *compliance for the established*  
37 *environmental and public health standards*  
38 *and prioritise infrastructure and service*  
39 *projects to meet identified community*  
40 *needs. To be effective the plan must*  
41 *include the allocation of responsibilities,*  
42 *actions and delivery timeframes.*

43  
44 *The strategic and financial plan referenced*  
45 *above should be informed by the audit's 84*  
46 *recommendations which are presented in*  
47 *section 7 of this report.*

1  
2 That is what should have happened in 2015, and if you  
3 have had an opportunity to study the Australian audit --  
4

5 Q. The ANAO report on the transition is in evidence and  
6 we have already referred to it.

7 A. Are we talking about the 2018/19 one?  
8

9 Q. Yes, the report into the transition.

10 A. Okay.  
11

12 Q. We've read that, we understand that, and it's in  
13 evidence.

14 A. But I don't believe that it is understood, because  
15 we've been talking about --  
16

17 Q. What do we need to understand about it?

18 A. -- sustainability during this Inquiry. It says here  
19 quite clearly. In fact, I'm going to go back to 2015 when  
20 the department itself said that:  
21

22 *The most appropriate method of future*  
23 *service delivery will be compromised by*  
24 *adherence to the 1 July deadline.*  
25

26 In other words, they understood the timing was wrong,  
27 it was being rushed, and there was no way what you were  
28 going to end up was in the best interests - it continues to  
29 go on:  
30

31 *The 2015/16 financial statement audit*  
32 *reflected that the NIRC's business model*  
33 *"does not clearly demonstrate a*  
34 *self-sustaining model that can fund capital*  
35 *expenditure in the future to maintain or*  
36 *upgrade facilities such as the airport.*  
37 *The level of revenue generated by rates and*  
38 *the GVEs are currently insufficient to both*  
39 *fund short-term costs such as employees and*  
40 *suppliers" ...*  
41

42 And it goes on. This cannot be ignored --  
43

44 Q. It's not being ignored.

45 A. -- in the overall consideration by this Public Inquiry  
46 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  
11 Q. Do you think you were given the opportunity to  
12 understand the local government model?  
13 A. We had a very brief meeting - I think her name was  
14 Susan Law - who was part of the transition team put in  
15 place by the Commonwealth. You see, it's important to  
16 remember, the government of Norfolk Island had gone in 2015  
17 and you moved into the transition year, and so you had all  
18 Commonwealth appointees, right.  
19  
20 Q. To Commonwealth positions?  
21 A. No.  
22  
23 Q. The general manager was a Commonwealth appointee; is  
24 that who you're talking about?  
25 A. No, no, no, I'm certainly not.  
26  
27 Q. Who are you talking about?  
28 A. No, no, no, I'm still back in the Norfolk Island  
29 administration before it was handed over to the NIRC. I'm  
30 talking about the transition here, the 12 months.  
31  
32 Q. The 12 months.  
33 A. Okay, and the appointment of Mr Gesling, whom  
34 I believe I heard you say you would be talking to?  
35  
36 Q. Yes.  
37 A. In Sydney, and that's a good thing that you'll be  
38 doing that. He will be able to explain to you that he was  
39 the Commonwealth's delegate, the Commonwealth Minister's  
40 delegate, and as the Commonwealth Minister's delegate he  
41 had the authority, with the Commonwealth hat on, to  
42 negotiate with the Commonwealth the transfer of lands  
43 between the Commonwealth and Norfolk Island.  
44  
45 Q. What was wrong about --  
46 A. I had raised that with the Minister, with Senator Nash  
47 I think it was, did it happen on just terms.

1  
2 Q. What was the transfer of lands, what was the problem  
3 there? You received all of the Commonwealth lands: you got  
4 the airport, you got the roads?  
5 A. No, no.  
6  
7 Q. What didn't you get that you should have got?  
8 A. No, no, no. Let's go back. Remembering that we  
9 administered federal, state and local, and yes, the  
10 Commonwealth owned the roads but we were responsible for  
11 maintaining them and we did because we had all three tiers  
12 of government. We didn't get finance from the Commonwealth  
13 to do the roads. The only funding that came from the  
14 Commonwealth was to stabilise Cascade cliff, for which we  
15 took out a loan, we had to take a loan from the  
16 Commonwealth.  
17  
18 Q. When you say "we", are you talking about the council  
19 or the government?  
20 A. No, we're back in the administration now.  
21  
22 Q. Can we turn to the council and the transfer of assets  
23 to the council, because that's really what we're focused on  
24 here?  
25 A. I don't believe you can look at one without the other,  
26 but however, that's your call.  
27  
28 Q. What was the problem with the transfer of assets from  
29 the Commonwealth to the council in 2016?  
30 A. What I just read from the Grassroots report, that we  
31 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  
38 understand what it really meant. The land transfer  
39 ordinance remembering, didn't happen until the 28th - I  
40 could be wrong, but I think it's 28 May 2016, just before  
41 the council came into being, okay?  
42  
43 Q. Well, let's go to December, and you heard me  
44 discussing with Mr Snell this morning, December 2016 when  
45 the first report about performance against the budget was  
46 before council. You will recall that, although originally  
47 there was a \$4.2 million deficit budgeted, the report

1 indicated that it was going to be around \$5.2 million --  
2 A. Correct.

3

4 Q. -- \$5.3 million, so it was worse than people had  
5 thought. Did that concern you at the time?

6 A. Absolutely. The very first budget that the council  
7 had was a deficit budget and that that's what we had  
8 inherited from the transition --

9

10 Q. From the Administration --

11 A. From the transition period which was run by the  
12 Commonwealth, not --

13

14 Q. By the Administration, that's your point?

15 A. -- under the - yes, exactly, all right?

16

17 Q. And then decisions had to be made about the budget  
18 approach going forward over the long-term.

19 A. Yeah.

20

21 Q. What was the most significant thing that you thought  
22 council needed to address in approaching the budget in the  
23 long-term?

24 A. Working towards somehow balancing the budget. How  
25 that was going to happen was still very much something to  
26 be worked out in the climate that we were in.

27

28 Q. As someone experienced in government, what did you  
29 think needed to be done to balance the budget, or did you  
30 take a view, there's no point, it doesn't matter what we'll  
31 do, we'll never be able to balance the budget?

32 A. No, no, no, no, I don't think like that.

33

34 Q. Right.

35 A. I try to be a positive person.

36

37 Q. Well, you're in a leadership position.

38 A. Yes, exactly.

39

40 Q. Tell us about the way in which you approached holding  
41 that leadership position, the Mayoral position, what was  
42 the most important thing to you in holding that office, an  
43 important office on the Island and for the people of the  
44 Island?

45 A. To work with the Commonwealth to get a good outcome  
46 for Norfolk Island and, you know, from the outset I  
47 proposed resolutions in the council seeking - for a start,



1 one of the very first motions was to the Minister of the  
2 day that the Commonwealth consider - what's the word - the  
3 loan, the airport loan which was around about \$12 million.  
4  
5 Q. \$10.5 million?  
6 A. At that point in time, that the loan be waived. In  
7 other words, "As a gesture of goodwill to the establishment  
8 of the new model of governance on Norfolk Island" were the  
9 words, something like that.  
10  
11 Q. And it was eventually waived but it took a couple  
12 of years to do that?  
13 A. 2019.  
14  
15 Q. And in the interim you had to make interest payments  
16 on it?  
17 A. What Senator Nash did, which we're very appreciative  
18 of, was she reduced - she took away the payment of interest  
19 for the next 12 months and reduced the payment of the loan  
20 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  
29 balancing the budget?  
30 A. No, I will be honest, my focus most of the time was on  
31 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  
44 councillors. Because the community, it was so divided,  
45 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  
4 Q. When you say it's divided, divided between what?  
5 What's one view? One view would be your view that this was  
6 all a mistake, we should have self-government?  
7 A. No, I'm not saying all of this is a mistake --  
8  
9 Q. No? Well, what is your view?  
10 A. -- there are no mistakes, it's something that  
11 happened.  
12  
13 Q. It happened, okay.  
14 A. Okay, that we as a community have been asked to live  
15 with. There are some who are not prepared to live with it,  
16 and so they continue to agitate.  
17  
18 Q. And others?  
19 A. And that's their right, that's their absolute right.  
20  
21 Q. What about the other group that they're divided from?  
22 A. And there are those who I believe are comfortable with  
23 how it is today, yes.  
24  
25 Q. How have you seen the division play out?  
26 A. It's the division that was concerning me in this  
27 community.  
28  
29 Q. How was that playing out?  
30 A. We needed to find a place of peace and the only way I  
31 could see peace, a road to peace, was to advocate for a  
32 Royal Commission into the model of governance, and we  
33 passed a resolution - 3:2, it wasn't unanimous, and I  
34 accept that that's, you know, the views of councillors,  
35 that's democracy.  
36  
37 Q. Who were those in favour? Yourself --  
38 A. I don't want - there's no need to go there as far as  
39 I'm concerned. I'm happy to but --  
40  
41 Q. I just would like to know?  
42 A. It's on the record.  
43  
44 Q. It's on the record, okay, all right.  
45 A. It's on the record. Councillor Porter and Councillor  
46 Buffett voted against the resolution; Councillor McCoy,  
47 myself and Councillor Snell voted in favour of asking the

1 Federal Minister to advocate to government for a Royal  
2 Commission on the model of governance going forward that  
3 will bring peace to the Norfolk Island people. That's  
4 purely my motivating force behind that.  
5

6 Q. Do you think though that that sort of - and perfectly  
7 understandable, perfectly reasonable, one can perfectly  
8 understand why you would take that view: do you think that  
9 that preoccupied aspects of council's deliberations?

10 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  
17 advance, individually, and spoke to them about where I was  
18 thinking of moving. All I'm going to say is that we had  
19 great conversations, Councillor Porter and Councillor  
20 Buffett, but at the end of the day they had to live with  
21 themselves and who they believed they represented and they  
22 made their decision, which is how it works. Councillor  
23 Snell and Councillor McCoy chose to agree the motion and  
24 that's where we are today.  
25

26 Q. That was an important leadership issue that you  
27 thought required your involvement with?

28 A. Yes.  
29

30 Q. What about from a financial perspective? The budget  
31 was always in difficulty, wasn't it?

32 A. Well ...  
33

34 Q. Was it? Wasn't there a constant problem over the  
35 four years in making sure that you had enough money to  
36 repair and maintain and replace a very ageing set of assets  
37 on the Island?

38 A. Okay --  
39

40 Q. Was that the case?

41 A. To a degree, but you can't look at that, those issues  
42 in isolation of the model of governance that has been put  
43 in place under the council, and so, probably the second key  
44 resolution that I took to council was around the financial  
45 assistance grants. And, knowing that, we had been given  
46 \$1.8 million, somewhere around there, and that was from the  
47 New South Wales Grants Commission who of their own

1 admission said they were unable, they were unable to give  
2 the proper - you know that.

3  
4 Q. And ultimately, ultimately through that work you were  
5 able to increase the financial assistance grants  
6 considerably, weren't you?

7 A. What happened was, the Commonwealth engaged KPMG to  
8 have a look at the - it's just another one of the issues  
9 where there wasn't proper assessment done of the  
10 implications of the model that was being put in place for  
11 Norfolk Island and the same thing happened with rates.

12  
13 Q. Let's just go back to my question. You were able to  
14 resolve the issue about the financial assistance grants,  
15 weren't you?

16 A. Yes.

17  
18 Q. There were also issues about --

19 A. Well, yes and no. Yes and no. It became staggered --

20  
21 Q. But you got more money?

22 A. Yes, we did, and it became staggered. But the sad  
23 thing for me was, in writing to Senator Nash at the time  
24 advising her of the resolution of the council and pointing  
25 out - I'll read the resolution:

26  
27 *The council request the Mayor to formally*  
28 *write to the Commonwealth requesting urgent*  
29 *recalculation for the 2016/17*  
30 *financial year and future financial years*  
31 *of the current financial assistance grant*  
32 *of 1,893,690 to Norfolk Island to be at*  
33 *least in line with the Western Australia*  
34 *state grant commission for the Indian Ocean*  
35 *territories modelling which awarded a*  
36 *2015/16 the year before \$4,084,000. In*  
37 *addition to the calculations for Christmas*  
38 *Island, Norfolk Island Regional Council has*  
39 *the disabilities of running the airport,*  
40 *electricity and a lack of accessible sea*  
41 *port.*

42  
43 I was taken to task by the Minister for having brought  
44 the Indian Ocean territories into the mix, that I had no  
45 business of doing that, and so, that had to have influenced  
46 where we ended up.

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  
8 Q. And the position on the financial assistance grants  
9 had improved considerably too?

10 A. Yes. Could we stay with the service delivery  
11 agreement?

12  
13 Q. Perhaps if we just --

14 A. It's very important.

15  
16 Q. Okay, what do you want to say about the service  
17 delivery agreement?

18 A. The fact is that council was not allowed, was not  
19 privy to the service delivery agreement. I had to fight at  
20 the Commonwealth level to be able to go eventually,  
21 some years down the track, to the general manager's office  
22 to have a look at the service delivery agreement which  
23 affected council.

24  
25 Q. And you saw it?

26 A. No, I didn't at that point in time. I continued to  
27 fight that the service delivery agreement be published so  
28 that this community as a whole could be aware of what that  
29 funding was.

30  
31 Q. And, was it?

32 A. And eventually it was. I still maintained in the  
33 council that it should have come to us before it was  
34 signed.

35  
36 Q. The Commonwealth service delivery agreement though  
37 guarantees a cost recovery for every dollar that you spend  
38 as the council to deliver Commonwealth services, the  
39 Commonwealth has to pay you for?

40 A. Correct.

41  
42 Q. It's not as though you lost on that?

43 A. No, no, but can I say something, let's take the  
44 opportunity here: somewhere over the last few days the  
45 question of \$3 million was raised around service delivery  
46 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  
16 Secretary, because I had asked for bridging finance. May I  
17 read the letter, it's important?

18  
19 Q. Yes.

20 A.

21 *I refer to the letter of 23 November 2020*  
22 *from the Mayor, Ms Robin Adams, to the*  
23 *Honourable Nola Marino seeking urgent*  
24 *bridging finance of \$8 million from the*  
25 *Commonwealth to continue to pay employees,*  
26 *meet financial obligations, replenish cash*  
27 *reserves and assist in the delivery of the*  
28 *outcomes from the two external audits over*  
29 *the next 6-12 months.*

30  
31 *I understand the urgency of NIRC's*  
32 *financial position and the need to continue*  
33 *paying staff and suppliers to avoid any*  
34 *disruption to the delivery of services.*  
35 *I am therefore willing to provide*  
36 *short-term financial assistance while our*  
37 *teams continue to work closely together to*  
38 *understand the impact of the easing*  
39 *COVID-19 restrictions and the costs of*  
40 *implementing the recommendations of the two*  
41 *recent audits.*

42  
43 *As you are aware, \$1.2 million granted to*  
44 *NIRC through the 20/21 service delivery*  
45 *agreement is yet to be provided to NIRC.*  
46 *In the short term the \$1.2 million will be*  
47 *brought forward to alleviate some of the*

1           *financial pressure, and a further*  
2           *\$1.8 million of funding allocated to the*  
3           *21/22 SDA will also be brought forward.*

4  
5           In other words, they were money that would come to us  
6 anyway, they brought them forward to alleviate the  
7 financial stress:

8  
9           *The financial sustainability assistance of*  
10          *\$3 million will be provided through a*  
11          *variation of the existing SDA.*

12  
13          *The department requests the NIRC provide an*  
14          *updated cashflow and financial analysis by*  
15          *31 January 21 to equip the funds provided.*

16  
17          I just thought --

18  
19          Q.    You've heard the evidence, though, that the \$3 million  
20          has been clarified as a one-off grant not measured against  
21          future delivery under any of the agreements, so it's a free  
22          one-off grant, and I'm just wanting --

23          A.    That was in lieu of the \$8 million that we sought as  
24          bridging finance, which I didn't agree with and nor did the  
25          Minister because it had tremendously tough implications to  
26          this community.

27  
28          MR BOLSTER:   Given the time I think, Commissioner, we'll  
29          pause there for the luncheon break.

30  
31          THE WITNESS:   Sorry?

32  
33          MR BOLSTER:   And we'll come back at 2 o'clock,  
34          Commissioner?

35  
36          THE COMMISSIONER:   All right. Thanks, Ms Adams,  
37          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  
45          Q.    Ms Adams, before the lunch adjournment we were  
46          discussing your contribution from a leadership position in  
47          a range of matters. I wonder if we could really focus on

1 the leadership that you sought to establish when it came to  
2 balancing the budget, that is, having a sustainable budget  
3 whereby expenditure was matched to income as best you  
4 possibly could. And I understand we've discussed all of  
5 the problems that were in the way of council from doing  
6 that, but I just want to focus on the steps that you  
7 initiated in your leadership role as Mayor over the  
8 four years, okay? What are they?

9 A. That's a curly one. To communicate with the  
10 Commonwealth. I put in place, with council's support, a  
11 resolution around cooperation, collaboration and  
12 partnership, and that came from my having attended - it was  
13 the National General Assembly of local government and I  
14 listened at the time to a minister who was addressing the  
15 gathering.

16  
17 Q. Who was that?

18 A. I can't remember, I didn't know him, sir, I didn't  
19 know. And, he was talking about the importance of  
20 collaboration, cooperation and partnership, and I picked  
21 that up. We had the Federal Minister, Dr John McVeigh,  
22 visiting us soon after that, and on the agenda that we put  
23 in place that was the last item on the agenda. The first  
24 item on the agenda, as you would know - the Bible for  
25 council is this, the strategic plan, our plan for the  
26 future, and both the Commonwealth and Norfolk Island  
27 endeavoured to work in taking that forward.

28  
29 And so, step No.1 with Dr McVeigh was, it is time for  
30 the Commonwealth and Norfolk Island to take the strategic  
31 plan and work out what does it actually mean in real terms,  
32 our vision? And our vision is, "Norfolk Island, the best  
33 small island in the world." That's our goal, it's been in  
34 there since 2016. All decisions should be measured against  
35 that vision, but first of all the question is, together we  
36 needed to work out what that vision meant in real terms and  
37 then every decision that's taken is measured against that  
38 vision.

39  
40 And so, on that basis it stood to reason that we  
41 needed to collaborate/cooperate and --

42  
43 Q. With the Commonwealth?

44 A. With the Commonwealth and partner, and if we did that  
45 with open intent and a want to achieve the best outcome and  
46 to achieve us being regarded as the best small island in  
47 the world we would both be the winners.



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

7 A. Yes.  
8

9 Q. But do I understand your answer to be that you really  
10 needed more from the Commonwealth to do anything about the  
11 budget situation; is that what you're saying? It was up to  
12 the Commonwealth?

13 A. No, not any more. I'm saying what Grassroots is  
14 saying that I read to you this morning, that we need a  
15 strategy, a community plan, sit down together, do it  
16 together, and to get the community to agree.  
17

18 Q. You had a long-term plan or a strategy, you agreed to  
19 that in December 2016?

20 A. Yes, well that, and is, probably the first thing that  
21 we did. You see, we arrived on the scene as the brand new  
22 council, babes in the woods; make no apology for that  
23 statement. And so, we found that in the transition year  
24 the Commonwealth had prepared the community strategic plan  
25 and handed it over and expected us to pick it up and make  
26 it ours.  
27

28 Q. You made your own plan though, didn't you?

29 A. What we did was, we went by resolution in council - it  
30 was one of our first things that we do. We are having a  
31 community meeting and we are bringing the community  
32 together for them to determine what they want the community  
33 strategic plan to be, not the Commonwealth.  
34

35 Q. Did you do that?

36 A. Yes, we did.  
37

38 Q. What came out of that? Did a long-term --

39 A. This document.  
40

41 Q. Okay, so that was your document?

42 A. The council's document, yes.  
43

44 Q. And this was something that the community had input in  
45 to about the way in which you were going to approach the  
46 task of the local government of the Island?

47 A. Yes.

1  
2 Q. Okay. And over time there were pressures on that plan  
3 when it came to getting enough income --  
4 A. Of course.  
5  
6 Q. -- to meet the expenditure.  
7 A. Yes.  
8  
9 Q. My question is, what were the things that you brought  
10 to the table that assisted in raising more income to meet  
11 obviously important expenditure?  
12 A. I don't see that as a job that just I do.  
13  
14 Q. No, you did it in collaboration with your colleagues?  
15 A. Councillors. Councillors do that.  
16  
17 Q. Okay, if you want to deal with it collectively. What  
18 are the things that you and the governing body, the five of  
19 you, were able to bring to the table on the revenue side to  
20 help match revenue with the expenditure of the council?  
21 A. Okay. I can't think of a specific at the moment but I  
22 have to find the airport. Bear with me. I know you want  
23 to come back to the airport, and that's fine.  
24  
25 Q. No, we will come back to the airport.  
26 A. Okay.  
27  
28 Q. But I just would like you to be able to tell the  
29 Commissioner what it was that you and your colleagues were  
30 able to deliver in terms of meeting that serious challenge?  
31 No-one underestimates - please accept this - no-one  
32 underestimates the challenge that you faced on the income  
33 side, but we wanted to get an appreciation of what you as a  
34 group, what the group under your leadership was able to  
35 achieve.  
36 A. Okay. In the strategic plan it talks about what are  
37 the top 10 most important issues to be addressed in the  
38 future, and it spells them out. Number one, of course, is  
39 financial sustainability and that - we continued to  
40 struggle with that, okay.  
41  
42 Q. Why did you struggle with that? Because that seems to  
43 be the most important thing that we're discussing here.  
44 A. Yes.  
45  
46 Q. The reason why we're here. What did you do in  
47 response to that issue?

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

9  
10 Q. The batteries, yes.

11 A. The batteries. The backup batteries which were  
12 designed to remove - to reduce the cost of diesel, burning  
13 up diesel to burn up excess power because of the solar  
14 problem, that was a major by the council.

15  
16 Q. Just pausing there. When it comes to electricity, you  
17 obviously wanted to reduce the diesel that was required to  
18 generate electricity; that was obviously an important  
19 thing, would have been a good result. When it came to  
20 making a price adjustment to make that a possibility, that  
21 was rejected by council, wasn't it?

22 A. No, not at that time, no. No, we put in place a new  
23 charging regime where people who had solar contributed in,  
24 that was new. And I can't think what the other one is;  
25 it'll come to me. There was another - oh, we put in a  
26 charging regime so that people were paying for the poles  
27 and lights.

28  
29 Q. The poles and lights, yes.

30 A. Reticulation, yes. We didn't do that willingly, but  
31 we did it, we knew we had to.

32  
33 Q. What was the reason you had to do it?

34 A. Because the cost of - it was not sustainable to be  
35 burning off diesel in a dummy load in order to stop the  
36 power from failing which was what was happening? On a hot  
37 sunny day, the power would go down, and so they had a  
38 dummy - what they call a dummy load. And the cost of  
39 diesel is very expensive, so it was a cost saving exercise.

40  
41 Q. So --

42 A. Not favourable in the community but we had to make the  
43 decision.

44  
45 Q. But underlying that on electricity, it's never been a  
46 self-supporting arm of the business arm of the government,  
47 of the council, has it? It's always had to absorb money

1 from other council income-producing assets and divert money  
2 away from other spending, hasn't it?  
3 A. I can't answer that as a yes, because I was reading  
4 just last night somewhere where electricity was not in  
5 deficit.  
6  
7 Q. Was not in deficit. Most of the time --  
8 A. No, I can't answer that, I'm sorry.  
9  
10 Q. Most of the time it was in deficit; you'd agree with  
11 that?  
12 A. No, I'm going to pass on that one.  
13  
14 Q. Okay, all right.  
15 A. Are you aware of the nine point strategic action plan  
16 that council has now put in place?  
17  
18 Q. Since Grassroots?  
19 A. No, before Grassroots.  
20  
21 Q. Could you show me that, please?  
22 A. This was the draft that the general manager first  
23 brought to us.  
24  
25 Q. So this is when Mr Roach was first employed?  
26 A. M'mm.  
27  
28 Q. And you employed him in January 2020?  
29 A. Correct.  
30  
31 Q. You interviewed him as well?  
32 A. Yes.  
33  
34 Q. Do you remember the interview?  
35 A. Absolutely.  
36  
37 Q. Do you remember councillors mentioning to him at the  
38 interview that, "We don't like rates here on Norfolk"?  
39 A. No, I don't.  
40  
41 Q. You don't remember that at all?  
42 A. It could have been said, I don't remember.  
43  
44 Q. Mr Roach prepared this document in advance of a  
45 workshop that he held with --  
46 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  
19 going to be 100% renewable by 2025 is a huge goal, huge win  
20 if we can achieve it. But it's in the first page that are  
21 the nine points in the plan.  
22  
23 Q. Let me just see.  
24 A. Yes, you've just gone past it.  
25  
26 Q. I'll read them onto the record:  
27  
28 *There are nine targets to be discussed*  
29 *today: water security, renewable power,*  
30 *Island freight, population strategy,*  
31 *tourism regeneration, defence capability,*  
32 *connectivity, environmental advancements*  
33 *and finance and government.*  
34  
35 A. And all of those are spoken about on each of the  
36 various pages in there.  
37  
38 Q. And it develops a plan for that, okay. What was the  
39 discussion about finance and governance that you recall?  
40 Perhaps if I go to the --  
41 A. Good idea. Should be No.1, isn't it?  
42  
43 Q. No, it's actually target 9.  
44 A. Okay. Bearing in mind that that's a draft.  
45  
46 Q. All right. There's talk about review of the planning  
47 legislation, so that's a governance issue?

1 A. Yes, long overdue.

2

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

6 A. Which is Cascade, yeah.

7

8 Q. -- sort of rock-related problems that, I take it, are  
9 endemic when it comes to people wanting to build things on  
10 the Island?

11 A. Correct.

12

13 Q.

14 *Asset management plans completed and inform*  
15 *the long-term financial plan with the*  
16 *production of schedules for maintenance,*  
17 *depreciation and capital works.*

18

19 I don't know whether you have had a chance to look at  
20 Mr Roach's statement, but he says that even today he still  
21 cannot give an estimate of the amount of money that is  
22 needed to maintain all of the assets on the Island on an  
23 annualised basis. Were you aware of that?

24 A. No.

25

26 Q. What's your reaction to that?

27 A. Look, I could have been present when it was said but  
28 so much goes through my world.

29

30 Q. What's your reaction to that? Or did you ever ask a  
31 question to either Ms Jackson or Mr Roach, "Well, how much  
32 does it cost or will it cost if we were to properly repair  
33 and maintain and renew all of the assets that council  
34 owns?"

35 A. I can't answer that other than to respond by saying,  
36 it might be late in coming but it is the Grassroots report  
37 that has given us that answer and, as far as I'm concerned,  
38 that is the top issue that should be being handled by the  
39 interim administrator and the existing council now, today.  
40 They're running behind time. Because there were, from  
41 memory, four or five - all of the recommendations of  
42 Grassroots are categorised into very high, high, medium and  
43 low, and there are a series of very high, the strategic  
44 financial plan, et cetera, is --

45

46 Q. They all speak for themselves, don't they?

47 A. Top of the list, absolutely, absolutely.

1  
2 Q. Can I ask why it got to that stage that it needed to  
3 be a priority now? Why wasn't it a priority on 1 July  
4 2016? Why can General Manager Roach still not say today  
5 how much it costs to renew, repair and maintain the assets?  
6 A. I'm sorry, that's an operational matter and that's  
7 something that would be, if the question were asked, I  
8 would expect would be answered by the general manager.  
9  
10 Q. But wouldn't that be something that you would be  
11 required to oversight? I mean, you're tasked with  
12 maintaining the assets of the council, aren't you? You've  
13 got to oversee the way in which council assets are managed;  
14 yes?  
15 A. On advice, yes.  
16  
17 Q. So, the fact that there's been a deficiency in  
18 attending to asset maintenance, et cetera, you put that  
19 down to council staff?  
20 A. I'm not putting blame anywhere.  
21  
22 Q. Well, where does the responsibility rest?  
23 A. I'm saying to you that one would expect in hindsight,  
24 I'm wiser now after four years, that the operational arm  
25 would be dealing with those issues and bringing to council  
26 recommendations for us to consider, agree, disagree, amend,  
27 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  
36 attend to that?  
37 A. I do.  
38  
39 Q. The next dot point:  
40  
41 *Upgrade council intranet for improved*  
42 *internal communications.*  
43  
44 Next dot point:  
45  
46 *Temporary resourcing to overcome*  
47 *significant deficiencies in council*

1                    *programs.*

2

3

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47

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

Q. That's the last page.

A. Go to the page that aligns with the one that you just read out.

Q. It is the last page of the document.

A. Okay, all right.

Q. And it's the list of the financial and governance dot points.

A. Okay, mmm-hmm.

Q. He then mentioned the Civica upgrade, including better training of staff?

A. Yes, that's in the --

Q. What has been the problem with getting Civica to work?

A. Once again, that's operational, but the ANAO does mention - I think it's the ANAO, it mentions Civica. But they're operational.

Q. So, you say this is --

A. And let's remember that, okay, we were in financial difficulties because of COVID --

Q. This was before COVID.

A. -- amongst other things.

Q. Yes, this is before COVID.

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



1  
2 Q. We might get a copy of this and then tender it in due  
3 course.  
4 A. Okay.  
5  
6 Q. But let's talk about the audits that were ordered.  
7 The impetus for that came at a meeting that you had with  
8 Mr Roach on 17 June last year, and you were here when he  
9 gave evidence about that?  
10 A. Yep.  
11  
12 Q. And he later produced a note of his - a handwritten  
13 note of the things that he discussed or that he think  
14 recalls being discussed. It's not a word-for-word record  
15 of what was said.  
16 A. As to options that the council could pursue, yes.  
17  
18 Q. Do you remember the tenor of that discussion? How did  
19 that discussion begin?  
20 A. It was broad, it was broad-ranging, and I think you're  
21 probably leading to - what was it called - one of the  
22 options that you mentioned. Voluntary administration.  
23  
24 Q. Yeah.  
25 A. That was in the mix just as options. I mean, we  
26 talked about various options that council could follow and  
27 that was just one thrown in the mix. It certainly wasn't  
28 agreed.  
29  
30 Q. Okay, well, let's just put the options to one side,  
31 we'll come back to those.  
32 A. Yep.  
33  
34 Q. What did you need the options for? What was the  
35 problem, what was the message from Mr Roach about why he  
36 was talking to you and why he was going to suggest some  
37 options to you? What was the problem?  
38 A. Because there were financial difficulties.  
39  
40 Q. And what were they? What do you recall him saying?  
41 You see, we weren't there, you were there.  
42 A. Okay.  
43  
44 Q. What did he tell you?  
45 A. I don't know whether that was the time, but there was  
46 at one time discussion about us possibly running out of  
47 finances, funds, yep.

1  
2 Q. Did that come as a surprise to you?  
3 A. No, not as a surprise; an understanding that, you  
4 know, there were difficulties from what was being said to  
5 us, yes.  
6  
7 Q. What was the way in which he told you that you were  
8 running out of money, do you remember?  
9 A. No. No, no, I can't.  
10  
11 Q. Did he tell you how much time you had until you ran  
12 out of money as a council?  
13 A. It was going to be by the end of the year.  
14  
15 Q. And he suggested, may I suggest to you, that  
16 councillors should consider a financial audit be put in  
17 place to look through the books?  
18 A. I think it was more a collaborative decision, yes, as  
19 a consequence of the conversations that we were having.  
20 I'm just looking back on the Mayoral Minute and --  
21  
22 Q. Well, the minute was the following day on the 18th,  
23 wasn't it?  
24  
25 A.  
26 *Council for some months has been addressing*  
27 *financial challenges in developing the*  
28 *20/21 operational plan primarily resulting*  
29 *from decisions by previous management and*  
30 *which have been further magnified by the*  
31 *effects of the COVID-19 pandemic.*  
32  
33 And that's the start of it, and so we then instructed  
34 the general manager to bring to council terms of reference  
35 for those audits.  
36  
37 Q. I want to suggest to you that the day before, at the  
38 meeting that Mr Roach describes, he was the one who told  
39 you of the problems?  
40 A. Of course.  
41  
42 Q. And he was the one that suggested to you that an audit  
43 was necessary; what do you say about that?  
44 A. Look, you're playing with words; I don't know, I can't  
45 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  
4 Q. Someone wanted a forensic audit, didn't they? Someone  
5 wanted to find out --  
6 A. Look, that might have come out of my mouth, purely  
7 through ignorance that I didn't even know what it was. I  
8 was told what it was and I said, "No, that's not what I'm  
9 talking about."  
10  
11 Q. What were you talking about? What did you want to  
12 achieve?  
13 A. I wanted an audit to find out what are our problems,  
14 where are we heading, what needs to happen in order to fix  
15 the problems, identify the problems first and they have,  
16 and I can't applaud it more that it happened.  
17  
18 Q. Who raised the issue of voluntary administration?  
19 A. I don't know, I don't know, it was just words thrown  
20 around in the course of the conversation, yeah.  
21  
22 Q. You just read out your Mayoral Minute, I'm wondering  
23 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

7           Q.    Now, just going back to that first sentence.  There  
8           was a suggestion that there had been previous decisions of  
9           management, along with COVID, that had put you in that  
10          position.  Do you see that first sentence?

11         A.    Mmm-hmm.

12  
13         Q.    That's the way you expressed it.  I'm sure no-one  
14         wrote those words for you, they're your words, aren't they?

15         A.    Nah-uh, it was a collaborative approach.

16  
17         Q.    That Mayoral Minute was something that was  
18         discussed --

19         A.    Collaborative, yes.

20  
21         Q.    -- with all the other members of council?

22         A.    Absolutely, yes, and the general manager.

23  
24         Q.    What were the decisions, the previous decisions of  
25         management that you were talking about in that first  
26         sentence of your Mayoral Minute?

27         A.    No, once again, that's operational.  What I know is  
28         confidential.  I can't discuss issues around other  
29         managers, that's for maybe this Inquiry to find out, it's  
30         not for me to say.

31  
32         Q.    Were the previous decisions of management the airport  
33         runway resurfacing contract and the roads?

34         A.    No.

35  
36         Q.    So you didn't think that they were contributing to the  
37         position you were in, the dire position you were in that  
38         was relayed to you by Mr Roach on the 20th and 17th June.  
39         It was something else, was it?

40         A.    The general manager arrived and found issues within  
41         the operational arm that needed to be addressed urgently  
42         and he did so; end of story as far as I'm concerned.

43  
44         Q.    But they weren't the - that wasn't.  Just so we can be  
45         clear, it wasn't the airport contract --

46         A.    No.

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  
8 difficulty on 17 June 2020?  
9 A. Possibly a contributing factor.  
10  
11 Q. The other decisions that you're talking about,  
12 although you don't want to go into them because you say  
13 that they're confidential --  
14 A. They're staffing matters.  
15  
16 Q. Staffing matters. What was the cost of those staffing  
17 matters to the budget?  
18 A. I can't tell you, I don't know.  
19  
20 Q. You don't know?  
21 A. I don't know, and I mean that, I don't know.  
22  
23 Q. So, there were staffing matters. Were they decisions  
24 of Ms Jackson? You just don't know?  
25 A. I don't know, I don't know.  
26  
27 Q. And you're absolutely --  
28 A. I know that's wide, it's a wide statement, but that's  
29 as much as could be said.  
30  
31 Q. I just want to be fair to you, Ms Adams, because it  
32 does --  
33 A. I understand.  
34  
35 Q. -- strike me as very difficult to accept that the  
36 airport runway and the road contract only may have  
37 contributed to that Mayoral Minute.  
38 A. I'm not saying that.  
39  
40 Q. I would have thought --  
41 A. Maybe we can go to the airport.  
42  
43 Q. We will go to the airport. Weren't they the reason --  
44 A. And you can talk about the roads and I'll put my view  
45 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

4 Q. Okay. Well, I'm talking about your words, they're  
5 your words?

6 A. Yes.

7

8 Q. You said that and I want to know what you meant and  
9 I'm sure the Commissioner would be assisted by what you  
10 meant by "decisions of previous management". Can you help  
11 us?

12 A. As much as I can, I have.

13

14 Q. All right, okay.

15 A. It involves staff and there are issues and they're not  
16 issues that I can talk about.

17

18 Q. Okay, all right?

19

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

21

22 Q. Ms Adams, you think it would be worth my while looking  
23 at the staffing issues and any evidence we have relating to  
24 staffing costs?

25 A. No, it's not to do with staffing costs.

26

27 Q. What I think I am understanding you saying is, there  
28 were staffing issues that --

29 A. It was around finances.

30

31 Q. Related to delivery of proper financial information;  
32 is that right?

33 A. Yes.

34

35 Q. But not in terms of payment of redundancies or things  
36 like that?

37 A. No.

38

39 Q. So, in relation to the provision of acceptable  
40 financial information?

41 A. M'mm.

42

43 THE COMMISSIONER: Okay.

44

45 MR BOLSTER: Q. Of course, at that time there had been  
46 significant problems in engaging and retaining suitably  
47 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  
12 happen, but that's not the role of the council until we  
13 know about it.  
14  
15 Q. I understand that, and you knew Mr Roach had brought  
16 someone in from Brisbane to look into the books?  
17 A. Yes, you've had him here on, yes.  
18  
19 Q. Yes. He was the one, may I suggest, working with  
20 Mr Roach, who identified these problems?  
21 A. Some of them, m'mm.  
22  
23 Q. And they were financial problems?  
24 A. They were known before he came.  
25  
26 Q. Can we talk about the airport then?  
27 A. Okay.  
28  
29 Q. So, we have a tender in 2018 and there were three  
30 tenderers.  
31 A. Correct.  
32  
33 Q. We don't want to go into who the tenderers were other  
34 than we know Boral was one, okay?  
35 A. Yep.  
36  
37 Q. Mr Snell gave some evidence this morning that before  
38 council came to consider the tenders, the general manager  
39 afforded council an opportunity to go through each of the  
40 tenders in a one and a half hour session in her office. Do  
41 you remember that?  
42 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  
8 reading it when you had the opportunity to do so?

9 A. Not much the wiser. We weren't allowed to take notes,  
10 we weren't allowed to discuss it, I couldn't discuss it  
11 with Councillor Snell.

12

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

15

16 MR BOLSTER: Sure.

17

18 THE COMMISSIONER: Q. So, Ms Adams, when you're in that  
19 meeting with the then general manager, was the process that  
20 you just sort of sat there with the documents and you had  
21 to wade your way through?

22 A. Uh-huh.

23

24 Q. Or did she take you through and guide you?

25 A. No, you summed it up. We had to take those documents  
26 in --

27

28 Q. So, she just sat in the room while you looked at  
29 them --

30 A. Yes.

31

32 Q. -- without answering any questions?

33 A. At her desk, yes.

34

35 THE COMMISSIONER: Okay.

36

37 MR BOLSTER: Q. Was your attention drawn to or did you  
38 pick up the problem of the cost of the biosecurity aspect  
39 of bringing rock to the Island?

40 A. No, that came as a surprise to me when Councillor  
41 Snell was discussing that with you this morning. I mean, I  
42 have here, and I suppose I'm not allowed to read it, but I  
43 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

3 Q. On 20 February?

4 A. February, correct.

5

6 Q. Okay.

7 A. Okay, and to this day I remain of the view that the  
8 way this is worded and presented to us, that the cost of  
9 the biosecurity was Boral's, not ours.

10

11 Q. So, you didn't think you had the risk of having to pay  
12 for that?

13 A. That's absolutely right, and I have continued to talk  
14 about that.

15

16 Q. If Boral was going to pay for that, let's assume that  
17 was the case, what did you think the worst-case scenario  
18 was on the costs of the airport contract for the council?  
19 How much was the council at risk of having to spend to  
20 complete the project?

21 A. What you have to understand, and I'm sure you do, in  
22 order for us to get the grant funding that the Commonwealth  
23 is promising, 43 - and I don't have that documentation any  
24 more - we were to have crafted the resolution to say,  
25 whatever the first paragraph is, had to say that, and we  
26 had to confirm that council contributes any shortfall of  
27 funding for the project. Those were the two:

28

29 *That the council elected members supports*  
30 *the airport pavement repair and*  
31 *reconstruction, design and construct (the*  
32 *D&C project).*

33

34 That was the number one requirement of the  
35 Commonwealth. Number two was, council contributes any  
36 shortfall of funding for the project. The rest of what's  
37 in there emerged over the time.

38

39 Q. And then at the meeting there was discussion about  
40 trying to source the rock on the Island, giving you a time  
41 period to do that?

42 A. Yep.

43

44 Q. And there was also some discussion about a loan from  
45 the airport?

46 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

10 Q. It didn't include the 4.2.

11 A. Biosecurity. And, to me, it is compounded by the fact  
12 that Dr Greg White, who was the pavement specialist who had  
13 been engaged obviously quite some time before this project,  
14 came to councillors' desk, talks about the change in tender  
15 processes, it begs the question in my mind: originally the  
16 tender was on Island rock. Then, as Councillor Snell  
17 pointed out, somewhere along the track that changed and  
18 became imported rock.  
19

20 Nowhere in the documentation to the best of my  
21 knowledge that came across my desk, before 20 February, was  
22 there any suggestion that council was going to be paying  
23 for biosecurity costs.  
24

25 Q. Are you sure about that?

26 A. Well, to the best of my knowledge. I can only go by -  
27 I don't have any recall, like Councillor Snell didn't have  
28 recall, that in that hour and a half that we had this  
29 volume of tender documentation to wade through, that there  
30 was any reference in there about the 4.2. But, however, in  
31 this document that I have, and I'm happy to read it --  
32

33 Q. How many pages have you got there?

34 A. Two.  
35

36 Q. You've got page what?

37 A. I've got page 7 and page 6.  
38

39 Q. All right. Let me give you a copy of the full  
40 briefing. This is a six-paged document. Which of the six  
41 pages do you have?

42 A. Okay, it starts with, "Boral has indicated in their  
43 submission."  
44

45 Q. You have the page that has, "Boral has ..."?

46 A. "... indicated in their submission", which on mine is  
47 at the top, it's the first paragraph of page 7.

1  
2 Q. Right, okay. For the record that is  
3 NIRC.020.001.0002\_0003. Okay, and what's the other page  
4 that you've got?  
5 A. It goes - well, the other page I've got is No.6.  
6  
7 Q. What does that have you with?  
8 A. And it says, "The evaluation criteria", at the top,  
9 and then, "The formal panel assessment including  
10 weighting." And --  
11  
12 Q. Just excuse me, that for the record is  
13 NIRC.020.001.0002\_0002. Right now, if you can have a look  
14 at the longer document that I've just given you.  
15 A. Yeah, okay. Yes, where do you want me to go to?  
16  
17 Q. If you can go to the second-last page, you will see  
18 there the paragraph, "The financial implications", and you  
19 will see there that it's said that the costs of the project  
20 from the recommended tender is an amount of money. The  
21 Assistant Minister for Regional Development and Territories  
22 has advised that Commonwealth funds are available for this  
23 project. The council has been informed that the amount of  
24 the funding available is 43, and for this funding to be  
25 available a set of conditions must be met, and then you  
26 have the words there that are reflected in the minute.  
27 A. Yep, which I mentioned, yes.  
28  
29 Q. Yes. "Therefore council is required to be supportive  
30 of the project", which you were?  
31 A. M'mm.  
32  
33 Q. If you go back to the third page of that document,  
34 which is the one that you have yourself. I just want to  
35 read this to you:  
36  
37 *Boral has indicated in their submission*  
38 *that their price does not include treatment*  
39 *of bulk aggregate and sand for transport to*  
40 *Norfolk Island.*  
41  
42 A. Mmm-hmm, I understand that.  
43  
44 Q. So it's not included in their price?  
45 A. Correct, that's right, because it's an unknown at that  
46 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.  
10 A. Yeah, to cover such a cost should it be required.  
11 That's not saying that they don't believe they're  
12 responsible for it, they just don't know what that amount  
13 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  
22 Q. And you read the tender as well?  
23 A. I've explained that. In an hour and a half we had  
24 this to try and wade through and there's no way.  
25  
26 Q. Okay, all right, if you could return the document we  
27 just gave you, thank you. Did you have a look at the cash  
28 position of council at the time of this decision or did you  
29 just rely on the advice of the council staff?  
30 A. I can only say, because I don't know, we had to have  
31 relied on council staff.  
32  
33 Q. And we --  
34 A. Because you see in here as well that there - which I  
35 can't talk about - under the next paragraph down is the  
36 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  
43 provide to you because you may not have seen it, Dr White -  
44 and as far as I know it's not confidential - he prepared -  
45 we had discussion and it was around his having alerted us  
46 to the fact that he believed that the Minister for the  
47 Environment may exempt Norfolk Island Regional Council from

1 all assessments and approvals under section 158 of that  
2 Act, and the Australian Government Minister for the  
3 Environment may exempt a person proposing to take an action  
4 from the requirement to conduct an environmental  
5 assessment.

6  
7 Q. Yes.

8 A. So, on that basis - it was on that basis that I wrote  
9 to the Minister seeking her assistance with the significant  
10 development and, et cetera, et cetera, and I can make you a  
11 copy of this if you want it.

12  
13 Q. We'll have a look at that in due course, but I just  
14 want to make it clear: you understood that the approval of  
15 the Minister was about the environmental approval to extend  
16 the existing quarries on the Island. They had to have --

17 A. Mmm-hmm, they were trying to reduce the timeframe in  
18 order to access local rock.

19  
20 Q. Correct. That didn't happen?

21 A. No.

22  
23 Q. And you knew Boral did some drilling on the site of  
24 the quarry?

25 A. Correct.

26  
27 Q. And it came back that the quality of the rock was not  
28 suitable for the airport runway; you understood that?

29 A. Yes, except I did hear Councillor McCoy mention, and I  
30 had seen or heard that as well, that the rock on the knob  
31 was rock that should be kept for good work down the track  
32 for the community, m'mm. I recall that but I can't talk  
33 about it.

34  
35 Q. In any event, you went ahead with the project  
36 importing the rock from off the Island.

37 A. M'mm.

38  
39 Q. Now I want to show you, if we can bring up a minute  
40 from 2020, to be fair to you. NIRC.PUB.001.0286\_0003.  
41 This can be displayed publicly. Can you just read that to  
42 yourself? It's a Mayoral Minute from you.

43 A. Yes.

44  
45 Q. When the project is well underway, and you can see  
46 there, I want to take you to - let's just set the  
47 background to this.

1 A. I've got it here.  
2  
3 Q. Prior to 28 October there had been some talk, some  
4 reportage on the Island about overruns?  
5 A. Correct.  
6  
7 Q. And you wanted to take issue with this assertion that  
8 there had been overruns?  
9 A. And, if I could just say here: this document, and I  
10 know he won't mind my saying so, was prepared for me by the  
11 general manager to refute what was being said, and on this  
12 basis I totally accepted what he said, yes.  
13  
14 Q. Do you see there --  
15 A. That's not information that I would normally know.  
16  
17 Q. You see there though that the estimated total cost is  
18 \$48 million?  
19 A. Mmm-hmm.  
20  
21 Q. Implicit in that is council's contribution of  
22 \$7 million at the second-last dot point, and that's made up  
23 of the 4.2, 0.2, 0.2, and 0.5; do you see that?  
24 A. Mmm-hmm, yep.  
25  
26 Q. Your evidence thus far has been that you never - you  
27 didn't think that the 4.2 for biosecurity was something  
28 council was going to have to pay. But here, in October  
29 2020, you are in a meeting --  
30 A. Council is continuing to say that, yes, we are. I  
31 still am of the view that it wasn't our responsibility from  
32 the wording that came to council in our agenda, and that  
33 Councillor McCoy - um, Snell is of the same view, we've  
34 discussed it many times. Maybe it was just the way it was  
35 worded at the time, but for me it meant that Boral was  
36 paying.  
37  
38 Q. Well, why did you put forward that Mayoral Minute, if  
39 you thought it was wrong?  
40 A. We were now, we were now how many months down the  
41 track?  
42  
43 Q. Well, this is October 2020.  
44 A. Yes.  
45  
46 Q. People are criticising you and the council that  
47 there'd been overruns, and you wanted to make it clear to

1 the community that there had been no overruns?

2 A. Uh-huh, yep.

3

4 Q. But there hadn't been, had there? You knew it was  
5 going to cost this. Back in February 2019, 18 months  
6 almost before this, you appreciated that the cost could be  
7 as much as \$48 million, didn't you?

8 A. On the advice that I was provided, and in the absence  
9 of legal advice that supported what I was saying, had to  
10 accept that this was the case.

11

12 Q. Well then --

13 A. But to this day I still am of the view that it wasn't  
14 our responsibility. However, be that as it may.

15

16 Q. You have heard me say this a number of times before,  
17 that on that basis on 20 February council told you you had  
18 \$10.5 million in unrestricted cash.

19 A. Okay.

20

21 Q. You were voting to support a project that had the risk  
22 of costing council, let's just say \$7 million, the figure  
23 from your Mayoral figure: \$7 million, okay. And then  
24 in July 2019 council considered Boral's offer to resurface  
25 around 9 kilometres of the Island's roads. Do you remember  
26 that?

27 A. I certainly do.

28

29 Q. And you accepted that proposal, costing \$5 million  
30 from the cash reserves of the Island. Can I ask, why?

31 A. Okay. I'm going to digress and read a letter written  
32 jointly by the general manager, Lotta, and myself to the  
33 Honourable Sussan Ley on 15 March 2019, "The Roads to  
34 Recovery Program Norfolk Island Regional Council." You  
35 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  
6 We note your acknowledgment that this is  
7 the first opportunity that has presented  
8 for your council to be included in the  
9 program since self-government began.

10  
11 I don't know why they've used the word  
12 "self-government" because that's a quote:

13  
14 We look forward to receiving detail of the  
15 formal funding conditions that will apply.

16  
17 And this is the key:

18  
19 Notwithstanding our appreciation for these  
20 funds, I trust the following historical  
21 background to the roads network on Norfolk  
22 Island will give some understanding of the  
23 very real challenge for the Norfolk Island  
24 Regional Council to bring the roads on the  
25 Island to "a satisfactory standard."

26  
27 From 1979 to 2010 the Norfolk Island  
28 community funded the maintenance of the  
29 roads network on the Island notwithstanding  
30 that they were a Commonwealth owned asset.

31  
32 On 28 June 2016 the majority of the  
33 Commonwealth owned roads on the Island were  
34 transferred under the Land Transfer  
35 Ordinance 2016 (Cth) to the Norfolk Island  
36 Administration/NIRC.

37  
38 At the time of transfer on 8 June 2016  
39 Robin Fleming, executive director of the  
40 Local Government and Territories division  
41 of DIRD, wrote to the administration of  
42 Norfolk Island promising that...

43  
44 And that was to Peter Gesling, the Commonwealth's  
45 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  
6           A further report from 2015 by Beverley Parsons on  
7           Norfolk's roads and I provided them with a link:

8  
9           *Regrettably it is undeniable that with the*  
10          *income stream currently available to NIRC*  
11          *council will never be in a position to get*  
12          *the roads up to a "satisfactory standard"*  
13          *without the assistance of the Commonwealth*  
14          *partnering with NIRC to do so.*

15  
16          *To demonstrate I provide the maintenance*  
17          *budget allocations for roads since council*  
18          *commenced in July 2016.*

19  
20          In 2016 to 17 we budgeted \$600,000, actual was  
21          \$570,000. 2017 to 18 we budgeted \$650,000 and the actual  
22          was \$580,000, and 18/19 we budgeted \$700,000, the actual  
23          was \$650,000:

24  
25          *In addition an allowance of between*  
26          *\$600,000 and \$1 million was allocated for*  
27          *capital works each year. Due to a number*  
28          *of reasons including lack of available*  
29          *labour and equipment and the need to*  
30          *replace 169 culverts this capital work did*  
31          *not proceed.*

32  
33          Have you got that?

34  
35          Q. No. In a minute we'll take it from you, get a copy  
36          and we'll tender it. But your point is what in relation to  
37          the Boral \$5 million?

38          A. For the roads, okay.

39  
40          Q. Are you saying that you thought that you'd get this  
41          money from the Commonwealth?

42          A. Yes.

43  
44          Q. And it would partly fund the \$5 million?

45          A. Yes. I have written in Ministers consistently and  
46          brought to their attention this letter from Robin Fleming  
47          to Peter Gesling, the Minister's delegate:

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

6  
7       *Asset ownership should reside with the tier*  
8       *of government that is delivering the*  
9       *function.*

10  
11       That is, roads.

12  
13       Q.    The council.

14       A.    Education, health.

15  
16       Q.    Okay.

17       A.

18  
19       *Where possible the loan in property asset*  
20       *transfers should be consistent with the*  
21       *arrangements in place prior to Norfolk*  
22       *Island becoming a self-governing territory*  
23       *in 1979.*

24  
25       *No disadvantage should accrue to the new*  
26       *Norfolk Island Regional Council as a result*  
27       *of the asset transfer process, and to the*  
28       *extent possible the transfer of land and*  
29       *property between the Commonwealth and the*  
30       *ANI/NIRC should be of comparable value.*  
31       *Private donations of land and property*  
32       *should be appropriately recognised.*

33  
34       However, she goes on to say:

35  
36       *Consistent with these principles we have*  
37       *agreed that all the roads currently owned*  
38       *by the Commonwealth, unless they occur on*  
39       *Commonwealth land, will be transferred to*  
40       *become the responsibility of the NIRC.*

41  
42       Needless to say they had been since 1979.

43  
44       Q.    Ms Adams, let's just focus on the Boral contract. So,  
45       this was \$300,000-odd. What's the date of the letter  
46       again?

47       A.    This is 8 June 2016.

1  
2 Q. 2016.  
3 A. Correct.  
4  
5 Q. So this was --  
6 A. This was part of the new council arrangement.  
7  
8 Q. -- an offer of the Commonwealth to provide better  
9 roads funding in August 2016; correct?  
10 A. Sorry?  
11  
12 Q. This is your answer to my question about why you  
13 approved, you voted to approve with the other four  
14 councillors the Boral offer that would cost the council  
15 \$5 million, and you referred to this letter, and I want to  
16 know what's the point you're trying to make?  
17 A. That it wasn't our responsibility to fund for Boral to  
18 do those roads, and I have consistently brought this  
19 point to the Commonwealth since 2016.  
20  
21 Q. If it wasn't the Norfolk Island Regional Council's  
22 responsibility, why did you agree to do it and spend  
23 \$5 million of the council's funds?  
24 A. Right, okay, I see where you're leading.  
25  
26 Q. If it was someone else's responsibility, why did you  
27 do it?  
28 A. Yes, yes. Yes, yes, yes, because it was being dealt  
29 with at another level. Yes, I see what you're saying, yep.  
30 I intended that it'd come back to us. I mean, that's - I  
31 think I said at the time that we met when you were on the  
32 Island before, that the issue of who's responsible for  
33 funding the roads, that it's not council, and the cost of  
34 the biosecurity collectively would have meant that we  
35 wouldn't be having this Public Inquiry, we would be  
36 absolutely solvent.  
37  
38 Q. But, to be fair to the biosecurity issue, it was a  
39 very contentious issue, the importation of the rock. A lot  
40 of people on the Island, a lot of people from this island  
41 took the view, legitimately one might think, that they  
42 didn't want rock being brought onto the Island --  
43 A. Absolutely.  
44  
45 Q. -- that might bring with it pests, insects, someone  
46 mentioned snakes, and people were protesting about that and  
47 laying down in front of bulldozers, I think is one of

1 the --  
2 A. I don't know.  
3  
4 Q. You tell me. But it was a live issue, wasn't it?  
5 A. Absolutely. I'm missing what your - your point.  
6  
7 Q. My point is this: you were under pressure in terms of  
8 the budget by reference to both the airport contract which  
9 was up to \$7 million, and then you had \$5 million by reason  
10 of the proposed road contract. Both of those expenditures  
11 were approved within a few months of each other, they had  
12 the ability to take \$12 million out of the cash balance of  
13 the council, and may I suggest it was those decisions that  
14 led to the advice that you received from Mr Roach in June  
15 that led to your Mayoral Minute and the resolutions the  
16 following day. Do you accept that?  
17 A. No, I'm not entering into that. Because the letter of  
18 - Roads to Recovery was 15 March 2019 in which I alerted  
19 the Commonwealth, yet again, that it's the Commonwealth's  
20 responsibility to fund the roads and it was --  
21  
22 Q. I thought you said it was 2016?  
23 A. No, the Land Transfer Ordinance was passed in 2016.  
24  
25 Q. Correct.  
26 A. We wrote on Roads to Recovery on 15 March 2019 and it  
27 wasn't until 18 March 2020 that we dealt with the roads.  
28  
29 Q. But hadn't you been told previously, if we have that,  
30 that the Roads to Recovery funding would be made available,  
31 that was before the \$5 million roads decision was made in  
32 June?  
33 A. Yes.  
34  
35 Q. Sorry, on 19 --  
36 A. 18 December, we were advised.  
37  
38 Q. 18 December 2018?  
39 A. 18, yes.  
40  
41 Q. And that, from 1 July 19 to 30 June 2024 the Roads to  
42 Recovery program was going to contribute \$331,000?  
43 A. Yeah. Yes. The cost, um --  
44  
45 Q. I just don't understand --  
46 A. The estimates for doing all the roads worked out by  
47 Local Government Engineering Services New South Wales

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

2  
3 Q. Is that why you voted to approve the \$5 million  
4 expenditure?

5 A. Because I was continuing to work with the Commonwealth  
6 on that, on that issue, that it was the Commonwealth's  
7 responsibility to fund the roads.

8  
9 Q. Other than saying that, if it's the Commonwealth's  
10 responsibility, why would you spend any money?

11 A. I understand what you're saying, but I'm sure you can  
12 understand where I'm coming from too?

13  
14 Q. I understand that, I understand that. But if you had  
15 been told that you were getting Roads to Recovery funding  
16 and the Commonwealth was going to be making contributions  
17 in that regard, why then --

18 A. That's a long way from \$19,026,000.

19  
20 Q. So, the \$5 million was acceptable to you, you didn't  
21 try and get a better price out of Boral and try and get  
22 more kilometres?

23 A. I certainly didn't, that's an operational matter. I  
24 know you asked that question of some of the other  
25 councillors, yes.

26  
27 Q. Wouldn't you have been - I mean, this hadn't gone out  
28 to tender. Ordinarily for a project of this size you'd go  
29 to tender, wouldn't you?

30 A. Yeah, Councillor McCoy answered that yesterday as to  
31 the reasoning why under the Local Government Act the power  
32 is there to do what was done, yes.

33  
34 Q. But surely, it would have occurred to you that you  
35 might at least try and get a better deal out of Boral?

36 A. Easy to be wise, 2020, yeah.

37  
38 Q. But do you accept that?

39 A. I've given you my point of view. I don't believe that  
40 we would have ended up paying for it, but regrettably we  
41 have at this point in time and it remains an issue that -  
42 for the Commonwealth to make a decision on as to whether or  
43 not they agree that they, in 2015, agreed that there would  
44 be no financial burden with the transfer of the roads  
45 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  
12 In fact, in respect of the hospital, there are only  
13 two portions that have been converted to guaranteed title  
14 and they need to be registered which will require the  
15 Certificate of Title to be lodged with the registry office  
16 and for the transfers form to be executed and lodged with  
17 this office. In respect of the three other portions, that  
18 will need to be converted to guaranteed title by the  
19 council which requires the statutory periods of -  
20 da-da-da-da-da. Then what has to be done is that the  
21 Minister has to do certain things. It's a mess.

22  
23 The roads cannot be registered on the Norfolk Island  
24 system until the Surveyor General has made a decision as to  
25 whether or not every road on Norfolk Island has to be  
26 surveyed. I mean, come on.

27  
28 Q. Are you saying that that registration issue has  
29 stopped maintenance of those particular portions of the  
30 road?

31 A. No, I'm not saying that at all.

32  
33 Q. Did it have any bearing on the decision?

34 A. I'm just trying to show you --

35  
36 Q. I understand.

37 A. -- that all is not well in the world of land.

38  
39 Q. I accept the point.

40 A. Good.

41  
42 Q. What do you say though to the proposition that came  
43 from Mr Snell this morning, that people on the Island can  
44 get by with the roads the way they are? Do you agree with  
45 that? Do you think it's a priority to fix the roads?

46 A. Look, I'm at the same old school as Lisle, and I came  
47 to live here in 66, I drove on dirt roads and we had chains

1 on our wheels in order to get up through the mud. You  
2 know, a pothole or two. In fact, somebody's --

3

4 Q. That's not --

5 A. -- somebody's planted a banana in a pothole once.

6

7 Q. It's not 1966 now, is it?

8 A. No.

9

10 Q. And the community --

11 A. I know that, yeah.

12

13 Q. Do you think the community is really happy just to --

14 A. Probably not.

15

16 Q. -- leave the roads as they are?

17 A. Not overall, probably not, I don't know, I haven't -  
18 it's not an issue that I canvassed. There are obviously -  
19 from time to time there are letters in the paper from  
20 visitors to the Island complaining about our roads, so I  
21 understand that.

22

23 Q. I'm going to return --

24 A. But we want to deal with them anyway.

25

26 Q. Going back to your strategic plan. Your one, we'll  
27 give you your original one, Ms Adams.

28 A. I wouldn't have minded a nice clean one.

29

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

32

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

34

35 MR BOLSTER: Q. Now, was there a letter that you wanted  
36 to show me in relation to the roads issue that you wish to  
37 put in evidence?

38 A. I don't know whether you want to put it in evidence,  
39 it was just for clarity. There's been much talk about  
40 (indistinct) draft something to help. For clarity, we've  
41 talked much about 20 February. That was the day that the  
42 confidential issue came to council, but in the knowledge  
43 that the community, a wide representation from the  
44 community were very much against the importation of rock,  
45 and in the discussions in confidential we had come to the  
46 understanding that we really had no choice in the matter to  
47 import rock, that it was time to talk to the community and

1 let the community know what was going on. So, what we did  
2 was - and regrettably the minutes from council don't  
3 reflect outwardly. It should have said 20 and 22 February,  
4 because we adjourned the meeting on the 20th and reconvened  
5 a community meeting at Rawson Hall at which Dr White --  
6

7 Q. Explained the situation to you, yes.

8 A. -- explained to the community and then on - yes, that  
9 was Thursday, 21. Then in the weekend, I think it was that  
10 weekend's press, all of the options that were available  
11 were published for the community so that they had a record  
12 to look at and his presentation was put on to NIRC's  
13 website. That was the best that we felt we were able to  
14 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  
23 being made of it. I just wanted to, as we come to the end  
24 of the examination, I wanted to give you the opportunity  
25 to - oh, that's a bit high. We'll turn that down. Turn  
26 that down, please.  
27

28 THE COMMISSIONER: I hope it stays up there.  
29

30 MR BOLSTER: Q. I'm just getting a bit - I don't know  
31 about you Ms Adams - it's just getting a bit stuffy in  
32 here, I thought we might benefit from a bit of fresh air.

33 A. Thank you. Absentee landowners, you wanted to know  
34 about that.  
35

36 Q. We'll come to that in a minute, let's just tender  
37 this. Can I return to your original document.  
38 Commissioner, I tender and this should be part, I believe,  
39 of tender Exhibit 6 as a confidential exhibit. It's  
40 headed, "Attachment 4, airport pavement repair and  
41 reconstruction design and construct D&C project. Request  
42 for urgent ministerial intervention", that should be  
43 Exhibit 6.  
44

45 **#EXHIBIT 6 - (CONFIDENTIAL) DOCUMENT HEADED "ATTACHMENT 4**  
46 **AIRPORT PAVEMENT REPAIR AND RECONSTRUCTION DESIGN AND**  
47 **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

46 Q. No, no, just your thoughts. Is it something that  
47 should be maintained or not?

1 A. No, it's only maintained today in order to allow  
2 recovery that might still be outstanding under the --  
3  
4 Q. Of the old, of the unpaid, okay?  
5 A. Yes, and the Commonwealth under the Norfolk Island  
6 Continuous Laws Amendment 2017 Measures No.2 Ordinance of  
7 2017 --  
8  
9 Q. Got rid of it?  
10 A. -- amends the operation of the Absentee Landowners  
11 Levy Act by ceasing the assessment of the levy after the  
12 assessment date of 15 September 2016 but have retained  
13 amounts for 16 and previous years already assessed would  
14 still have to be recovered.  
15  
16 Q. Okay.  
17 A. Yeah, okay?  
18  
19 Q. Is some sort of fee or charge like it a good idea to  
20 complement the rates issue, the money that's raised from  
21 rates?  
22 A. I don't have a thought about that.  
23  
24 Q. You don't have a view about that?  
25 A. No.  
26  
27 Q. And, we haven't got your view about rates. It's fair  
28 to say that you joined with other members of the council to  
29 oppose any rate increases that were put forward by council  
30 staff other than those that had already been legislated.  
31 Why was that? Why your reluctance, along with the other  
32 members of council, to increase rates in an attempt to  
33 raise some more income for council?  
34 A. I did make enquiries through legal officers offshore,  
35 friends, around the possibility, because there is a view  
36 within the community that it should be GST rather than  
37 rates, and that's not across the board, believe me. You  
38 know, there are businesses here who say "no way".  
39  
40 Q. The community is divided about this.  
41 A. Absolutely, the community is divided around the issues  
42 of rates and GST, and my understanding from the response I  
43 got was - because they're not charged in the Indian Ocean  
44 territories as well - there is a constitutional issue.  
45 That was the response to me, and so, I haven't bothered to  
46 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  
25 The difficulty is, as it's been explained, land to the  
26 Norfolk Islanders is heritage lands and it's an anathema  
27 that they're paying rates, but on the other side of the  
28 coin we have to pay our way. I understand that, I  
29 understand that, and that's a very difficult one for the  
30 council.

31  
32 Q. Well, if you don't increase the rates - just getting  
33 back to my question from earlier on - how can you pay your  
34 way?

35 A. I'm not arguing with you. I'm not arguing with you.  
36 It's, I just understand all sides of the coin and that's my  
37 role, to talk with the broad spectrum of the community and  
38 understand their concerns, and I do.

39  
40 Q. In conclusion, you'd be familiar by now with the  
41 provision in the Local Government Act about sustainably  
42 managing the budget, matching expenditure to revenue?

43 A. Yes.

44  
45 Q. What would you say to the Commissioner about the way  
46 in which council --

47 A. Going forward?

1  
2  
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47

Q. -- tried to do that in the last four years? Was it successful in doing that, sustainably? The word "sustainable".

A. Well, I take you back again to the ANAO report which said we were not set up in a sustainable way, and so, we were behind the 8-ball to begin with. Brand new council, brand new legislation, brand new world here and an unhappy community across the board. I'm not making excuses, I'm stating a fact. I believe that we have done the very best in the circumstances that we have been able to do irrespective of where we might be financially.

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

Q. Just before we finish, was there anything else that you wanted to say relevant to the terms of reference, given that you're the Mayor, that you wanted to tell the Commissioner because I've just about finished by questions?

A. We have an opportunity now as a result of the audits to move forward with facts and recommendations; that will be up to - and I'm hoping that the Minister will see her way clear to continue the Norfolk Island Regional Council, and of course the Public Inquiry will have an impact on whether that is to happen.

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

Q. Anything else?

A. No.

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

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

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

THE WITNESS: Who knows.

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

4  
5 MR SIMONE: No questions.

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

14  
15 THE WITNESS: Thank you.

16  
17 THE COMMISSIONER: On that note, I think we are ending the  
18 day.

19  
20 MR BOLSTER: We're finished for the day.

21  
22 THE COMMISSIONER: And we will reconvene tomorrow morning  
23 at 10am; is that correct?

24  
25 MR BOLSTER: I'll just check the time, Commissioner - 10.  
26 Thank you, Commissioner, and Ms Adams is excused from  
27 further attendance.

28  
29 THE WITNESS: Thank you.

30  
31 MR BOLSTER: Thank you.

32  
33 <THE WITNESS WITHDREW

34  
35 **AT 3.26PM THE PUBLIC INQUIRY WAS ADJOURNED**  
36 **TO FRIDAY, 4 JUNE 2021 AT 10.00AM**  
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|--|---|--|--------------|---|---|--------------|--|---|--------------|---|--------------|---|--------------|--|
| <div>\$</div>  | <div>259:40, 270:7, 270:14, 270:18, 270:23, 271:38, 279:18, 284:32, 285:46, 291:45, 292:23, 293:11, 299:21, 302:24, 303:2, 320:3, 337:3, 338:26, 341:41, 348:8, 348:9</div> <div>1,893,690 [1] - 309:32</div> <div>1.2 [2] - 311:43, 311:46</div> <div>1.8 [3] - 256:32, 308:46, 312:2</div> <div>10 [8] - 270:6, 270:10, 275:45, 279:17, 281:26, 282:37, 315:37, 350:25</div> <div>10% [1] - 290:19</div> <div>10-year [2] - 251:38, 282:14</div> <div>10.00AM [1] - 350:36</div> <div>10.02am [1] - 250:33</div> <div>10.03am [1] - 251:6</div> <div>10.5 [2] - 306:5, 336:18</div> <div>10.9 [1] - 275:31</div> <div>100% [1] - 318:19</div> <div>10am [1] - 350:23</div> <div>110 [1] - 250:14</div> <div>113 [2] - 266:33, 266:36</div> <div>12 [5] - 270:40, 273:25, 303:30, 303:32, 306:19</div> <div>12.20pm [1] - 292:34</div> <div>13th [1] - 298:31</div> <div>14th [1] - 298:32</div> <div>15 [8] - 278:5, 291:43, 291:45, 292:17, 336:33, 341:18, 341:26, 347:12</div> <div>15.3 [1] - 281:46</div> <div>150 [1] - 262:4</div> <div>158 [1] - 334:1</div> <div>16 [1] - 347:13</div> <div>169 [1] - 338:30</div> <div>17 [8] - 269:19, 269:20, 269:24, 279:11, 279:42, 322:8, 326:8, 338:20</div> <div>17th [1] - 325:38</div> <div>18 [10] - 261:36, 271:9, 336:5, 336:39, 338:21, 341:27, 341:36, 341:38, 341:39</div> <div>18/19 [1] - 338:22</div> <div>183 [1] - 346:25</div> | <div>18th [1] - 323:22</div> <div>19 [5] - 262:35, 262:46, 290:34, 341:35, 341:41</div> <div>19/20 [1] - 281:37</div> <div>1966 [1] - 344:7</div> <div>1976 [1] - 346:12</div> <div>1979 [3] - 337:27, 339:23, 339:42</div> <div>1985 [1] - 346:34</div> <div>1993 [1] - 300:24</div> <div>19th [2] - 262:41, 262:43</div> | <div>2</div> | <div>2 [8] - 270:43, 279:15, 279:22, 279:32, 298:25, 312:33, 312:37, 348:8</div> <div>20 [10] - 263:1, 263:41, 271:37, 271:44, 273:40, 330:3, 331:21, 336:17, 344:41, 345:3</div> <div>20/21 [3] - 311:44, 323:28, 324:34</div> <div>2001 [1] - 296:10</div> <div>2008 [2] - 296:40, 296:41</div> <div>2009 [2] - 296:37, 296:38</div> <div>2010 [5] - 259:18, 259:37, 297:8, 297:42, 337:27</div> <div>2011 [1] - 298:25</div> <div>2014/2015 [1] - 254:37</div> <div>2015 [8] - 260:18, 287:27, 298:9, 302:2, 302:19, 303:16, 338:6, 342:43</div> <div>2015/16 [3] - 283:43, 302:31, 309:36</div> <div>2015/2016 [1] - 259:7</div> <div>2016 [30] - 251:21, 251:24, 258:42, 259:40, 283:43, 284:32, 285:46, 293:11, 295:6, 295:26, 299:21, 300:27, 304:29, 304:40, 304:44, 313:34, 314:19, 320:4, 337:32, 337:35, 337:38, 338:18, 338:20, 339:47, 340:2, 340:9, 340:19,</div> | <div>341:22, 341:23, 347:12</div> <div>2016/17 [1] - 309:29</div> <div>2017 [3] - 338:21, 347:6, 347:7</div> <div>2018 [6] - 269:19, 290:38, 328:29, 336:39, 341:38, 342:1</div> <div>2018/19 [3] - 273:21, 275:34, 302:7</div> <div>2019 [18] - 263:1, 263:42, 267:42, 274:40, 277:42, 279:11, 281:35, 290:39, 296:21, 306:13, 310:3, 336:5, 336:24, 336:33, 336:42, 337:3, 341:18, 341:26</div> <div>2020 [12] - 281:2, 282:33, 306:43, 311:21, 317:28, 326:8, 334:40, 335:29, 335:43, 336:42, 341:27, 342:36</div> <div>2021 [2] - 250:33, 350:36</div> <div>2024 [2] - 337:4, 341:41</div> <div>2025 [1] - 318:19</div> <div>20s [1] - 296:25</div> <div>20th [3] - 325:38, 329:46, 345:4</div> <div>21 [3] - 253:4, 312:15, 345:9</div> <div>21/22 [2] - 253:42, 312:3</div> <div>22 [2] - 253:4, 345:3</div> <div>23 [1] - 311:21</div> <div>25 [1] - 297:42</div> <div>26 [1] - 293:24</div> <div>28 [6] - 257:11, 288:15, 304:40, 324:41, 335:3, 337:32</div> <div>2889 [1] - 250:14</div> <div>28th [1] - 304:39</div> | <div>3</div> | <div>3 [12] - 250:33, 265:1, 267:21, 274:24, 274:26, 282:2, 282:4, 310:45, 312:10, 312:19, 346:18, 348:9</div> | <div>3.2 [1] - 297:46</div> <div>3.26PM [1] - 350:35</div> <div>30 [7] - 262:1, 281:35, 282:33, 296:21, 324:46, 337:4, 341:41</div> <div>300,000-odd [1] - 339:45</div> <div>31 [2] - 272:27, 312:15</div> <div>35,000 [3] - 296:5, 296:9, 296:24</div> <div>3:2 [1] - 307:33</div> | <div>4</div> | <div>4 [7] - 250:35, 269:2, 269:8, 273:14, 345:40, 345:45, 350:36</div> <div>4.2 [16] - 264:47, 267:9, 267:14, 267:22, 267:24, 268:3, 268:28, 271:45, 272:36, 304:47, 331:8, 331:10, 331:30, 333:9, 335:23, 335:27</div> <div>40,000 [1] - 296:10</div> <div>400 [1] - 263:17</div> <div>43 [3] - 275:20, 330:23, 332:24</div> <div>45 [1] - 291:40</div> | <div>5</div> | <div>5 [19] - 252:26, 252:31, 253:36, 273:14, 276:45, 278:14, 281:25, 282:8, 336:29, 338:37, 338:44, 340:15, 340:23, 341:9, 341:31, 342:3, 342:20, 344:31, 344:33</div> <div>5.2 [1] - 305:1</div> <div>5.3 [1] - 305:4</div> <div>50 [1] - 262:1</div> | <div>6</div> | <div>6 [7] - 269:1, 273:14, 281:35, 331:37, 345:39, 345:43, 345:45</div> <div>6-12 [1] - 311:29</div> <div>62 [1] - 257:18</div> |
| <div>0</div>   |   |  |              |   |   |              |  |   |              |   |              |   |              |  |
| <div>0.2 [2] - 335:23</div> <div>0.5 [1] - 335:23</div> <div>0006 [1] - 269:35</div> <div>006 [1] - 269:43</div> |   |  |              |   |   |              |  |   |              |   |              |   |              |  |
| <div>1</div>   |   |  |              |   |   |              |  |   |              |   |              |   |              |  |
| <div>1 [23] - 252:18, 258:42,</div>  |   |  |              |   |   |              |  |   |              |   |              |   |              |  |

|  |  |   |  |  |
|--|--|---|--|--|
| <b>638</b> <sup>[1]</sup> - 346:34<br><b>64</b> <sup>[1]</sup> - 257:18<br><b>66</b> <sup>[2]</sup> - 290:34, 343:47   | 336:8<br><b>absent</b> <sup>[1]</sup> - 346:23<br><b>absentee</b> <sup>[6]</sup> - 252:22, 345:33, 346:3, 346:15, 346:20, 346:42<br><b>Absentee</b> <sup>[2]</sup> - 346:12, 347:10<br><b>absolute</b> <sup>[1]</sup> - 307:19<br><b>absolutely</b> <sup>[22]</sup> - 294:28, 295:3, 296:18, 299:16, 305:6, 317:35, 318:5, 318:15, 319:47, 320:33, 325:22, 326:27, 328:4, 328:7, 330:13, 340:36, 340:43, 341:5, 347:41<br><b>absorb</b> <sup>[1]</sup> - 316:47<br><b>accept</b> <sup>[13]</sup> - 256:33, 281:21, 281:27, 281:41, 282:20, 286:35, 307:34, 315:31, 326:35, 336:10, 341:16, 342:38, 343:39<br><b>acceptable</b> <sup>[3]</sup> - 282:12, 327:39, 342:20<br><b>accepted</b> <sup>[4]</sup> - 259:20, 277:11, 335:12, 336:29<br><b>accepting</b> <sup>[4]</sup> - 260:10, 260:35, 286:25, 331:3<br><b>access</b> <sup>[1]</sup> - 334:18<br><b>accessible</b> <sup>[2]</sup> - 274:18, 309:40<br><b>account</b> <sup>[2]</sup> - 258:21, 258:23<br><b>accountability</b> <sup>[1]</sup> - 300:37<br><b>accrue</b> <sup>[2]</sup> - 338:1, 339:25<br><b>accurate</b> <sup>[1]</sup> - 333:6<br><b>achievable</b> <sup>[1]</sup> - 282:9<br><b>achieve</b> <sup>[6]</sup> - 313:45, 313:46, 314:6, 315:35, 318:20, 324:12<br><b>achieved</b> <sup>[4]</sup> - 255:38, 279:18, 279:23, 281:6<br><b>achieving</b> <sup>[1]</sup> - 287:29<br><b>acknowledge</b> <sup>[3]</sup> - 293:5, 293:6, 336:38<br><b>acknowledged</b> <sup>[2]</sup> - 290:4, 300:22 | <b>acknowledgment</b> <sup>[2]</sup> - 293:1, 337:6<br><b>Act</b> <sup>[14]</sup> - 260:2, 275:2, 283:19, 300:24, 300:31, 334:2, 342:31, 346:12, 346:13, 346:20, 346:34, 347:11, 348:41<br><b>acting</b> <sup>[1]</sup> - 290:28<br><b>ACTION</b> <sup>[1]</sup> - 344:33<br><b>action</b> <sup>[4]</sup> - 254:6, 317:15, 324:43, 334:3<br><b>actions</b> <sup>[2]</sup> - 267:5, 301:42<br><b>actual</b> <sup>[7]</sup> - 258:34, 270:33, 281:46, 290:39, 338:20, 338:21, 338:22<br><b>ad</b> <sup>[3]</sup> - 348:7, 348:9, 348:10<br><b>Adams</b> <sup>[18]</sup> - 287:11, 292:16, 292:19, 292:32, 292:45, 292:47, 293:10, 311:22, 312:36, 312:45, 326:31, 327:22, 329:18, 339:44, 344:27, 345:31, 350:7, 350:26<br><b>ADAMS</b> <sup>[1]</sup> - 292:34<br><b>added</b> <sup>[1]</sup> - 254:21<br><b>addition</b> <sup>[3]</sup> - 267:4, 309:37, 338:25<br><b>additional</b> <sup>[2]</sup> - 255:19, 255:28<br><b>address</b> <sup>[2]</sup> - 275:16, 305:22<br><b>addressed</b> <sup>[4]</sup> - 301:19, 301:29, 315:37, 325:41<br><b>addressing</b> <sup>[3]</sup> - 313:14, 323:26, 324:27<br><b>adequate</b> <sup>[2]</sup> - 257:30, 287:26<br><b>adherence</b> <sup>[1]</sup> - 302:24<br><b>ADJOURNED</b> <sup>[1]</sup> - 350:35<br><b>adjourned</b> <sup>[1]</sup> - 345:4<br><b>adjournment</b> <sup>[3]</sup> - 287:11, 292:19, 312:45<br><b>ADJOURNMENT</b> <sup>[2]</sup> - 292:27, 312:39<br><b>adjust</b> <sup>[1]</sup> - 253:3<br><b>adjustment</b> <sup>[2]</sup> - | 265:40, 316:20<br><b>adjustments</b> <sup>[1]</sup> - 252:8<br><b>administered</b> <sup>[2]</sup> - 297:27, 304:9<br><b>Administration</b> <sup>[3]</sup> - 261:19, 305:10, 305:14<br><b>administration</b> <sup>[6]</sup> - 297:12, 303:29, 304:20, 322:22, 324:18, 337:41<br><b>Administration/NIRC</b> <sup>[1]</sup> - 337:36<br><b>Administrator</b> <sup>[1]</sup> - 299:3<br><b>administrator</b> <sup>[1]</sup> - 319:39<br><b>admission</b> <sup>[1]</sup> - 309:1<br><b>admit</b> <sup>[1]</sup> - 281:38<br><b>adopt</b> <sup>[2]</sup> - 252:5, 324:45<br><b>adopted</b> <sup>[3]</sup> - 254:30, 254:44, 288:46<br><b>advance</b> <sup>[2]</sup> - 308:17, 317:44<br><b>advancements</b> <sup>[1]</sup> - 318:32<br><b>advancing</b> <sup>[1]</sup> - 282:10<br><b>advice</b> <sup>[12]</sup> - 281:21, 282:17, 282:32, 285:12, 285:21, 320:15, 333:29, 333:42, 336:8, 336:9, 336:38, 341:14<br><b>advised</b> <sup>[4]</sup> - 297:25, 299:33, 332:22, 341:36<br><b>advising</b> <sup>[1]</sup> - 309:24<br><b>advisors</b> <sup>[1]</sup> - 287:12<br><b>advisory</b> <sup>[1]</sup> - 283:43<br><b>advocate</b> <sup>[3]</sup> - 258:5, 307:31, 308:1<br><b>affairs</b> <sup>[1]</sup> - 291:5<br><b>affect</b> <sup>[1]</sup> - 297:39<br><b>affected</b> <sup>[5]</sup> - 262:9, 265:41, 289:5, 308:12, 310:23<br><b>afford</b> <sup>[3]</sup> - 258:21, 261:18, 284:12<br><b>afforded</b> <sup>[2]</sup> - 285:15, 328:39<br><b>afternoon</b> <sup>[1]</sup> - 291:32<br><b>age</b> <sup>[1]</sup> - 296:42<br><b>ageing</b> <sup>[1]</sup> - 308:36<br><b>agenda</b> <sup>[5]</sup> - 313:22, 313:23, 313:24, 329:47, 335:32 | <b>aggregate</b> <sup>[5]</sup> - 270:19, 270:24, 270:44, 332:39, 333:4<br><b>aggregating</b> <sup>[1]</sup> - 346:25<br><b>agitate</b> <sup>[1]</sup> - 307:16<br><b>ago</b> <sup>[3]</sup> - 262:1, 262:4<br><b>agree</b> <sup>[20]</sup> - 253:44, 256:43, 258:1, 260:14, 280:43, 281:22, 284:31, 284:41, 285:42, 290:17, 290:19, 298:39, 308:23, 312:24, 314:16, 317:10, 320:26, 340:22, 342:43, 343:44<br><b>agreed</b> <sup>[8]</sup> - 259:30, 268:14, 290:19, 314:18, 322:28, 339:37, 342:43, 349:15<br><b>agreement</b> <sup>[14]</sup> - 277:7, 277:10, 298:19, 310:3, 310:4, 310:11, 310:17, 310:19, 310:22, 310:27, 310:36, 310:46, 311:45, 314:4<br><b>agreements</b> <sup>[2]</sup> - 298:16, 312:21<br><b>agricultural</b> <sup>[1]</sup> - 266:29<br><b>ahead</b> <sup>[1]</sup> - 334:35<br><b>aim</b> <sup>[1]</sup> - 253:42<br><b>air</b> <sup>[3]</sup> - 261:31, 289:34, 345:32<br><b>Air</b> <sup>[2]</sup> - 296:4, 297:1<br><b>aircraft</b> <sup>[4]</sup> - 263:15, 263:36, 264:16, 296:6<br><b>aircrafts</b> <sup>[1]</sup> - 263:18<br><b>airline</b> <sup>[3]</sup> - 263:27, 297:2, 297:4<br><b>airlines</b> <sup>[1]</sup> - 263:25<br><b>Airport</b> <sup>[3]</sup> - 272:43, 273:2, 273:12<br><b>airport</b> <sup>[64]</sup> - 252:37, 253:44, 254:1, 254:4, 254:7, 254:8, 254:12, 254:14, 262:15, 262:36, 263:2, 263:5, 263:14, 263:16, 263:22, 263:33, 263:38, 264:8, 264:14, 267:32, |
| <b>7</b>   |  |   |  |  |
| <b>7</b> <sup>[8]</sup> - 295:14, 301:47, 331:37, 331:47, 335:22, 336:22, 336:23, 341:9<br><b>737</b> <sup>[2]</sup> - 263:17, 263:18  |  |   |  |  |
| <b>8</b>   |  |   |  |  |
| <b>8</b> <sup>[13]</sup> - 275:39, 275:42, 275:46, 276:44, 278:19, 281:26, 295:14, 301:11, 310:5, 311:24, 312:23, 337:38, 339:47<br><b>8-ball</b> <sup>[1]</sup> - 349:7<br><b>800s</b> <sup>[1]</sup> - 263:18<br><b>84</b> <sup>[1]</sup> - 301:45   |  |   |  |  |
| <b>9</b>   |  |   |  |  |
| <b>9</b> <sup>[2]</sup> - 318:43, 336:25<br><b>9.37</b> <sup>[1]</sup> - 281:5   |  |   |  |  |
| <b>A</b>   |  |   |  |  |
| <b>a..</b> <sup>[1]</sup> - 349:18<br><b>A320</b> <sup>[1]</sup> - 263:18<br><b>abhorrent</b> <sup>[1]</sup> - 298:20<br><b>abide</b> <sup>[1]</sup> - 256:5<br><b>ability</b> <sup>[7]</sup> - 252:11, 260:27, 265:42, 284:20, 288:46, 298:12, 341:12<br><b>able</b> <sup>[29]</sup> - 257:19, 257:20, 258:20, 261:9, 273:31, 274:10, 276:35, 289:23, 289:25, 289:34, 291:30, 298:13, 299:3, 303:38, 305:31, 309:5, 309:13, 310:20, 314:6, 315:19, 315:28, 315:30, 315:34, 320:35, 324:43, 343:3, 345:13, 346:7, 349:11<br><b>absence</b> <sup>[2]</sup> - 273:4, |  |   |  |  |

|  |  |  |  |  |
|--|--|--|--|--|
| 267:47, 268:15,<br>268:19, 270:34,<br>273:5, 273:7, 274:5,<br>275:19, 275:30,<br>276:2, 276:19,<br>276:25, 276:26,<br>276:44, 278:47,<br>287:31, 288:17,<br>295:22, 295:25,<br>295:31, 300:41,<br>300:43, 302:36,<br>304:4, 306:3,<br>309:39, 315:22,<br>315:23, 315:25,<br>325:32, 325:45,<br>326:36, 326:41,<br>326:43, 328:26,<br>330:18, 330:30,<br>330:45, 334:28,<br>341:8, 345:16,<br>345:17, 345:40<br><b>AIRPORT</b> [1] - 345:46<br><b>alarming</b> [1] - 253:2<br><b>alerted</b> [2] - 333:45,<br>341:18<br><b>aligns</b> [1] - 321:9<br><b>Alistair</b> [2] - 267:13,<br>278:38<br><b>alive</b> [1] - 346:14<br><b>alleviate</b> [2] - 311:47,<br>312:6<br><b>allocated</b> [2] - 312:2,<br>338:26<br><b>allocation</b> [2] -<br>301:41, 337:2<br><b>allocations</b> [1] -<br>338:17<br><b>allow</b> [6] - 290:21,<br>292:17, 292:19,<br>324:46, 325:4, 347:1<br><b>allowance</b> [1] - 338:25<br><b>allowed</b> [10] - 256:13,<br>287:39, 287:40,<br>298:45, 298:46,<br>300:35, 310:18,<br>329:9, 329:10,<br>329:42<br><b>almost</b> [3] - 267:42,<br>287:9, 336:6<br><b>alternative</b> [2] -<br>253:32, 271:10<br><b>amazing</b> [2] - 272:12,<br>272:14<br><b>amend</b> [1] - 320:26<br><b>Amendment</b> [2] -<br>298:7, 347:6<br><b>amends</b> [1] - 347:10<br><b>amount</b> [13] - 265:43,<br>268:14, 271:45,<br>274:16, 275:14,<br>279:46, 279:47,<br>319:21, 332:20,<br>332:23, 333:7,<br>333:12, 348:2<br><b>amounts</b> [2] - 290:47,<br>347:13<br><b>analysis</b> [3] - 282:22,<br>301:14, 312:14<br><b>ANAO</b> [6] - 285:18,<br>302:5, 316:3,<br>321:24, 321:25,<br>349:5<br><b>anathema</b> [1] - 348:26<br><b>ancillary</b> [1] - 270:30<br><b>AND</b> [2] - 345:46<br><b>ANI/NIRC</b> [1] - 339:30<br><b>annoying</b> [1] - 281:1<br><b>annual</b> [3] - 275:17,<br>275:21, 290:26<br><b>annualised</b> [1] -<br>319:23<br><b>annum</b> [2] - 279:16,<br>279:23<br><b>Anson</b> [4] - 280:12,<br>280:18, 280:26,<br>280:42<br><b>answer</b> [13] - 283:40,<br>288:20, 296:22,<br>314:9, 317:3, 317:8,<br>318:9, 319:35,<br>319:37, 323:45,<br>331:2, 331:7, 340:12<br><b>answered</b> [2] - 320:8,<br>342:30<br><b>answering</b> [1] -<br>329:32<br><b>anticipated</b> [1] - 273:2<br><b>anyway</b> [4] - 278:12,<br>289:9, 312:6, 344:24<br><b>apologies</b> [1] - 271:35<br><b>apology</b> [1] - 314:22<br><b>apparent</b> [1] - 271:42<br><b>applaud</b> [1] - 324:16<br><b>application</b> [1] -<br>300:23<br><b>applied</b> [2] - 275:3,<br>299:14<br><b>Applied</b> [1] - 300:27<br><b>applies</b> [1] - 287:16<br><b>apply</b> [3] - 288:31,<br>290:7, 337:15<br><b>appointed</b> [2] -<br>274:46, 283:45<br><b>appointee</b> [1] - 303:23<br><b>appointees</b> [1] -<br>303:18<br><b>appointment</b> [1] -<br>303:33<br><b>appreciate</b> [5] - 252:4,<br>282:32, 289:32,<br>291:32, 292:16<br><b>appreciated</b> [5] -<br>252:29, 271:31,<br>304:33, 333:1, 336:6<br><b>appreciation</b> [3] -<br>259:41, 315:33,<br>337:19<br><b>appreciative</b> [1] -<br>306:17<br><b>approach</b> [12] -<br>252:45, 254:44,<br>258:41, 281:31,<br>286:35, 287:5,<br>303:4, 303:5, 303:6,<br>305:18, 314:45,<br>325:15<br><b>approached</b> [1] -<br>305:40<br><b>approaching</b> [1] -<br>305:22<br><b>appropriate</b> [2] -<br>299:31, 302:22<br><b>appropriately</b> [1] -<br>339:32<br><b>approval</b> [2] - 334:14,<br>334:15<br><b>approvals</b> [1] - 334:1<br><b>approve</b> [5] - 268:18,<br>278:14, 278:18,<br>340:13, 342:3<br><b>approved</b> [4] - 272:26,<br>340:13, 341:11,<br>346:33<br><b>April</b> [3] - 277:29,<br>277:30, 277:32<br><b>area</b> [2] - 285:16,<br>328:9<br><b>areas</b> [17] - 259:23,<br>266:23, 273:3,<br>275:16, 280:37,<br>284:23, 284:24,<br>285:19, 285:32,<br>285:35, 286:11,<br>287:41, 288:33,<br>289:30, 290:25,<br>290:30, 291:4<br><b>arguing</b> [2] - 348:35<br><b>arm</b> [4] - 316:46,<br>320:24, 325:41<br><b>arrange</b> [1] - 259:29<br><b>arrangement</b> [2] -<br>252:20, 340:6<br><b>arrangements</b> [7] -<br>260:18, 265:38,<br>273:6, 298:17,<br>339:21, 348:19<br><b>arrival</b> [1] - 273:5<br><b>arrived</b> [3] - 314:21,<br>325:40, 349:14<br><b>articles</b> [1] - 299:10<br><b>articulated</b> [1] - 274:8<br><b>ascertain</b> [2] - 267:29,<br>279:42<br><b>aside</b> [2] - 263:37,<br>285:4<br><b>aspect</b> [1] - 329:38<br><b>aspects</b> [1] - 308:9<br><b>asphalt</b> [2] - 278:2,<br>281:6<br><b>aspirations</b> [1] - 301:1<br><b>Assemblies</b> [2] -<br>293:19, 293:20<br><b>Assembly</b> [10] -<br>254:30, 255:22,<br>259:5, 274:15,<br>285:24, 287:34,<br>293:26, 298:31,<br>298:32, 313:13<br><b>assertion</b> [1] - 335:7<br><b>assess</b> [1] - 281:39<br><b>assessed</b> [1] - 347:13<br><b>assessment</b> [5] -<br>309:9, 332:9, 334:5,<br>347:11, 347:12<br><b>assessments</b> [1] -<br>334:1<br><b>asset</b> [25] - 251:41,<br>252:11, 252:32,<br>252:39, 253:10,<br>254:11, 254:26,<br>284:15, 284:17,<br>286:8, 286:22,<br>287:3, 287:5,<br>287:23, 297:32,<br>297:33, 319:14,<br>320:18, 337:30,<br>338:2, 339:3, 339:7,<br>339:19, 339:27<br><b>assets</b> [18] - 251:42,<br>252:27, 258:26,<br>260:6, 278:26,<br>286:9, 286:14,<br>287:17, 287:24,<br>304:22, 304:28,<br>308:36, 317:1,<br>319:22, 319:33,<br>320:5, 320:12,<br>320:13<br><b>assist</b> [7] - 255:29,<br>255:43, 264:13,<br>284:3, 285:23,<br>291:4, 311:27<br><b>assistance</b> [14] -<br>275:13, 284:2,<br>297:46, 308:45,<br>309:5, 309:14,<br>309:31, 310:1,<br>310:8, 311:36,<br>312:9, 314:4, 334:9,<br>338:13<br><b>Assistant</b> [2] - 311:15,<br>332:21<br><b>assisted</b> [2] - 315:10,<br>327:9<br><b>Assisting</b> [1] - 250:25<br><b>associated</b> [1] - 310:2<br><b>association</b> [1] -<br>348:19<br><b>Association</b> [4] -<br>299:8, 348:6,<br>348:16, 348:18<br><b>assume</b> [1] - 330:16<br><b>assumes</b> [1] - 252:12<br><b>assuming</b> [1] - 280:34<br><b>assumption</b> [4] -<br>263:25, 281:37,<br>281:41, 281:42<br><b>assumptions</b> [1] -<br>252:15<br><b>assurances</b> [1] -<br>278:31<br><b>assured</b> [1] - 274:32<br><b>AT</b> [2] - 350:35,<br>350:36<br><b>attached</b> [1] - 338:3<br><b>Attachment</b> [1] -<br>345:40<br><b>ATTACHMENT</b> [1] -<br>345:45<br><b>attempt</b> [1] - 347:32<br><b>attend</b> [2] - 292:4,<br>320:36<br><b>attendance</b> [1] -<br>350:27<br><b>attended</b> [3] - 263:38,<br>313:12, 348:12<br><b>attending</b> [1] - 320:18<br><b>attention</b> [3] - 329:37,<br>338:46, 350:11<br><b>attributes</b> [1] - 300:39<br><b>audit</b> [13] - 285:38,<br>285:40, 300:37,<br>301:7, 301:14,<br>301:18, 302:3,<br>302:31, 323:16,<br>323:42, 324:4,<br>324:13<br><b>audit's</b> [1] - 301:45<br><b>audits</b> [8] - 311:28,<br>311:41, 321:39,<br>321:45, 321:46,<br>322:6, 323:35,<br>349:24<br><b>August</b> [2] - 340:9,<br>342:1<br><b>austerity</b> [1] - 325:1<br><b>Australia</b> [8] - 259:25,<br>259:30, 261:11,<br>269:37, 276:33,<br>276:34, 299:34, |  |  |  |  |
|--|--|--|--|--|



|   |   |  |   |  |
|---|---|--|---|--|
| 309:33<br><b>Australian</b> [6] -<br>297:43, 298:33,<br>302:3, 311:3, 334:2,<br>336:40<br><b>authority</b> [2] - 259:24,<br>303:41<br><b>available</b> [19] - 253:9,<br>253:43, 262:32,<br>266:6, 273:7,<br>273:20, 274:10,<br>278:20, 279:20,<br>279:28, 284:31,<br>284:36, 332:22,<br>332:24, 332:25,<br>338:10, 338:28,<br>341:30, 345:10<br><b>avenue</b> [2] - 266:6,<br>290:9<br><b>avert</b> [2] - 290:2,<br>290:15<br><b>avoid</b> [2] - 289:8,<br>311:33<br><b>awarded</b> [1] - 309:35<br><b>aware</b> [13] - 254:40,<br>255:46, 263:37,<br>265:46, 267:22,<br>274:43, 301:6,<br>310:28, 311:43,<br>317:15, 319:23,<br>321:42 | <b>barrel</b> [1] - 345:14<br><b>base</b> [4] - 252:8,<br>252:44, 278:20,<br>284:17<br><b>based</b> [2] - 288:27,<br>295:7<br><b>basic</b> [3] - 253:7,<br>257:40, 262:2<br><b>basis</b> [15] - 257:17,<br>265:17, 272:26,<br>282:37, 286:43,<br>286:44, 286:45,<br>299:36, 299:42,<br>313:40, 319:23,<br>334:8, 335:12,<br>336:17<br><b>batteries</b> [4] - 316:8,<br>316:10, 316:11<br><b>Bay</b> [4] - 280:12,<br>280:18, 280:26,<br>280:42<br><b>bear</b> [2] - 264:32,<br>315:22<br><b>bearing</b> [5] - 295:31,<br>297:26, 297:47,<br>318:44, 343:33<br><b>beat</b> [1] - 283:10<br><b>became</b> [7] - 277:12,<br>281:1, 291:2,<br>293:24, 309:19,<br>309:22, 331:18<br><b>become</b> [4] - 281:40,<br>289:20, 300:31,<br>339:40<br><b>becoming</b> [1] - 339:22<br><b>beefed</b> [1] - 287:25<br><b>began</b> [1] - 337:9<br><b>begin</b> [2] - 322:19,<br>349:7<br><b>beginning</b> [2] -<br>291:17, 336:46<br><b>begs</b> [1] - 331:15<br><b>behalf</b> [2] - 287:7,<br>348:4<br><b>behind</b> [4] - 299:39,<br>308:4, 319:40, 349:7<br><b>below</b> [1] - 274:23<br><b>benefit</b> [3] - 280:16,<br>297:44, 345:32<br><b>benefits</b> [2] - 289:3,<br>289:5<br><b>best</b> [12] - 262:40,<br>291:4, 302:28,<br>313:3, 313:32,<br>313:45, 313:46,<br>325:5, 331:20,<br>331:26, 345:13,<br>349:10<br><b>better</b> [7] - 289:23,<br>296:3, 321:19, | 340:8, 342:21,<br>342:35, 349:33<br><b>between</b> [7] - 285:45,<br>301:33, 303:43,<br>307:4, 338:25,<br>339:4, 339:29<br><b>Beverley</b> [1] - 338:6<br><b>beyond</b> [3] - 265:37,<br>278:41, 291:10<br><b>Bible</b> [1] - 313:24<br><b>big</b> [1] - 259:10<br><b>Biggs</b> [1] - 298:38<br><b>Bill</b> [1] - 298:7<br><b>bins</b> [2] - 300:3, 300:5<br><b>biosecurity</b> [16] -<br>264:47, 267:3,<br>267:6, 267:30,<br>268:4, 268:20,<br>271:45, 272:36,<br>272:37, 329:38,<br>330:9, 331:11,<br>331:23, 335:27,<br>340:34, 340:38<br><b>bit</b> [8] - 253:18,<br>261:22, 273:22,<br>291:44, 345:25,<br>345:30, 345:31,<br>345:32<br><b>black</b> [2] - 255:34,<br>268:27<br><b>blame</b> [1] - 320:20<br><b>blank</b> [1] - 270:14<br><b>blocked</b> [2] - 259:36,<br>291:10<br><b>blood</b> [1] - 260:21<br><b>blue</b> [1] - 279:28<br><b>Board</b> [1] - 250:13<br><b>board</b> [4] - 282:18,<br>328:11, 347:37,<br>349:9<br><b>Bobcat</b> [1] - 278:44<br><b>body</b> [4] - 259:47,<br>285:14, 299:7,<br>315:18<br><b>Bolster</b> [1] - 250:27<br><b>bolster</b> [10] - 251:1,<br>258:45, 267:11,<br>270:45, 288:30,<br>289:38, 292:29,<br>312:37, 312:41,<br>329:13<br><b>BOLSTER</b> [28] -<br>251:3, 251:8,<br>251:13, 264:37,<br>264:41, 271:37,<br>287:9, 287:16,<br>287:43, 291:37,<br>291:47, 292:6,<br>292:31, 292:36,<br>292:40, 312:28, | 312:33, 312:43,<br>327:45, 329:16,<br>329:37, 344:35,<br>345:30, 349:39,<br>350:2, 350:20,<br>350:25, 350:31<br><b>bond</b> [2] - 276:19<br><b>books</b> [2] - 323:17,<br>328:16<br><b>boom</b> [5] - 296:46,<br>343:6<br><b>Boral</b> [31] - 266:45,<br>267:22, 267:28,<br>268:12, 268:19,<br>268:21, 269:5,<br>270:3, 277:8,<br>277:42, 278:40,<br>279:47, 328:34,<br>330:16, 331:3,<br>331:42, 331:45,<br>332:37, 333:3,<br>333:5, 333:19,<br>334:23, 335:35,<br>338:37, 339:44,<br>340:14, 340:17,<br>342:21, 342:35<br><b>Boral's</b> [5] - 270:33,<br>271:6, 279:45,<br>330:9, 336:24<br><b>bothered</b> [1] - 347:45<br><b>bottom</b> [2] - 296:46,<br>301:11<br><b>bound</b> [1] - 302:46<br><b>box</b> [1] - 294:22<br><b>bracket</b> [1] - 296:42<br><b>brand</b> [4] - 314:21,<br>349:7, 349:8<br><b>breach</b> [1] - 299:34<br><b>break</b> [7] - 252:30,<br>263:33, 291:40,<br>291:43, 291:45,<br>292:15, 312:29<br><b>break-even</b> [1] -<br>252:30<br><b>break-up</b> [1] - 263:33<br><b>bridging</b> [3] - 311:16,<br>311:24, 312:24<br><b>brief</b> [2] - 266:44,<br>303:13<br><b>briefing</b> [3] - 264:28,<br>279:10, 331:40<br><b>briefings</b> [1] - 291:38<br><b>briefly</b> [1] - 268:31<br><b>bring</b> [9] - 256:12,<br>300:45, 306:28,<br>308:3, 315:19,<br>323:34, 334:39,<br>337:24, 340:45<br><b>bringing</b> [3] - 314:31,<br>320:25, 329:39 | <b>Brisbane</b> [1] - 328:16<br><b>broad</b> [5] - 260:15,<br>295:7, 322:20,<br>348:37<br><b>broad-ranging</b> [1] -<br>322:20<br><b>broader</b> [1] - 288:24<br><b>broadly</b> [1] - 251:34<br><b>broke</b> [1] - 284:8<br><b>brought</b> [11] - 303:1,<br>309:43, 311:47,<br>312:3, 312:6, 315:9,<br>317:23, 328:15,<br>338:46, 340:18,<br>340:42<br><b>budget</b> [37] - 252:30,<br>254:5, 254:21,<br>254:36, 255:17,<br>255:36, 255:42,<br>256:13, 256:26,<br>257:23, 260:14,<br>273:21, 275:28,<br>275:34, 275:37,<br>276:41, 278:27,<br>281:37, 281:45,<br>283:31, 304:45,<br>305:6, 305:7,<br>305:17, 305:22,<br>305:24, 305:29,<br>305:31, 306:29,<br>308:30, 313:2,<br>314:11, 326:17,<br>338:17, 341:8,<br>348:42<br><b>budgetary</b> [1] - 254:44<br><b>budgeted</b> [4] - 304:47,<br>338:20, 338:21,<br>338:22<br><b>budgeting</b> [2] -<br>252:45, 300:37<br><b>budgets</b> [4] - 259:5,<br>259:12, 259:13,<br>282:29<br><b>buffer</b> [3] - 273:30,<br>274:10<br><b>Buffett</b> [3] - 283:17,<br>307:46, 308:20<br><b>Buffett's</b> [1] - 263:24<br><b>build</b> [3] - 299:47,<br>300:32, 319:9<br><b>building</b> [1] - 298:44<br><b>built</b> [1] - 273:34<br><b>bulk</b> [1] - 332:39<br><b>bulldozers</b> [1] -<br>340:47<br><b>Bundaberg</b> [1] -<br>288:32<br><b>burden</b> [2] - 276:25,<br>342:44<br><b>burn</b> [1] - 316:13 |
| <b>B</b>  |   |  |   |  |
| <b>babes</b> [1] - 314:22<br><b>back-to-front</b> [1] -<br>297:30<br><b>background</b> [2] -<br>334:47, 337:21<br><b>backup</b> [2] - 316:7,<br>316:11<br><b>backwards</b> [1] -<br>284:22<br><b>bad</b> [1] - 295:46<br><b>balance</b> [10] - 256:22,<br>257:22, 257:23,<br>258:17, 258:20,<br>275:34, 281:45,<br>305:29, 305:31,<br>341:12<br><b>balancing</b> [3] -<br>305:24, 306:29,<br>313:2<br><b>banana</b> [1] - 344:5<br><b>bank</b> [7] - 274:17,<br>274:31, 275:45,<br>275:46, 280:28,<br>281:27, 283:1<br><b>barge</b> [1] - 294:25  |   |  |   |  |

|  |  |  |   |   |
|--|--|--|---|---|
| <p><b>burning</b> [2] - 316:12, 316:35</p> <p><b>Burnt</b> [2] - 256:39, 294:23</p> <p><b>business</b> [14] - 253:20, 254:14, 254:32, 254:39, 254:45, 256:20, 266:18, 274:18, 288:19, 302:32, 309:45, 316:46, 324:45, 346:38</p> <p><b>Business</b> [2] - 254:28, 272:43</p> <p><b>businesses</b> [2] - 288:18, 347:38</p> <p><b>butterfly</b> [1] - 289:13</p> <p><b>BY</b> [1] - 251:8</p>   | <p>262:37, 273:14, 273:15, 273:20, 273:21, 273:30, 274:10, 274:17, 274:29, 277:33, 278:20, 278:26, 281:45, 282:33, 283:1, 284:7, 311:5, 311:26, 333:27, 336:18, 336:30, 341:12</p> <p><b>cash-strapped</b> [1] - 284:7</p> <p><b>cashflow</b> [6] - 281:35, 281:36, 281:37, 282:5, 284:8, 312:14</p> <p><b>casualties</b> [1] - 261:18</p> <p><b>catastrophic</b> [1] - 252:47</p> <p><b>categorised</b> [1] - 319:42</p> <p><b>ceasing</b> [1] - 347:11</p> <p><b>cents</b> [2] - 257:18</p> <p><b>certain</b> [1] - 343:21</p> <p><b>certainly</b> [24] - 254:21, 254:29, 255:16, 257:7, 257:36, 258:8, 259:14, 260:8, 260:19, 260:30, 261:5, 280:22, 280:41, 284:6, 287:28, 300:4, 303:25, 321:43, 322:27, 331:7, 336:27, 336:45, 342:23</p> <p><b>Certificate</b> [1] - 343:15</p> <p><b>certification</b> [1] - 263:30</p> <p><b>cetera</b> [13] - 263:19, 263:20, 275:3, 281:5, 285:33, 296:46, 319:44, 320:18, 334:10, 348:16, 348:17</p> <p><b>chains</b> [1] - 343:47</p> <p><b>Chair</b> [2] - 285:37, 285:39</p> <p><b>chaired</b> [1] - 308:15</p> <p><b>challenge</b> [4] - 268:26, 315:30, 315:32, 337:23</p> <p><b>challenges</b> [3] - 301:20, 323:27, 324:33</p> <p><b>chance</b> [1] - 319:19</p> <p><b>change</b> [5] - 266:2, 289:11, 299:4, 299:5, 331:14</p> <p><b>changed</b> [7] - 265:41,</p> | <p>265:43, 266:5, 273:22, 300:41, 331:17, 333:20</p> <p><b>changes</b> [4] - 281:8, 285:40, 287:22, 298:20</p> <p><b>changing</b> [1] - 281:4</p> <p><b>charge</b> [2] - 288:17, 347:19</p> <p><b>charged</b> [1] - 347:43</p> <p><b>charges</b> [15] - 254:13, 255:19, 255:28, 255:46, 256:2, 256:7, 256:16, 257:12, 257:38, 260:28, 273:6, 288:6, 288:12, 288:37, 288:38</p> <p><b>charging</b> [2] - 316:23, 316:26</p> <p><b>Charter</b> [1] - 299:35</p> <p><b>cheaper</b> [1] - 259:8</p> <p><b>check</b> [1] - 350:25</p> <p><b>Chief</b> [4] - 274:15, 282:26, 288:46, 297:23</p> <p><b>child</b> [1] - 262:3</p> <p><b>children</b> [2] - 284:36, 295:4</p> <p><b>choice</b> [2] - 289:29, 344:46</p> <p><b>chose</b> [1] - 308:23</p> <p><b>Christmas</b> [1] - 309:37</p> <p><b>circumstances</b> [6] - 257:12, 258:38, 276:26, 289:1, 297:1, 349:11</p> <p><b>Civica</b> [4] - 321:19, 321:23, 321:25, 328:10</p> <p><b>clarified</b> [1] - 312:20</p> <p><b>clarify</b> [2] - 266:2, 327:20</p> <p><b>clarity</b> [2] - 344:39, 344:40</p> <p><b>classify</b> [1] - 289:12</p> <p><b>clause</b> [1] - 346:18</p> <p><b>clean</b> [1] - 344:28</p> <p><b>clear</b> [6] - 271:6, 325:45, 334:14, 335:47, 336:45, 349:27</p> <p><b>clearly</b> [2] - 302:19, 302:33</p> <p><b>clerk</b> [2] - 293:21, 298:18</p> <p><b>Clerk</b> [1] - 293:23</p> <p><b>cleverly</b> [1] - 278:9</p> <p><b>cliff</b> [1] - 304:14</p> <p><b>climate</b> [1] - 305:26</p> | <p><b>close</b> [3] - 261:44, 266:15, 266:18</p> <p><b>closely</b> [1] - 311:37</p> <p><b>coin</b> [2] - 348:28, 348:36</p> <p><b>collaborate/ cooperate</b> [1] - 313:41</p> <p><b>collaboration</b> [3] - 313:11, 313:20, 315:14</p> <p><b>collaborative</b> [4] - 301:32, 323:18, 325:15, 325:19</p> <p><b>colleagues</b> [2] - 315:14, 315:29</p> <p><b>collectively</b> [2] - 315:17, 340:34</p> <p><b>Colleen</b> [1] - 289:12</p> <p><b>comfortable</b> [1] - 307:22</p> <p><b>coming</b> [7] - 252:23, 277:26, 290:16, 295:45, 304:37, 319:36, 342:12</p> <p><b>commenced</b> [1] - 338:18</p> <p><b>commencement</b> [1] - 277:13</p> <p><b>commendable</b> [2] - 287:30, 287:32</p> <p><b>comment</b> [2] - 256:3, 288:41</p> <p><b>comments</b> [3] - 253:18, 274:35, 289:15</p> <p><b>commission</b> [1] - 309:34</p> <p><b>Commission</b> [4] - 254:35, 307:32, 308:2, 308:47</p> <p><b>commissioned</b> [1] - 255:43</p> <p><b>Commissioner</b> [34] - 250:20, 251:3, 251:10, 258:45, 264:32, 271:25, 279:9, 287:9, 287:44, 288:1, 288:30, 288:45, 289:32, 289:41, 290:34, 291:28, 291:39, 291:47, 292:11, 292:31, 293:8, 301:6, 312:28, 312:34, 312:43, 315:29, 327:9, 345:38, 348:45, 349:23, 349:40, 349:42,</p> | <p>350:25, 350:26</p> <p><b>COMMISSIONER</b> [25] - 251:1, 264:35, 264:39, 271:33, 287:14, 287:46, 288:3, 291:34, 291:43, 292:2, 292:9, 292:22, 292:29, 312:36, 312:41, 327:20, 327:43, 329:13, 329:18, 329:35, 345:28, 349:45, 350:7, 350:17, 350:22</p> <p><b>commitment</b> [3] - 275:7, 276:44, 277:42</p> <p><b>committed</b> [2] - 277:39, 281:26</p> <p><b>committee</b> [2] - 285:38, 285:40</p> <p><b>Committee</b> [1] - 298:41</p> <p><b>commonplace</b> [1] - 285:17</p> <p><b>Commonwealth</b> [88] - 252:31, 253:37, 254:1, 259:7, 259:9, 259:19, 259:28, 259:32, 264:24, 267:30, 267:31, 267:33, 267:46, 275:32, 278:8, 283:45, 286:21, 290:20, 295:27, 295:32, 297:41, 298:6, 298:11, 298:15, 299:8, 300:28, 301:25, 301:33, 303:15, 303:18, 303:20, 303:23, 303:39, 303:40, 303:41, 303:42, 303:43, 304:3, 304:10, 304:12, 304:14, 304:16, 304:29, 305:12, 305:45, 306:2, 309:7, 309:28, 310:2, 310:4, 310:20, 310:36, 310:38, 310:39, 311:25, 313:10, 313:26, 313:30, 313:43, 313:44, 314:10, 314:12, 314:24, 314:33, 321:40, 321:45, 321:47,</p> |
| <b>C</b>   |  |  |   |   |
| <p><b>calculations</b> [1] - 309:37</p> <p><b>camp</b> [3] - 306:47, 307:2</p> <p><b>cannot</b> [5] - 256:19, 258:21, 302:42, 319:21, 343:23</p> <p><b>canvassed</b> [1] - 344:18</p> <p><b>capability</b> [1] - 318:31</p> <p><b>capable</b> [1] - 275:8</p> <p><b>capacity</b> [3] - 301:28, 304:31, 324:47</p> <p><b>capital</b> [11] - 252:26, 252:32, 253:37, 253:40, 275:11, 298:41, 298:42, 302:34, 319:17, 338:27, 338:30</p> <p><b>Carolyn</b> [1] - 250:20</p> <p><b>cars</b> [2] - 296:15, 296:17</p> <p><b>carving</b> [1] - 253:47</p> <p><b>CASA</b> [2] - 263:32, 345:14</p> <p><b>CASA's</b> [1] - 263:30</p> <p><b>Cascade</b> [3] - 272:3, 304:14, 319:6</p> <p><b>case</b> [9] - 263:27, 271:13, 272:5, 294:46, 299:15, 308:40, 330:17, 336:10</p> <p><b>cash</b> [33] - 253:1, 253:4, 253:9, 253:11, 253:25, 253:28, 253:41, 262:28, 262:32,</p> |  |  |   |   |

|   |   |  |  |  |
|---|---|--|--|--|
| 330:22, 330:35,<br>332:22, 337:30,<br>337:33, 338:13,<br>338:41, 339:4,<br>339:29, 339:38,<br>339:39, 340:8,<br>340:19, 341:19,<br>342:5, 342:16,<br>342:42, 343:4,<br>343:10, 347:5,<br>349:15<br><b>Commonwealth's</b> [6]<br>- 289:33, 303:39,<br>337:44, 341:19,<br>342:6, 342:9<br><b>communicate</b> [2] -<br>288:33, 313:9<br><b>communications</b> [1] -<br>320:42<br><b>communities</b> [1] -<br>289:39<br><b>community</b> [65] -<br>254:36, 256:6,<br>256:14, 256:15,<br>256:47, 257:4,<br>257:24, 257:25,<br>257:26, 257:35,<br>257:42, 257:45,<br>258:1, 260:19,<br>260:28, 260:34,<br>261:11, 264:11,<br>280:24, 280:38,<br>284:28, 288:27,<br>288:31, 288:46,<br>288:47, 289:6,<br>289:8, 289:35,<br>291:6, 301:39,<br>306:44, 307:14,<br>307:27, 310:28,<br>312:26, 314:15,<br>314:16, 314:24,<br>314:31, 314:32,<br>314:44, 316:42,<br>324:38, 334:32,<br>336:1, 337:28,<br>344:10, 344:13,<br>344:43, 344:44,<br>344:47, 345:1,<br>345:5, 345:8,<br>345:11, 347:36,<br>347:40, 347:41,<br>348:4, 348:5,<br>348:12, 348:37,<br>349:9<br><b>community's</b> [1] -<br>260:27<br><b>Companies</b> [1] -<br>346:34<br><b>company</b> [4] - 346:22,<br>346:30, 346:33 | <b>comparable</b> [1] -<br>339:30<br><b>compared</b> [2] -<br>281:45, 285:47<br><b>comparison</b> [2] -<br>257:38, 285:45<br><b>competition</b> [2] -<br>261:35, 294:3<br><b>complaining</b> [1] -<br>344:20<br><b>complement</b> [1] -<br>347:20<br><b>complete</b> [1] - 330:20<br><b>completed</b> [2] -<br>274:46, 319:14<br><b>compliance</b> [1] -<br>301:36<br><b>compliances</b> [1] -<br>301:21<br><b>compounded</b> [1] -<br>331:11<br><b>compromised</b> [1] -<br>302:23<br><b>concern</b> [7] - 253:13,<br>265:47, 266:4,<br>280:41, 283:8,<br>290:29, 305:5<br><b>concerned</b> [10] -<br>252:3, 253:29,<br>257:30, 258:44,<br>263:33, 274:23,<br>274:29, 307:39,<br>319:37, 325:42<br><b>concerning</b> [1] -<br>307:26<br><b>concerns</b> [4] - 289:34,<br>290:12, 301:1,<br>348:38<br><b>conclusion</b> [2] -<br>278:38, 348:40<br><b>conditions</b> [3] -<br>257:32, 332:25,<br>337:15<br><b>conducive</b> [1] - 316:2<br><b>conduct</b> [1] - 334:4<br><b>confidence</b> [1] -<br>320:35<br><b>CONFIDENTIAL</b> [1] -<br>345:45<br><b>confidential</b> [12] -<br>265:36, 271:21,<br>279:5, 279:13,<br>291:38, 325:28,<br>326:13, 329:47,<br>333:44, 344:42,<br>344:45, 345:39<br><b>confirm</b> [1] - 330:26<br><b>conforming</b> [1] -<br>269:5<br><b>confronted</b> [1] - | 285:14<br><b>congratulate</b> [1] -<br>275:27<br><b>connected</b> [2] -<br>256:15, 260:32<br><b>connection</b> [1] - 295:2<br><b>connections</b> [1] -<br>300:47<br><b>connectivity</b> [1] -<br>318:32<br><b>conscious</b> [1] -<br>278:36<br><b>consequence</b> [2] -<br>258:47, 323:19<br><b>consequences</b> [1] -<br>260:23<br><b>consequent</b> [1] -<br>256:20<br><b>consequently</b> [1] -<br>301:30<br><b>consider</b> [8] - 257:33,<br>258:46, 282:32,<br>306:2, 320:26,<br>323:16, 328:38,<br>350:12<br><b>considerably</b> [2] -<br>309:6, 310:9<br><b>consideration</b> [5] -<br>255:17, 256:9,<br>260:27, 284:20,<br>302:45<br><b>considered</b> [1] -<br>336:24<br><b>considering</b> [3] -<br>288:6, 288:37, 298:2<br><b>consisted</b> [1] - 273:3<br><b>consistent</b> [2] -<br>339:20, 339:36<br><b>consistently</b> [2] -<br>338:45, 340:18<br><b>constant</b> [1] - 308:34<br><b>constituents</b> [2] -<br>256:6, 257:37<br><b>constitutional</b> [2] -<br>299:34, 347:44<br><b>construct</b> [2] - 330:31,<br>345:41<br><b>CONSTRUCT</b> [1] -<br>345:47<br><b>consult</b> [1] - 280:24<br><b>consultation</b> [8] -<br>256:19, 257:11,<br>257:13, 257:15,<br>257:24, 264:10,<br>288:14, 321:38<br><b>consulted</b> [1] - 256:46<br><b>consults</b> [1] - 280:38<br><b>Consumer</b> [3] -<br>261:15, 261:25<br><b>consumption</b> [1] - | 295:8<br><b>contacting</b> [1] -<br>267:23<br><b>contentious</b> [2] -<br>298:17, 340:39<br><b>context</b> [1] - 253:18<br><b>continue</b> [10] - 257:39,<br>263:35, 301:21,<br>307:16, 311:25,<br>311:32, 311:37,<br>324:44, 324:47,<br>349:27<br><b>continued</b> [3] -<br>310:26, 315:39,<br>330:13<br><b>continues</b> [2] -<br>259:38, 302:28<br><b>continuing</b> [2] -<br>335:30, 342:5<br><b>Continuous</b> [1] -<br>347:6<br><b>contract</b> [19] - 262:14,<br>262:15, 263:2,<br>272:18, 273:34,<br>275:38, 277:4,<br>277:6, 277:18,<br>297:1, 325:33,<br>325:45, 326:4,<br>326:36, 330:18,<br>331:4, 339:44,<br>341:8, 341:10<br><b>contractor</b> [1] -<br>288:23<br><b>contractor-type</b> [1] -<br>288:23<br><b>contractors</b> [1] -<br>278:45<br><b>contracts</b> [4] - 262:25,<br>265:14, 265:17,<br>266:45<br><b>contractual</b> [3] -<br>265:38, 268:14,<br>271:46<br><b>contrary</b> [1] - 285:11<br><b>contribute</b> [4] -<br>260:36, 289:23,<br>289:25, 341:42<br><b>contributed</b> [2] -<br>316:23, 326:37<br><b>contributes</b> [2] -<br>330:26, 330:35<br><b>contributing</b> [3] -<br>255:23, 325:36,<br>326:9<br><b>contribution</b> [3] -<br>292:10, 312:46,<br>335:21<br><b>contributions</b> [3] -<br>276:20, 278:43,<br>342:16 | <b>control</b> [1] - 294:28<br><b>controlled</b> [1] - 263:37<br><b>convenient</b> [1] -<br>287:12<br><b>conversation</b> [1] -<br>324:20<br><b>conversations</b> [3] -<br>308:19, 316:6,<br>323:19<br><b>converted</b> [2] -<br>343:13, 343:18<br><b>conveyed</b> [1] - 257:23<br><b>cooperation</b> [2] -<br>313:11, 313:20<br><b>copy</b> [9] - 264:27,<br>275:22, 322:2,<br>331:39, 334:11,<br>338:3, 338:35,<br>344:30, 345:22<br><b>core</b> [2] - 252:36,<br>288:19<br><b>corners</b> [1] - 274:7<br><b>cornflakes</b> [1] -<br>294:22<br><b>corporate</b> [1] - 328:9<br><b>correct</b> [37] - 251:22,<br>253:29, 256:18,<br>256:41, 261:47,<br>263:24, 272:36,<br>273:45, 276:21,<br>278:36, 286:5,<br>294:5, 294:8,<br>294:11, 294:14,<br>295:28, 295:43,<br>295:47, 297:34,<br>297:39, 297:40,<br>305:2, 310:5,<br>310:40, 317:29,<br>319:11, 328:1,<br>328:31, 330:4,<br>332:45, 334:20,<br>334:25, 335:5,<br>340:3, 340:9,<br>341:25, 350:23<br><b>corrected</b> [1] - 275:21<br><b>cost</b> [42] - 253:32,<br>254:4, 255:23,<br>261:16, 261:30,<br>264:14, 264:47,<br>267:34, 268:6,<br>268:20, 268:28,<br>271:45, 272:35,<br>272:38, 273:34,<br>273:36, 273:41,<br>275:37, 276:21,<br>276:26, 290:41,<br>310:37, 316:12,<br>316:34, 316:38,<br>316:39, 319:32,<br>326:16, 329:38, |
|---|---|--|--|--|

|  |   |   |   |  |
|--|---|---|---|--|
| <p>330:8, 331:6, 333:6,<br/>333:10, 333:36,<br/>335:17, 336:5,<br/>336:6, 340:14,<br/>340:33, 341:43,<br/>349:16</p> <p><b>costed</b> [4] - 252:5,<br/>252:7, 252:38,<br/>252:44</p> <p><b>costing</b> [2] - 336:22,<br/>336:29</p> <p><b>costly</b> [1] - 255:41</p> <p><b>costs</b> [17] - 255:14,<br/>255:29, 255:39,<br/>255:40, 260:35,<br/>261:40, 264:8,<br/>267:3, 272:38,<br/>302:39, 311:39,<br/>320:5, 327:24,<br/>327:25, 330:18,<br/>331:23, 332:19</p> <p><b>COUNCIL</b> [1] - 250:6</p> <p><b>council</b> [177] - 251:24,<br/>251:33, 251:37,<br/>251:42, 252:9,<br/>252:12, 252:29,<br/>253:1, 253:7,<br/>253:12, 253:33,<br/>254:41, 255:19,<br/>256:11, 256:14,<br/>256:29, 258:25,<br/>258:42, 258:44,<br/>258:47, 261:22,<br/>262:9, 262:24,<br/>267:10, 267:13,<br/>268:22, 268:27,<br/>271:44, 272:23,<br/>272:44, 273:18,<br/>273:35, 273:44,<br/>275:7, 276:10,<br/>276:21, 276:33,<br/>280:21, 280:40,<br/>281:18, 281:21,<br/>283:20, 283:37,<br/>283:38, 283:44,<br/>284:11, 284:17,<br/>284:27, 285:13,<br/>285:22, 285:23,<br/>285:28, 285:42,<br/>287:6, 287:17,<br/>288:11, 288:40,<br/>289:16, 289:28,<br/>289:46, 290:3,<br/>290:4, 290:15,<br/>291:1, 291:18,<br/>291:26, 295:26,<br/>296:4, 299:22,<br/>299:29, 299:43,<br/>300:12, 300:19,<br/>300:22, 304:18,</p> | <p>304:22, 304:23,<br/>304:29, 304:41,<br/>304:46, 305:6,<br/>305:22, 305:47,<br/>308:43, 308:44,<br/>309:24, 309:27,<br/>310:18, 310:23,<br/>310:33, 310:38,<br/>313:5, 313:25,<br/>314:6, 314:22,<br/>314:29, 315:20,<br/>316:14, 316:21,<br/>316:47, 317:1,<br/>317:16, 317:46,<br/>319:33, 319:39,<br/>320:12, 320:13,<br/>320:19, 320:25,<br/>320:41, 320:47,<br/>321:37, 321:46,<br/>322:16, 322:26,<br/>323:12, 323:26,<br/>323:34, 324:26,<br/>324:38, 324:42,<br/>324:43, 324:46,<br/>325:2, 325:3,<br/>325:21, 328:12,<br/>328:38, 328:39,<br/>329:47, 330:18,<br/>330:19, 330:26,<br/>330:29, 330:35,<br/>331:4, 331:6,<br/>331:22, 332:23,<br/>332:29, 333:28,<br/>333:29, 333:31,<br/>335:28, 335:30,<br/>335:32, 335:46,<br/>336:17, 336:22,<br/>336:24, 336:37,<br/>337:1, 337:8,<br/>338:11, 338:17,<br/>339:13, 340:6,<br/>340:14, 340:33,<br/>341:13, 343:19,<br/>344:42, 345:2,<br/>347:28, 347:29,<br/>347:32, 347:33,<br/>348:1, 348:3,<br/>348:13, 348:14,<br/>348:15, 348:20,<br/>348:30, 348:46,<br/>349:7</p> <p><b>Council</b> [26] - 251:21,<br/>260:7, 267:1, 268:6,<br/>268:16, 268:47,<br/>272:39, 273:8,<br/>274:45, 275:1,<br/>278:10, 278:35,<br/>283:47, 290:35,<br/>300:30, 301:3,<br/>309:38, 333:47,<br/>336:34, 336:41,</p> | <p>337:24, 338:2,<br/>339:26, 348:4,<br/>348:14, 349:27</p> <p><b>COUNCIL'S</b> [1] -<br/>344:33</p> <p><b>council's</b> [10] -<br/>256:32, 272:43,<br/>275:38, 278:26,<br/>287:23, 308:9,<br/>313:10, 314:42,<br/>335:21, 340:23</p> <p><b>Council's</b> [1] - 340:21</p> <p><b>Councillor</b> [28] -<br/>260:34, 263:34,<br/>266:14, 273:33,<br/>274:14, 278:3,<br/>283:17, 283:18,<br/>287:11, 288:32,<br/>290:22, 293:27,<br/>298:27, 307:45,<br/>307:46, 307:47,<br/>308:19, 308:23,<br/>329:11, 329:40,<br/>331:16, 331:27,<br/>334:29, 335:33,<br/>342:30</p> <p><b>councillor</b> [3] -<br/>289:20, 308:16,<br/>308:22</p> <p><b>councillors</b> [27] -<br/>254:43, 257:10,<br/>258:17, 260:26,<br/>263:14, 265:5,<br/>265:14, 265:31,<br/>265:45, 267:16,<br/>279:11, 279:38,<br/>281:40, 284:13,<br/>285:24, 287:37,<br/>289:40, 306:44,<br/>307:34, 315:15,<br/>317:37, 318:1,<br/>321:44, 323:16,<br/>340:14, 342:25</p> <p><b>councillors'</b> [1] -<br/>331:14</p> <p><b>Counsel</b> [1] - 250:25</p> <p><b>count</b> [1] - 283:9</p> <p><b>counterbalance</b> [1] -<br/>259:31</p> <p><b>counterproductive</b> [1]<br/>- 256:22</p> <p><b>couple</b> [2] - 288:3,<br/>306:11</p> <p><b>course</b> [16] - 258:3,<br/>261:14, 263:38,<br/>266:7, 276:22,<br/>280:13, 291:31,<br/>315:4, 315:38,<br/>321:47, 322:3,<br/>323:40, 324:20,</p> | <p>327:45, 334:13,<br/>349:28</p> <p><b>cover</b> [7] - 255:29,<br/>273:9, 273:31,<br/>274:10, 274:11,<br/>333:10</p> <p><b>covered</b> [1] - 259:11</p> <p><b>covering</b> [2] - 269:29,<br/>291:6</p> <p><b>COVID</b> [9] - 273:4,<br/>277:25, 296:20,<br/>321:4, 321:30,<br/>321:32, 321:35,<br/>325:9, 349:14</p> <p><b>COVID-19</b> [3] -<br/>311:39, 323:31,<br/>324:37</p> <p><b>CPI</b> [2] - 261:14,<br/>261:19</p> <p><b>crafted</b> [1] - 330:24</p> <p><b>crane</b> [1] - 287:36</p> <p><b>cranes</b> [2] - 287:35,<br/>287:36</p> <p><b>Crean</b> [3] - 297:24,<br/>297:25, 298:25</p> <p><b>created</b> [1] - 284:43</p> <p><b>criteria</b> [1] - 332:8</p> <p><b>critical</b> [4] - 252:27,<br/>253:8, 258:26, 271:5</p> <p><b>criticising</b> [1] - 335:46</p> <p><b>cross</b> [2] - 264:19,<br/>269:30</p> <p><b>cross-purposes</b> [2] -<br/>264:19, 269:30</p> <p><b>Crown</b> [1] - 297:38</p> <p><b>crushed</b> [3] - 270:19,<br/>270:24, 270:44</p> <p><b>crystal</b> [1] - 271:6</p> <p><b>Cth</b> [1] - 337:35</p> <p><b>cultural</b> [1] - 292:47</p> <p><b>culture</b> [1] - 260:24</p> <p><b>culverts</b> [1] - 338:30</p> <p><b>curly</b> [1] - 313:9</p> <p><b>current</b> [2] - 285:37,<br/>309:31</p> <p><b>custodians</b> [1] - 293:7</p> <p><b>cut</b> [2] - 267:42, 274:7</p> | <p><b>dated</b> [1] - 269:19</p> <p><b>day-to-day</b> [1] - 276:9</p> <p><b>days</b> [11] - 254:29,<br/>254:41, 255:21,<br/>280:31, 287:30,<br/>287:33, 288:15,<br/>291:1, 310:44,<br/>324:41, 346:25</p> <p><b>deadline</b> [1] - 302:24</p> <p><b>deal</b> [8] - 281:18,<br/>285:13, 294:2,<br/>315:17, 319:5,<br/>331:1, 342:35,<br/>344:24</p> <p><b>dealing</b> [1] - 320:25</p> <p><b>dealt</b> [5] - 253:44,<br/>284:27, 287:4,<br/>340:28, 341:27</p> <p><b>death</b> [1] - 278:46</p> <p><b>debate</b> [4] - 280:46,<br/>283:27, 285:6, 319:3</p> <p><b>December</b> [12] -<br/>251:24, 269:20,<br/>304:43, 304:44,<br/>311:5, 311:9,<br/>311:11, 314:19,<br/>336:37, 336:39,<br/>341:36, 341:38</p> <p><b>decided</b> [9] - 254:8,<br/>264:9, 272:7, 272:9,<br/>272:10, 272:11,<br/>286:21, 289:10,<br/>321:44</p> <p><b>decision</b> [15] - 255:33,<br/>262:35, 267:41,<br/>274:30, 297:12,<br/>297:22, 308:22,<br/>313:37, 316:43,<br/>323:18, 333:28,<br/>341:31, 342:42,<br/>343:24, 343:33</p> <p><b>decisions</b> [18] -<br/>260:11, 262:9,<br/>262:18, 262:25,<br/>262:29, 291:13,<br/>305:17, 313:34,<br/>323:29, 324:35,<br/>325:8, 325:24,<br/>325:32, 326:11,<br/>326:23, 327:10,<br/>341:13</p> <p><b>decisive</b> [1] - 324:43</p> <p><b>decline</b> [1] - 280:27</p> <p><b>decreasing</b> [1] -<br/>296:28</p> <p><b>dedication</b> [1] - 275:6</p> <p><b>deeply</b> [1] - 252:3</p> <p><b>defence</b> [2] - 265:12,<br/>318:31</p> <p><b>deficiencies</b> [1] -</p> |
|--|---|---|---|--|

|  |  |   |   |  |
|--|--|---|---|--|
| <p>320:47</p> <p><b>deficiency</b> [3] - 299:17, 299:44, 320:17</p> <p><b>deficient</b> [1] - 286:10</p> <p><b>deficit</b> [7] - 256:26, 300:26, 304:47, 305:7, 317:5, 317:7, 317:10</p> <p><b>defined</b> [1] - 300:36</p> <p><b>definitely</b> [12] - 261:28, 266:11, 267:38, 268:9, 268:42, 268:45, 270:27, 284:34, 286:30, 287:1, 289:18</p> <p><b>defy</b> [1] - 298:2</p> <p><b>degree</b> [4] - 254:24, 257:3, 289:30, 308:41</p> <p><b>delegate</b> [5] - 303:39, 303:40, 337:45, 338:47</p> <p><b>deliberations</b> [4] - 255:44, 258:42, 308:9, 308:12</p> <p><b>deliver</b> [5] - 285:1, 301:34, 310:38, 315:30, 324:44</p> <p><b>delivering</b> [1] - 339:8</p> <p><b>delivery</b> [17] - 301:42, 302:23, 310:2, 310:4, 310:10, 310:17, 310:19, 310:22, 310:27, 310:36, 310:45, 311:27, 311:34, 311:44, 312:21, 314:4, 327:31</p> <p><b>Democracy</b> [1] - 289:41</p> <p><b>democracy</b> [3] - 299:11, 299:45, 307:35</p> <p><b>democratic</b> [6] - 256:5, 258:3, 289:27, 289:28, 299:17, 300:25</p> <p><b>demonstrate</b> [2] - 302:33, 338:16</p> <p><b>DENNIS</b> [1] - 251:6</p> <p><b>Dennis</b> [1] - 251:18</p> <p><b>department</b> [4] - 299:4, 302:20, 312:13, 321:39</p> <p><b>departure</b> [1] - 278:27</p> <p><b>dependent</b> [3] - 261:10, 296:33, 298:14</p> | <p><b>depleting</b> [3] - 253:2, 253:25, 278:26</p> <p><b>depot</b> [1] - 287:36</p> <p><b>depreciation</b> [4] - 252:23, 254:4, 286:8, 319:17</p> <p><b>describe</b> [1] - 284:16</p> <p><b>describes</b> [1] - 323:38</p> <p><b>deserves</b> [1] - 349:33</p> <p><b>design</b> [2] - 330:31, 345:41</p> <p><b>DESIGN</b> [1] - 345:46</p> <p><b>designed</b> [4] - 258:47, 289:17, 289:47, 316:12</p> <p><b>desk</b> [3] - 329:33, 331:14, 331:21</p> <p><b>despite</b> [4] - 276:13, 299:6, 299:44, 299:45</p> <p><b>detail</b> [1] - 337:14</p> <p><b>detailed</b> [3] - 267:5, 301:18, 350:8</p> <p><b>detailing</b> [1] - 267:14</p> <p><b>details</b> [5] - 251:28, 255:14, 255:15, 271:10, 271:11</p> <p><b>determination</b> [1] - 299:38</p> <p><b>determine</b> [2] - 277:23, 314:32</p> <p><b>determined</b> [2] - 277:10, 300:33</p> <p><b>detrimental</b> [2] - 284:44, 288:19</p> <p><b>develop</b> [1] - 280:15</p> <p><b>developed</b> [2] - 266:13, 301:32</p> <p><b>developing</b> [2] - 323:27, 324:33</p> <p><b>Development</b> [1] - 332:21</p> <p><b>development</b> [2] - 334:10, 339:3</p> <p><b>develops</b> [1] - 318:38</p> <p><b>devil's</b> [1] - 258:5</p> <p><b>diesel</b> [5] - 316:12, 316:13, 316:17, 316:35, 316:39</p> <p><b>difference</b> [1] - 281:30</p> <p><b>different</b> [6] - 264:20, 269:23, 276:34, 277:37, 288:33, 349:17</p> <p><b>difficult</b> [8] - 261:3, 276:30, 281:39, 285:14, 291:3, 326:35, 328:3, 348:29</p> <p><b>difficulties</b> [14] -</p> | <p>260:10, 264:13, 280:17, 280:18, 284:7, 287:28, 287:29, 290:46, 297:26, 316:4, 321:30, 321:37, 322:38, 323:4</p> <p><b>difficulty</b> [5] - 259:6, 289:7, 308:31, 326:8, 348:25</p> <p><b>digress</b> [1] - 336:31</p> <p><b>diligence</b> [1] - 288:7</p> <p><b>dip</b> [1] - 280:26</p> <p><b>DIRD</b> [1] - 337:41</p> <p><b>dire</b> [4] - 260:23, 277:14, 311:5, 325:37</p> <p><b>direct</b> [1] - 295:12</p> <p><b>direction</b> [1] - 271:26</p> <p><b>director</b> [1] - 337:39</p> <p><b>dirt</b> [1] - 343:47</p> <p><b>disabilities</b> [1] - 309:39</p> <p><b>disadvantage</b> [2] - 337:47, 339:25</p> <p><b>disagree</b> [3] - 297:19, 297:22, 320:26</p> <p><b>disappeared</b> [1] - 294:10</p> <p><b>disappointed</b> [2] - 290:27, 290:28</p> <p><b>disaster</b> [1] - 280:33</p> <p><b>disastrous</b> [1] - 266:25</p> <p><b>disconnect</b> [1] - 299:45</p> <p><b>discounting</b> [1] - 275:29</p> <p><b>discuss</b> [5] - 251:25, 287:38, 325:28, 329:10</p> <p><b>discussed</b> [12] - 254:6, 262:41, 263:43, 264:6, 298:45, 313:4, 318:28, 319:4, 322:13, 322:14, 325:18, 335:34</p> <p><b>discussing</b> [5] - 267:23, 304:44, 312:46, 315:43, 329:41</p> <p><b>discussion</b> [23] - 252:22, 264:47, 266:10, 266:13, 272:22, 272:42, 272:47, 279:12, 279:36, 280:9, 280:13, 280:15, 281:10, 291:39,</p> | <p>318:39, 321:3, 321:4, 322:18, 322:19, 322:46, 330:39, 330:44, 333:45</p> <p><b>discussions</b> [4] - 259:19, 321:42, 324:2, 344:45</p> <p><b>disease</b> [1] - 266:22</p> <p><b>disease-free</b> [1] - 266:22</p> <p><b>diseases</b> [1] - 266:29</p> <p><b>dispensation</b> [1] - 263:35</p> <p><b>displayed</b> [3] - 268:35, 279:5, 334:41</p> <p><b>disruption</b> [1] - 311:34</p> <p><b>disruptions</b> [1] - 264:15</p> <p><b>dissolve</b> [1] - 259:21</p> <p><b>distracting</b> [1] - 300:4</p> <p><b>distracts</b> [1] - 300:3</p> <p><b>disturbance</b> [1] - 265:39</p> <p><b>divert</b> [1] - 317:1</p> <p><b>divided</b> [6] - 306:44, 307:4, 307:21, 347:40, 347:41</p> <p><b>divine</b> [1] - 299:37</p> <p><b>Division</b> [1] - 269:36</p> <p><b>division</b> [3] - 307:25, 307:26, 337:40</p> <p><b>DOCUMENT</b> [1] - 345:45</p> <p><b>document</b> [21] - 269:9, 269:16, 269:31, 270:26, 271:43, 273:23, 279:4, 282:21, 314:39, 314:41, 314:42, 317:44, 321:12, 331:31, 331:40, 332:14, 332:33, 333:26, 335:9, 345:22, 345:37</p> <p><b>documentation</b> [5] - 271:46, 274:33, 330:23, 331:20, 331:29</p> <p><b>documents</b> [15] - 251:11, 265:44, 268:30, 268:39, 268:46, 270:31, 270:35, 270:46, 270:47, 272:1, 272:2, 273:22, 329:20, 329:25</p> <p><b>dollar</b> [3] - 270:14,</p> | <p>310:37, 331:7</p> <p><b>dollars</b> [2] - 282:41, 284:3</p> <p><b>donations</b> [1] - 339:31</p> <p><b>done</b> [15] - 252:5, 260:17, 263:22, 265:32, 275:6, 284:19, 290:23, 297:23, 303:3, 305:29, 309:9, 342:32, 343:20, 349:10</p> <p><b>dot</b> [5] - 320:39, 320:44, 321:15, 335:22, 349:32</p> <p><b>doubled</b> [1] - 310:5</p> <p><b>doubt</b> [4] - 254:38, 285:10, 287:28, 289:35</p> <p><b>Douglas</b> [3] - 280:10, 280:19, 280:42</p> <p><b>down</b> [23] - 252:23, 257:21, 269:1, 269:35, 270:6, 270:8, 270:18, 270:40, 271:9, 271:37, 294:47, 301:11, 310:21, 314:15, 316:37, 320:19, 333:35, 334:31, 335:40, 340:47, 345:25, 345:26</p> <p><b>downfall</b> [1] - 284:3</p> <p><b>Dr</b> [6] - 313:21, 313:29, 331:12, 333:42, 333:43, 345:5</p> <p><b>draft</b> [5] - 273:23, 275:21, 317:22, 318:44, 344:40</p> <p><b>dragged</b> [1] - 300:3</p> <p><b>dramatically</b> [1] - 284:38</p> <p><b>drastically</b> [1] - 277:37</p> <p><b>drawing</b> [1] - 350:11</p> <p><b>drawn</b> [1] - 329:37</p> <p><b>drift</b> [1] - 291:22</p> <p><b>drilling</b> [1] - 334:23</p> <p><b>drive</b> [3] - 256:39, 257:27, 257:37</p> <p><b>Drive</b> [3] - 280:10, 280:19, 280:42</p> <p><b>driving</b> [2] - 257:39, 296:17</p> <p><b>dropped</b> [2] - 274:23, 296:47</p> <p><b>drove</b> [1] - 343:47</p> <p><b>due</b> [8] - 263:38,</p> |
|--|--|---|---|--|

|  |   |  |   |   |
|--|---|--|---|---|
| 272:19, 279:18,<br>284:19, 288:7,<br>322:2, 334:13,<br>338:27<br><b>dummy</b> [3] - 316:35,<br>316:38<br><b>during</b> [6] - 285:12,<br>302:18, 324:47,<br>346:25, 346:32,<br>346:36   | 255:33, 255:37,<br>255:41, 255:42,<br>255:44, 256:7,<br>256:12, 256:24,<br>256:47, 257:18,<br>257:26, 257:38,<br>259:14, 276:17,<br>288:37, 309:40,<br>316:16, 316:18,<br>316:45, 317:4<br><b>element</b> [1] - 295:42<br><b>elsewhere</b> [3] -<br>288:30, 289:4,<br>296:33<br><b>emerged</b> [2] - 324:2,<br>330:37<br><b>emerging</b> [1] - 321:37<br><b>emphasis</b> [1] - 257:30<br><b>employed</b> [2] -<br>317:25, 317:28<br><b>employees</b> [2] -<br>302:39, 311:25<br><b>encouraged</b> [1] -<br>255:22<br><b>end</b> [10] - 281:35,<br>282:33, 299:6,<br>302:28, 308:20,<br>310:3, 323:13,<br>325:42, 333:2,<br>345:23<br><b>endeavoured</b> [2] -<br>298:46, 313:27<br><b>ended</b> [3] - 271:45,<br>309:46, 342:40<br><b>endemic</b> [1] - 319:9<br><b>ending</b> [1] - 350:17<br><b>energy</b> [1] - 316:6<br><b>engaged</b> [4] - 298:40,<br>309:7, 331:13,<br>346:37<br><b>engaging</b> [1] - 327:46<br><b>Engineering</b> [1] -<br>341:47<br><b>enhancement</b> [1] -<br>284:15<br><b>enjoyed</b> [1] - 289:3<br><b>enquiries</b> [2] - 343:1,<br>347:34<br><b>ensure</b> [2] - 301:35,<br>324:43<br><b>entered</b> [2] - 265:39,<br>284:10<br><b>entering</b> [1] - 341:17<br><b>enterprise</b> [1] - 273:5<br><b>Enterprise</b> [3] -<br>254:29, 272:43,<br>273:3<br><b>enterprises</b> [3] -<br>254:14, 254:32,<br>254:39 | <b>entirely</b> [1] - 297:39<br><b>Environment</b> [2] -<br>333:47, 334:3<br><b>environmental</b> [5] -<br>301:21, 301:37,<br>318:32, 334:4,<br>334:15<br><b>equal</b> [2] - 259:26,<br>273:31<br><b>equally</b> [2] - 295:31,<br>316:3<br><b>equals</b> [1] - 342:1<br><b>equip</b> [1] - 312:15<br><b>equipment</b> [3] -<br>278:39, 279:19,<br>338:29<br><b>equivalent</b> [1] -<br>279:22<br><b>errors</b> [1] - 275:19<br><b>escapes</b> [1] - 285:38<br><b>especially</b> [1] - 289:7<br><b>essentially</b> [1] -<br>253:11<br><b>establish</b> [5] - 261:19,<br>284:9, 285:28,<br>313:1, 319:4<br><b>established</b> [3] -<br>257:27, 259:18,<br>301:36<br><b>establishment</b> [5] -<br>258:46, 259:6,<br>289:16, 301:17,<br>306:7<br><b>estimate</b> [1] - 319:21<br><b>estimated</b> [3] - 284:1,<br>333:6, 335:17<br><b>estimates</b> [1] - 341:46<br><b>et</b> [13] - 263:19,<br>263:20, 275:3,<br>281:5, 285:33,<br>296:46, 319:44,<br>320:18, 334:10,<br>348:16, 348:17<br><b>evaluation</b> [2] -<br>264:27, 332:8<br><b>event</b> [2] - 253:43,<br>334:35<br><b>eventually</b> [4] -<br>298:40, 306:11,<br>310:20, 310:32<br><b>evidence</b> [19] -<br>256:40, 278:25,<br>279:2, 288:6, 293:1,<br>301:5, 301:9, 302:5,<br>302:13, 303:6,<br>312:19, 322:9,<br>327:23, 328:37,<br>335:26, 344:37,<br>344:38, 350:8,<br>350:13 | <b>exact</b> [1] - 251:28<br><b>exactly</b> [4] - 285:2,<br>286:45, 305:15,<br>305:38<br><b>EXAMINATION</b> [2] -<br>251:8, 292:36<br><b>examination</b> [1] -<br>345:24<br><b>example</b> [9] - 256:24,<br>257:2, 274:40,<br>276:33, 280:33,<br>287:30, 288:16,<br>290:33, 296:33<br><b>examples</b> [1] - 278:32<br><b>exceed</b> [1] - 275:39<br><b>excellent</b> [2] - 277:46,<br>350:9<br><b>except</b> [2] - 262:2,<br>334:29<br><b>exceptions</b> [1] -<br>281:20<br><b>excess</b> [1] - 316:13<br><b>exchange</b> [1] - 297:45<br><b>excluded</b> [2] - 260:33,<br>266:6<br><b>excuse</b> [4] - 251:10,<br>264:6, 267:11,<br>332:12<br><b>excused</b> [2] - 292:6,<br>350:26<br><b>excuses</b> [1] - 349:9<br><b>execute</b> [1] - 275:9<br><b>executed</b> [1] - 343:16<br><b>executive</b> [1] - 337:39<br><b>Executive</b> [1] - 289:40<br><b>exempt</b> [3] - 333:47,<br>334:3, 346:22<br><b>exemptions</b> [1] -<br>263:35<br><b>exercise</b> [1] - 316:39<br><b>exhaust</b> [1] - 253:11<br><b>exhausted</b> [1] - 253:5<br><b>exhibit</b> [2] - 279:5,<br>345:39<br><b>Exhibit</b> [3] - 344:31,<br>345:39, 345:43<br><b>EXHIBIT</b> [2] - 344:33,<br>345:45<br><b>exhibition</b> [1] - 256:1<br><b>exigencies</b> [1] -<br>324:42<br><b>exist</b> [1] - 301:22<br><b>existing</b> [4] - 286:4,<br>312:11, 319:39,<br>334:16<br><b>expect</b> [3] - 260:21,<br>320:8, 320:23<br><b>expectation</b> [1] -<br>301:24<br><b>expected</b> [3] - 289:2, | 289:4, 314:25<br><b>expended</b> [1] - 279:18<br><b>expenditure</b> [22] -<br>255:36, 257:23,<br>260:5, 278:15,<br>278:19, 278:37,<br>279:15, 279:22,<br>279:29, 281:27,<br>282:10, 282:14,<br>283:34, 285:16,<br>298:14, 302:35,<br>313:3, 315:6,<br>315:11, 315:20,<br>342:4, 348:42<br><b>expenditures</b> [1] -<br>341:10<br><b>expenses</b> [2] - 255:15,<br>259:33<br><b>expensive</b> [1] - 316:39<br><b>experience</b> [1] -<br>266:15<br><b>experienced</b> [5] -<br>282:22, 296:44,<br>296:45, 300:46,<br>305:28<br><b>expertise</b> [2] - 265:37,<br>285:23<br><b>experts</b> [2] - 283:44,<br>283:46<br><b>explain</b> [6] - 252:6,<br>266:20, 281:30,<br>303:38, 346:7,<br>348:10<br><b>explained</b> [7] -<br>267:25, 278:3,<br>290:21, 333:23,<br>345:7, 345:8, 348:25<br><b>explaining</b> [1] -<br>264:13<br><b>explanation</b> [2] -<br>287:3, 290:31<br><b>explore</b> [2] - 272:27,<br>348:16<br><b>exposure</b> [1] - 331:4<br><b>expressed</b> [3] -<br>273:44, 290:29,<br>325:13<br><b>extend</b> [1] - 334:15<br><b>extent</b> [3] - 261:8,<br>264:25, 339:28<br><b>external</b> [3] - 259:25,<br>272:29, 311:28<br><b>extra</b> [1] - 274:11<br><b>eyes</b> [1] - 294:42 |
| <b>E</b>   |   |  |   |   |
| <b>early</b> [2] - 254:41,<br>291:41<br><b>earmarked</b> [1] -<br>267:10<br><b>earnings</b> [2] - 273:19<br><b>easing</b> [1] - 311:38<br><b>easy</b> [1] - 342:36<br><b>eaten</b> [1] - 261:45<br><b>economic</b> [1] - 288:24<br><b>economy</b> [3] - 295:42,<br>298:43, 298:44<br><b>educated</b> [1] - 291:30<br><b>education</b> [9] -<br>259:11, 261:7,<br>284:36, 284:37,<br>284:42, 285:1,<br>285:4, 285:5, 339:14<br><b>education's</b> [1] -<br>284:25<br><b>effect</b> [2] - 271:31,<br>288:19<br><b>effective</b> [2] - 285:28,<br>301:40<br><b>effectively</b> [8] -<br>253:47, 254:45,<br>256:17, 259:40,<br>261:44, 286:4,<br>297:4, 300:14<br><b>effects</b> [4] - 284:44,<br>321:3, 323:31,<br>324:37<br><b>either</b> [3] - 298:37,<br>319:31, 321:41<br><b>elderly</b> [1] - 297:29<br><b>Elders</b> [4] - 293:5,<br>348:4, 348:5, 348:14<br><b>ELEANOR</b> [1] - 292:34<br><b>Eleanor</b> [1] - 292:45<br><b>elected</b> [6] - 251:20,<br>256:6, 280:38,<br>325:2, 325:3, 330:29<br><b>election</b> [1] - 299:21<br><b>electricity</b> [26] -<br>252:36, 255:1,<br>255:8, 255:16,<br>255:24, 255:26, |   |  |   |   |
| <b>F</b>   |   |  |   |   |
| <b>faced</b> [2] - 259:47,<br>315:32   |   |  |   |   |

|   |   |  |   |   |
|---|---|--|---|---|
| <b>faces</b> [2] - 293:36, 293:39<br><b>facilities</b> [2] - 274:11, 302:36<br><b>facing</b> [1] - 297:25<br><b>fact</b> [11] - 261:34, 288:43, 298:10, 302:19, 310:18, 320:17, 331:11, 333:46, 343:12, 344:2, 349:10<br><b>factor</b> [2] - 261:30, 326:9<br><b>factors</b> [1] - 264:15<br><b>facts</b> [2] - 277:33, 349:25<br><b>factual</b> [1] - 265:42<br><b>FAGs</b> [1] - 275:13<br><b>fail</b> [8] - 258:47, 261:12, 289:17, 289:22, 289:47, 291:13, 291:18, 302:46<br><b>failed</b> [4] - 259:1, 283:37, 283:38, 299:13<br><b>failing</b> [3] - 290:15, 299:11, 316:36<br><b>failure</b> [2] - 290:2, 291:27<br><b>fair</b> [6] - 293:29, 296:42, 326:31, 334:40, 340:38, 347:27<br><b>fairly</b> [1] - 277:34<br><b>fairness</b> [2] - 271:5, 279:2<br><b>familiar</b> [2] - 293:35, 348:40<br><b>familiarise</b> [2] - 268:35, 269:15<br><b>far</b> [13] - 256:39, 257:29, 276:2, 279:40, 279:42, 279:43, 285:16, 307:38, 319:37, 321:41, 325:42, 333:44, 335:26<br><b>farewell</b> [1] - 274:41<br><b>favour</b> [2] - 307:37, 307:47<br><b>favourable</b> [1] - 316:42<br><b>February</b> [15] - 262:35, 262:45, 262:46, 263:1, 263:41, 267:41, 271:44, 273:40, 330:3, 330:4, 331:21, 336:5, | 336:17, 344:41, 345:3<br><b>federal</b> [8] - 259:22, 259:23, 259:34, 284:28, 297:27, 298:1, 298:30, 304:9<br><b>Federal</b> [2] - 308:1, 313:21<br><b>fee</b> [1] - 347:19<br><b>feedback</b> [1] - 256:19<br><b>fees</b> [1] - 257:18<br><b>felt</b> [3] - 284:13, 345:13, 350:10<br><b>few</b> [7] - 262:3, 273:1, 275:18, 289:6, 293:29, 310:44, 341:11<br><b>field</b> [1] - 283:46<br><b>fight</b> [2] - 310:19, 310:27<br><b>figure</b> [5] - 273:25, 274:22, 296:28, 336:22, 336:23<br><b>figures</b> [2] - 331:5, 331:7<br><b>file</b> [1] - 266:39<br><b>final</b> [4] - 275:21, 293:26, 296:20, 318:18<br><b>finance</b> [6] - 304:12, 311:16, 311:24, 312:24, 318:33, 318:39<br><b>Finance</b> [1] - 297:24<br><b>finances</b> [3] - 290:10, 322:47, 327:29<br><b>financial</b> [70] - 251:25, 251:38, 253:1, 258:44, 259:4, 259:38, 262:10, 275:8, 275:13, 275:18, 276:31, 277:14, 277:25, 281:32, 282:9, 282:13, 283:44, 284:2, 284:20, 290:30, 290:35, 290:44, 291:6, 296:35, 297:26, 298:11, 298:15, 301:20, 301:31, 301:35, 301:44, 302:31, 308:30, 308:44, 309:5, 309:14, 309:30, 309:31, 310:1, 310:8, 311:6, 311:26, 311:32, 311:36, 312:1, 312:7, 312:9, | 312:14, 314:3, 315:39, 316:4, 319:15, 319:44, 321:15, 321:29, 321:36, 322:38, 323:16, 323:27, 324:33, 324:41, 326:7, 326:47, 327:31, 327:40, 328:23, 332:18, 342:44<br><b>financially</b> [3] - 264:7, 274:35, 349:12<br><b>financials</b> [1] - 275:26<br><b>financing</b> [1] - 328:9<br><b>fine</b> [5] - 281:12, 292:22, 298:38, 315:23<br><b>finish</b> [3] - 299:18, 300:5, 349:20<br><b>finished</b> [3] - 287:9, 349:23, 350:20<br><b>fire</b> [2] - 287:32, 287:33<br><b>firm</b> [1] - 300:31<br><b>First</b> [1] - 311:15<br><b>first</b> [32] - 251:32, 251:33, 252:10, 256:32, 258:25, 267:15, 269:3, 279:41, 279:43, 281:11, 281:14, 303:8, 304:45, 305:6, 306:1, 313:23, 313:35, 314:20, 314:30, 317:22, 317:25, 318:20, 324:15, 324:23, 325:7, 325:10, 325:25, 330:25, 331:2, 331:47, 337:7<br><b>firstly</b> [1] - 287:4<br><b>fiscal</b> [1] - 259:30<br><b>fiscus</b> [1] - 298:12<br><b>five</b> [8] - 254:43, 259:47, 288:33, 288:44, 291:31, 307:2, 315:18, 319:41<br><b>fix</b> [3] - 316:1, 324:14, 343:45<br><b>fleet</b> [1] - 278:41<br><b>Fleming</b> [2] - 337:39, 338:46<br><b>flour</b> [1] - 262:2<br><b>flowed</b> [1] - 300:26<br><b>flows</b> [1] - 257:21<br><b>fluctuates</b> [2] - 296:32<br><b>fly</b> [1] - 263:36 | <b>focus</b> [7] - 255:33, 263:47, 279:38, 306:30, 312:47, 313:6, 339:44<br><b>focused</b> [1] - 304:23<br><b>follow</b> [2] - 291:25, 322:26<br><b>followed</b> [4] - 281:42, 293:47, 294:2, 339:2<br><b>following</b> [5] - 252:14, 291:2, 323:22, 337:20, 341:16<br><b>food</b> [1] - 261:43<br><b>footing</b> [2] - 259:26, 325:5<br><b>footpaths</b> [1] - 261:5<br><b>FOR</b> [1] - 345:47<br><b>force</b> [2] - 261:7, 308:4<br><b>forecast</b> [1] - 253:24<br><b>forensic</b> [1] - 324:4<br><b>form</b> [8] - 271:27, 289:27, 289:28, 290:18, 290:21, 299:47, 343:16<br><b>formal</b> [4] - 288:23, 288:43, 332:9, 337:15<br><b>formally</b> [2] - 309:27, 336:37<br><b>former</b> [1] - 299:3<br><b>forth</b> [3] - 255:41, 278:44, 283:45<br><b>fortunate</b> [3] - 255:25, 275:17, 291:29<br><b>forward</b> [21] - 251:4, 288:12, 288:39, 292:32, 298:46, 300:1, 300:34, 305:18, 306:20, 308:2, 311:47, 312:3, 312:6, 313:27, 335:38, 337:14, 346:40, 347:29, 348:47, 349:17, 349:25<br><b>fought</b> [1] - 298:22<br><b>four</b> [14] - 255:36, 260:7, 260:14, 262:10, 283:38, 290:47, 291:31, 303:4, 308:35, 313:8, 319:41, 320:24, 340:13, 349:2<br><b>four-year</b> [1] - 283:38<br><b>fragile</b> [1] - 289:12<br><b>free</b> [2] - 266:22, 312:21<br><b>freedom</b> [1] - 299:38 | <b>freight</b> [7] - 261:30, 261:35, 293:44, 294:2, 294:3, 294:19, 318:30<br><b>frequency</b> [2] - 294:31, 294:33<br><b>fresh</b> [1] - 345:32<br><b>FRIDAY</b> [1] - 350:36<br><b>Friday</b> [1] - 291:1<br><b>friend</b> [2] - 291:39, 350:3<br><b>friends</b> [1] - 347:35<br><b>front</b> [4] - 269:12, 273:26, 297:30, 340:47<br><b>fuel</b> [2] - 255:15, 261:40<br><b>full</b> [5] - 251:16, 260:35, 280:31, 292:44, 331:39<br><b>fully</b> [5] - 252:5, 252:7, 252:37, 252:44, 253:32<br><b>function</b> [1] - 339:9<br><b>functional</b> [1] - 255:27<br><b>fund</b> [20] - 252:27, 253:3, 253:7, 254:12, 254:29, 254:40, 254:45, 255:8, 255:13, 256:26, 274:18, 295:17, 295:22, 302:34, 302:39, 338:44, 340:17, 341:20, 342:7, 349:17<br><b>funded</b> [9] - 252:38, 254:33, 256:13, 257:2, 290:5, 296:46, 297:28, 301:31, 337:28<br><b>funder</b> [1] - 267:32<br><b>funding</b> [25] - 267:47, 275:10, 276:9, 276:13, 276:17, 297:47, 298:16, 298:19, 301:28, 304:13, 304:31, 310:29, 312:2, 330:22, 330:27, 330:36, 332:24, 333:3, 337:15, 340:9, 340:33, 341:30, 342:15<br><b>funds</b> [5] - 312:15, 322:47, 332:22, 337:20, 340:23<br><b>future</b> [10] - 253:9, 259:41, 284:1, 300:35, 302:22, |
|---|---|--|---|---|

|   |   |   |   |   |
|---|---|---|---|---|
| 302:35, 309:30,<br>312:21, 313:26,<br>315:38  | 318:19<br><b>goodwill</b> [1] - 306:7<br><b>gosh</b> [1] - 270:21<br><b>govern</b> [1] - 283:20<br><b>governance</b> [14] -<br>252:20, 290:12,<br>298:33, 298:44,<br>299:3, 299:5, 306:8,<br>306:31, 307:32,<br>308:2, 308:42,<br>318:39, 318:47,<br>321:15<br><b>governed</b> [1] - 290:9<br><b>governing</b> [4] -<br>259:47, 285:14,<br>315:18, 339:22<br><b>Government</b> [21] -<br>254:28, 254:36,<br>260:2, 275:2,<br>283:19, 284:4,<br>284:6, 293:11,<br>297:40, 300:24,<br>300:31, 311:3,<br>334:2, 336:40,<br>337:40, 341:47,<br>342:31, 348:6,<br>348:15, 348:18,<br>348:41<br><b>government</b> [49] -<br>254:32, 254:39,<br>259:22, 259:23,<br>274:14, 274:16,<br>274:19, 276:30,<br>281:38, 285:25,<br>286:5, 287:4,<br>287:18, 289:27,<br>289:28, 290:13,<br>291:7, 293:16,<br>293:26, 293:33,<br>297:14, 297:16,<br>297:28, 298:19,<br>298:29, 298:45,<br>299:32, 299:47,<br>300:33, 300:46,<br>303:9, 303:12,<br>303:16, 304:12,<br>304:19, 305:28,<br>306:33, 306:36,<br>306:37, 306:42,<br>307:6, 308:1,<br>313:13, 314:46,<br>316:46, 318:33,<br>337:9, 337:12, 339:8<br><b>government's</b> [1] -<br>254:27<br><b>gradual</b> [1] - 304:37<br><b>grant</b> [9] - 253:37,<br>264:25, 297:38,<br>309:31, 309:34,<br>310:4, 312:20, | 312:22, 330:22<br><b>granted</b> [1] - 311:43<br><b>Grants</b> [1] - 308:47<br><b>grants</b> [9] - 252:26,<br>275:13, 284:2,<br>308:45, 309:5,<br>309:14, 310:1,<br>310:8, 314:4<br><b>graph</b> [1] - 279:27<br><b>Grassroots</b> [8] -<br>301:7, 303:3,<br>304:30, 314:13,<br>317:18, 317:19,<br>319:36, 319:42<br><b>grassroots</b> [1] -<br>294:44<br><b>gravel</b> [1] - 319:4<br><b>great</b> [7] - 265:39,<br>265:47, 266:4,<br>288:25, 289:7,<br>299:40, 308:19<br><b>greater</b> [3] - 289:30,<br>295:41, 301:35<br><b>greatest</b> [1] - 290:7<br><b>greatly</b> [1] - 262:9<br><b>Greg</b> [2] - 264:12,<br>331:12<br><b>grew</b> [1] - 262:3<br><b>group</b> [4] - 289:39,<br>307:21, 315:34<br><b>GST</b> [7] - 290:21,<br>291:10, 295:9,<br>298:34, 298:36,<br>347:36, 347:42<br><b>guaranteed</b> [2] -<br>343:13, 343:18<br><b>guarantees</b> [1] -<br>310:37<br><b>guess</b> [1] - 275:20<br><b>guide</b> [4] - 274:47,<br>291:30, 329:24,<br>339:3<br><b>guided</b> [2] - 285:32,<br>285:34<br><b>GVEs</b> [1] - 302:38 | <b>handed</b> [5] - 269:9,<br>278:9, 294:47,<br>303:29, 314:25<br><b>handing</b> [1] - 298:29<br><b>handled</b> [1] - 319:38<br><b>handling</b> [2] - 273:6,<br>273:7<br><b>handover</b> [3] - 286:4,<br>286:14, 288:8<br><b>handwritten</b> [1] -<br>322:12<br><b>hang</b> [2] - 280:10,<br>280:25<br><b>happy</b> [4] - 301:5,<br>307:39, 331:31,<br>344:13<br><b>hat</b> [1] - 303:41<br><b>head</b> [3] - 291:12,<br>296:22, 297:42<br><b>headed</b> [1] - 345:40<br><b>HEADED</b> [1] - 345:45<br><b>heading</b> [2] - 269:36,<br>324:14<br><b>Headstone</b> [1] - 272:3<br><b>health</b> [5] - 259:10,<br>284:31, 295:17,<br>301:37, 339:14<br><b>healthy</b> [1] - 274:34<br><b>hear</b> [4] - 274:1,<br>298:38, 334:29,<br>350:11<br><b>heard</b> [7] - 278:42,<br>294:24, 303:34,<br>304:43, 312:19,<br>334:30, 336:16<br><b>hearings</b> [1] - 262:11<br><b>hearsay</b> [1] - 263:25<br><b>heavier</b> [1] - 263:19<br><b>heavily</b> [1] - 276:36<br><b>heed</b> [1] - 259:43<br><b>held</b> [2] - 264:11,<br>317:45<br><b>hell</b> [1] - 263:19<br><b>help</b> [5] - 252:27,<br>301:34, 315:20,<br>327:10, 344:40<br><b>helpful</b> [1] - 290:1<br><b>heritage</b> [2] - 294:43,<br>348:26<br><b>high</b> [4] - 319:42,<br>319:43, 345:25<br><b>higher</b> [3] - 261:27,<br>281:36, 296:42<br><b>highest</b> [2] - 274:5,<br>274:6<br><b>highlight</b> [1] - 301:10<br><b>highlighted</b> [2] -<br>301:15, 324:41<br><b>highlights</b> [1] - 254:37<br><b>hindsight</b> [2] - 277:41, | 320:23<br><b>hire</b> [2] - 278:44,<br>296:17<br><b>historic</b> [1] - 289:29<br><b>historical</b> [1] - 337:20<br><b>history</b> [5] - 259:40,<br>259:41, 259:44,<br>263:5, 293:10<br><b>hit</b> [1] - 277:25<br><b>hmm</b> [9] - 295:19,<br>295:23, 321:17,<br>325:11, 330:46,<br>332:42, 334:17,<br>335:19, 335:24<br><b>hold</b> [1] - 300:28<br><b>holding</b> [2] - 305:40,<br>305:42<br><b>holistic</b> [1] - 289:29<br><b>home</b> [1] - 277:26<br><b>honest</b> [4] - 251:28,<br>258:45, 296:26,<br>306:30<br><b>Honourable</b> [2] -<br>311:23, 336:33<br><b>hope</b> [2] - 272:3,<br>345:28<br><b>hoped</b> [1] - 259:32<br><b>hoping</b> [4] - 272:16,<br>273:32, 275:39,<br>349:26<br><b>hospital</b> [3] - 261:6,<br>343:10, 343:12<br><b>hot</b> [1] - 316:36<br><b>Hotel</b> [1] - 250:13<br><b>hour</b> [4] - 292:18,<br>328:40, 331:28,<br>333:23<br><b>hours</b> [3] - 265:15,<br>265:28, 268:40<br><b>huge</b> [2] - 318:19<br><b>human</b> [1] - 299:38<br><b>humble</b> [4] - 285:17,<br>285:26, 299:18,<br>299:31<br><b>hundreds</b> [1] - 268:31<br><b>Hydro</b> [1] - 255:40 |
| <b>G</b>  |   | <b>H</b>  | <b>I</b>  |   |
| <b>Gandhi</b> [1] - 299:40<br><b>gap</b> [2] - 276:17,<br>276:18<br><b>gathering</b> [1] - 313:15<br><b>general</b> [25] - 259:13,<br>265:13, 266:46,<br>269:32, 274:36,<br>274:41, 274:44,<br>277:3, 277:17,<br>290:28, 303:23,<br>310:21, 311:3,<br>317:22, 318:8,<br>320:8, 321:38,<br>323:34, 325:22,<br>325:40, 328:38,<br>329:19, 335:11,<br>336:32<br><b>General</b> [3] - 313:13,<br>320:4, 343:24<br><b>generalise</b> [1] -<br>294:43<br><b>generally</b> [6] - 254:32,<br>255:32, 266:22,<br>274:23, 281:19,<br>295:4<br><b>generate</b> [1] - 316:18<br><b>generated</b> [1] - 302:37<br><b>generation</b> [1] -<br>255:24<br><b>generators</b> [2] -<br>287:31, 316:7<br><b>Gesling</b> [4] - 283:46,<br>303:33, 337:44,<br>338:47<br><b>gesture</b> [1] - 306:7<br><b>GFC</b> [1] - 296:37<br><b>gifted</b> [3] - 294:44,<br>294:45, 297:37<br><b>given</b> [18] - 251:32,<br>273:35, 274:33,<br>275:22, 276:37,<br>276:41, 276:43,<br>278:31, 283:43,<br>291:1, 291:17,<br>303:11, 308:45,<br>312:28, 319:37,<br>332:14, 342:39,<br>349:21<br><b>glad</b> [1] - 265:11<br><b>glean</b> [2] - 265:34,<br>329:7<br><b>global</b> [1] - 296:34<br><b>goal</b> [2] - 313:33, | <b>half</b> [10] - 255:35,<br>265:15, 265:28,<br>266:26, 268:40,<br>292:18, 328:40,<br>331:28, 333:23,<br>346:36<br><b>halfway</b> [1] - 271:9<br><b>Hall</b> [3] - 264:12,<br>264:17, 345:5<br><b>hamstrung</b> [1] -<br>287:40  | <b>idea</b> [10] - 267:37,<br>277:42, 277:43,<br>277:45, 277:46,<br>286:13, 295:3,<br>318:41, 333:5,<br>347:19<br><b>ideal</b> [1] - 258:19<br><b>ideally</b> [1] - 295:40<br><b>identified</b> [2] - 301:39,<br>328:20   |   |   |



|   |  |  |  |  |
|---|--|--|--|--|
| <p><b>identify</b> [2] - 292:41, 324:15</p> <p><b>ignorance</b> [1] - 324:7</p> <p><b>ignored</b> [3] - 256:19, 302:42, 302:44</p> <p><b>ii</b> [1] - 346:36</p> <p><b>imagine</b> [1] - 297:5</p> <p><b>immediately</b> [1] - 253:12</p> <p><b>impact</b> [11] - 256:21, 258:21, 260:17, 260:19, 288:8, 288:13, 288:23, 288:42, 288:43, 311:38, 349:28</p> <p><b>impacts</b> [3] - 288:15, 288:24, 314:5</p> <p><b>imperative</b> [1] - 325:2</p> <p><b>impetus</b> [1] - 322:7</p> <p><b>implementing</b> [1] - 311:40</p> <p><b>implications</b> [10] - 252:3, 258:44, 264:7, 281:32, 282:17, 284:20, 291:6, 309:10, 312:25, 332:18</p> <p><b>implicit</b> [2] - 253:36, 335:21</p> <p><b>import</b> [1] - 344:47</p> <p><b>importance</b> [2] - 278:7, 313:19</p> <p><b>important</b> [19] - 266:21, 289:42, 290:7, 293:39, 299:6, 300:44, 301:27, 303:15, 305:42, 305:43, 308:26, 310:14, 311:17, 315:11, 315:37, 315:43, 316:18, 324:1, 350:10</p> <p><b>importation</b> [4] - 255:14, 265:45, 340:39, 344:44</p> <p><b>imported</b> [4] - 266:6, 266:30, 270:44, 331:18</p> <p><b>importer</b> [2] - 267:2, 268:12</p> <p><b>importing</b> [1] - 334:36</p> <p><b>impose</b> [1] - 346:14</p> <p><b>imposed</b> [2] - 254:13, 259:7</p> <p><b>imposition</b> [1] - 268:15</p> <p><b>impossible</b> [1] - 260:23</p> <p><b>impost</b> [1] - 290:7</p> | <p><b>imposts</b> [2] - 259:31, 289:8</p> <p><b>improve</b> [2] - 260:14, 284:21</p> <p><b>improved</b> [5] - 253:40, 284:33, 284:37, 310:9, 320:41</p> <p><b>improvements</b> [3] - 281:3, 284:16, 284:23</p> <p><b>in my submission</b> [1] - 290:33</p> <p><b>inadequate</b> [3] - 285:47, 287:24, 287:27</p> <p><b>inalienable</b> [1] - 299:37</p> <p><b>incensed</b> [1] - 278:41</p> <p><b>include</b> [5] - 301:41, 331:8, 331:10, 332:38, 339:5</p> <p><b>included</b> [7] - 255:21, 272:11, 272:35, 273:40, 332:44, 333:2, 337:8</p> <p><b>including</b> [6] - 252:39, 321:19, 332:9, 336:40, 338:28, 348:4</p> <p><b>income</b> [15] - 255:37, 257:23, 260:6, 282:37, 283:34, 295:11, 297:29, 297:33, 313:3, 315:3, 315:10, 315:32, 317:1, 338:10, 347:33</p> <p><b>income-producing</b> [1] - 317:1</p> <p><b>increase</b> [14] - 256:2, 256:7, 256:8, 256:20, 257:12, 275:12, 288:12, 288:16, 290:17, 290:19, 290:41, 309:5, 347:32, 348:32</p> <p><b>increased</b> [5] - 252:17, 256:17, 260:28, 261:36, 261:40</p> <p><b>increases</b> [2] - 288:7, 347:29</p> <p><b>increasing</b> [3] - 253:41, 260:12, 260:20</p> <p><b>incredible</b> [2] - 253:16, 261:30</p> <p><b>Index</b> [3] - 261:15, 261:16, 261:25</p> | <p><b>Indian</b> [3] - 309:34, 309:44, 347:43</p> <p><b>indicate</b> [1] - 278:25</p> <p><b>indicated</b> [8] - 259:20, 259:21, 264:25, 283:42, 305:1, 331:42, 331:46, 332:37</p> <p><b>indicates</b> [1] - 279:27</p> <p><b>indications</b> [1] - 279:41</p> <p><b>indicator</b> [1] - 261:20</p> <p><b>indistinct</b> [2] - 274:40, 344:40</p> <p><b>individual</b> [1] - 265:24</p> <p><b>individually</b> [1] - 308:17</p> <p><b>industry</b> [3] - 266:26, 278:43, 296:47</p> <p><b>inflation</b> [1] - 261:21</p> <p><b>influenced</b> [1] - 309:45</p> <p><b>inform</b> [1] - 319:14</p> <p><b>information</b> [8] - 265:36, 266:47, 274:33, 274:35, 276:37, 327:31, 327:40, 335:15</p> <p><b>informed</b> [2] - 301:45, 332:23</p> <p><b>infrastructure</b> [8] - 255:26, 258:27, 258:36, 260:30, 260:36, 301:38, 316:5, 316:6</p> <p><b>inherited</b> [3] - 287:17, 301:16, 305:8</p> <p><b>initial</b> [1] - 287:24</p> <p><b>initiated</b> [1] - 313:7</p> <p><b>initiative</b> [3] - 318:12, 318:14, 321:45</p> <p><b>Innes</b> [4] - 267:13, 267:28, 278:38</p> <p><b>Innes-Walker</b> [4] - 267:13, 267:28, 278:38</p> <p><b>innocence</b> [1] - 271:2</p> <p><b>input</b> [1] - 314:44</p> <p><b>Inquiry</b> [10] - 254:36, 257:32, 259:17, 289:34, 302:18, 302:45, 325:29, 340:35, 349:28, 350:9</p> <p><b>INQUIRY</b> [2] - 250:6, 350:35</p> <p><b>inquiry</b> [1] - 291:14</p> <p><b>insects</b> [1] - 340:45</p> <p><b>inside</b> [1] - 290:1</p> <p><b>instances</b> [1] - 260:29</p> | <p><b>instructed</b> [1] - 323:33</p> <p><b>insufficient</b> [1] - 302:38</p> <p><b>intended</b> [1] - 340:30</p> <p><b>intent</b> [1] - 313:45</p> <p><b>intention</b> [3] - 254:46, 272:20, 273:44</p> <p><b>interest</b> [3] - 266:15, 306:15, 306:18</p> <p><b>interested</b> [2] - 256:30, 290:14</p> <p><b>interesting</b> [1] - 266:33</p> <p><b>interests</b> [2] - 284:29, 302:28</p> <p><b>interim</b> [3] - 290:27, 306:15, 319:39</p> <p><b>internal</b> [1] - 320:42</p> <p><b>international</b> [2] - 299:7, 299:35</p> <p><b>internationally</b> [1] - 299:10</p> <p><b>intervention</b> [1] - 345:42</p> <p><b>INTERVENTION</b> [1] - 346:1</p> <p><b>interview</b> [3] - 267:13, 317:34, 317:38</p> <p><b>interviewed</b> [1] - 317:31</p> <p><b>INTO</b> [1] - 250:6</p> <p><b>intranet</b> [1] - 320:41</p> <p><b>intrigued</b> [1] - 288:41</p> <p><b>introduce</b> [1] - 255:19</p> <p><b>introduced</b> [1] - 255:28</p> <p><b>investments</b> [1] - 274:17</p> <p><b>invitation</b> [1] - 265:14</p> <p><b>invited</b> [1] - 321:47</p> <p><b>involve</b> [1] - 252:44</p> <p><b>involved</b> [4] - 252:31, 253:32, 253:47, 264:15</p> <p><b>involvement</b> [4] - 289:33, 289:38, 308:27</p> <p><b>involves</b> [1] - 327:15</p> <p><b>irrespective</b> [1] - 349:12</p> <p><b>ISLAND</b> [1] - 250:6</p> <p><b>island</b> [8] - 260:16, 260:32, 261:11, 293:7, 296:12, 313:33, 313:46, 340:40</p> <p><b>Island</b> [164] - 250:14, 251:20, 254:11, 254:36, 255:9, 255:44, 257:29,</p> | <p>258:27, 259:7, 259:21, 259:25, 260:7, 260:19, 260:22, 261:9, 261:16, 261:17, 261:25, 261:45, 263:16, 263:36, 264:8, 264:16, 266:10, 266:16, 266:17, 266:21, 266:22, 266:26, 266:27, 266:28, 267:1, 268:6, 268:16, 268:47, 270:19, 270:24, 271:13, 272:17, 272:38, 273:2, 273:8, 273:12, 274:39, 274:45, 275:1, 275:4, 276:34, 277:14, 278:12, 278:35, 279:20, 280:43, 283:47, 284:4, 284:6, 284:17, 284:21, 284:32, 284:37, 285:5, 286:33, 288:19, 289:1, 289:2, 289:3, 289:27, 289:40, 290:8, 290:18, 290:35, 290:42, 291:5, 293:6, 293:11, 293:30, 293:36, 293:40, 294:37, 294:44, 294:45, 295:32, 295:35, 296:3, 296:11, 296:21, 296:47, 297:25, 297:36, 297:40, 297:44, 298:25, 298:29, 298:40, 298:44, 299:7, 299:11, 299:33, 300:25, 300:26, 300:34, 300:47, 301:3, 303:16, 303:28, 303:43, 305:43, 305:44, 305:46, 306:8, 308:3, 308:37, 309:11, 309:32, 309:38, 313:26, 313:30, 313:32, 314:46, 318:30, 319:10, 319:22, 327:47, 329:39, 330:40, 331:16, 332:40, 333:47, 334:16, 334:36,</p> |
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|  |   |   |  |   |
|--|---|---|--|---|
| 335:4, 336:30,<br>336:34, 336:41,<br>337:3, 337:22,<br>337:23, 337:25,<br>337:27, 337:29,<br>337:33, 337:35,<br>337:42, 338:1,<br>339:5, 339:22,<br>339:26, 340:21,<br>340:32, 340:40,<br>340:42, 343:8,<br>343:9, 343:23,<br>343:25, 343:43,<br>344:20, 346:24,<br>346:38, 347:5,<br>348:6, 349:27,<br>349:32<br><b>Island's</b> [2] - 286:9,<br>336:25<br><b>Island-sourced</b> [1] -<br>266:10<br><b>Islander</b> [7] - 257:30,<br>261:47, 262:6,<br>265:46, 266:17,<br>278:6, 294:42<br><b>Islanders</b> [4] - 260:20,<br>290:6, 294:44,<br>348:26<br><b>isolated</b> [2] - 288:31,<br>349:32<br><b>isolation</b> [3] - 261:26,<br>298:3, 308:42<br><b>issue</b> [38] - 251:34,<br>255:46, 258:7,<br>262:8, 263:6,<br>263:30, 263:42,<br>263:44, 266:20,<br>272:27, 280:47,<br>286:29, 294:30,<br>294:33, 294:41,<br>308:26, 309:14,<br>315:47, 316:3,<br>318:47, 319:3,<br>319:38, 324:18,<br>328:3, 335:7,<br>340:32, 340:38,<br>340:39, 341:4,<br>342:6, 342:41,<br>343:28, 344:18,<br>344:36, 344:42,<br>347:20, 347:44,<br>348:1<br><b>issues</b> [21] - 265:6,<br>276:41, 285:13,<br>285:14, 301:16,<br>301:18, 301:26,<br>301:28, 308:41,<br>309:8, 309:18,<br>315:37, 320:25,<br>325:28, 325:40, | 327:15, 327:16,<br>327:23, 327:28,<br>347:41<br><b>it'd</b> [1] - 340:30<br><b>it'll</b> [2] - 316:25,<br>320:32<br><b>item</b> [2] - 313:23,<br>313:24<br><b>items</b> [3] - 259:15,<br>261:17, 262:2<br><b>itself</b> [13] - 252:1,<br>254:12, 254:15,<br>254:29, 254:45,<br>255:8, 255:14,<br>256:13, 259:22,<br>263:33, 272:12,<br>302:20, 316:2  | <b>K</b><br><br><b>Kathleen</b> [1] - 250:28<br><b>Katie</b> [1] - 285:39<br><b>keep</b> [4] - 253:20,<br>254:8, 269:35,<br>290:18<br><b>keeping</b> [1] - 257:17<br><b>kept</b> [1] - 334:31<br><b>key</b> [2] - 308:43,<br>337:17<br><b>kidding</b> [1] - 286:23<br><b>kilometres</b> [3] - 281:5,<br>336:25, 342:22<br><b>kilowatt</b> [1] - 257:18<br><b>knob</b> [1] - 334:30<br><b>knowing</b> [3] - 308:45,<br>324:40, 333:6<br><b>knowledge</b> [5] -<br>265:32, 279:17,<br>331:21, 331:26,<br>344:42<br><b>known</b> [2] - 263:32,<br>328:24<br><b>knows</b> [3] - 349:14,<br>349:15, 349:47<br><b>KPMG</b> [2] - 285:18,<br>309:7 | 304:3, 348:26<br><b>Lands</b> [1] - 343:8<br><b>last</b> [18] - 261:36,<br>262:10, 271:17,<br>272:15, 272:16,<br>274:15, 288:44,<br>310:44, 311:11,<br>313:23, 317:4,<br>321:8, 321:12,<br>322:8, 332:17,<br>335:22, 343:2, 349:2<br><b>late</b> [2] - 296:25,<br>319:36<br><b>latest</b> [1] - 294:24<br><b>Law</b> [1] - 303:14<br><b>law</b> [2] - 294:46, 346:8<br><b>Laws</b> [2] - 300:27,<br>347:6<br><b>laws</b> [1] - 299:14<br><b>lawyers</b> [1] - 299:34<br><b>laying</b> [2] - 278:2,<br>340:47<br><b>leader</b> [1] - 280:38<br><b>leaders</b> [1] - 280:24<br><b>leadership</b> [7] -<br>305:37, 305:41,<br>308:26, 312:46,<br>313:1, 313:7, 315:34<br><b>leading</b> [3] - 257:21,<br>322:21, 340:24<br><b>leads</b> [1] - 266:32<br><b>learned</b> [2] - 291:39,<br>350:3<br><b>least</b> [4] - 273:44,<br>300:36, 309:33,<br>342:35<br><b>leave</b> [4] - 275:46,<br>289:10, 299:19,<br>344:16<br><b>leaving</b> [1] - 285:4<br><b>led</b> [3] - 287:5, 341:14,<br>341:15<br><b>left</b> [1] - 291:22<br><b>legacy</b> [1] - 301:16<br><b>legal</b> [5] - 265:16,<br>336:9, 347:34,<br>348:19, 348:20<br><b>legislated</b> [2] -<br>252:18, 347:30<br><b>legislation</b> [7] - 298:6,<br>299:15, 318:47,<br>343:4, 343:5, 343:7,<br>349:8<br><b>Legislation</b> [1] - 298:7<br><b>Legislative</b> [5] -<br>254:30, 255:22,<br>259:5, 287:34,<br>293:20<br><b>legislative</b> [1] - 298:20<br><b>legitimately</b> [1] - | 340:41<br><b>lend</b> [1] - 273:18<br><b>lending</b> [1] - 272:44<br><b>length</b> [1] - 281:4<br><b>less</b> [4] - 257:26,<br>268:4, 281:5, 348:8<br><b>letter</b> [20] - 267:10,<br>267:12, 267:18,<br>267:27, 268:36,<br>269:19, 269:23,<br>269:29, 311:17,<br>311:21, 336:31,<br>336:35, 338:4,<br>338:46, 339:45,<br>340:15, 341:17,<br>344:35<br><b>letters</b> [1] - 344:19<br><b>level</b> [6] - 274:5,<br>274:6, 302:37,<br>310:20, 321:43,<br>340:29<br><b>levies</b> [1] - 288:38<br><b>Levy</b> [2] - 346:12,<br>347:11<br><b>levy</b> [9] - 252:23,<br>346:3, 346:15,<br>346:21, 346:26,<br>346:32, 346:37,<br>346:42, 347:11<br><b>Ley</b> [1] - 336:33<br><b>liabilities</b> [1] - 260:6<br><b>lieu</b> [2] - 312:23, 333:5<br><b>life</b> [4] - 260:23,<br>266:28, 285:12,<br>337:2<br><b>life-threatening</b> [1] -<br>266:28<br><b>lighting</b> [3] - 261:6,<br>263:20, 274:7<br><b>lights</b> [2] - 316:27,<br>316:29<br><b>limitation</b> [1] - 279:27<br><b>limitations</b> [1] -<br>279:19<br><b>limited</b> [1] - 287:38<br><b>line</b> [3] - 275:2,<br>279:28, 309:33<br><b>lines</b> [1] - 272:47<br><b>link</b> [1] - 338:7<br><b>LISLE</b> [1] - 251:6<br><b>Lisle</b> [2] - 251:18,<br>343:46<br><b>list</b> [5] - 258:13,<br>270:14, 319:47,<br>321:15, 325:3<br><b>listened</b> [1] - 313:14<br><b>live</b> [7] - 261:3,<br>261:10, 307:14,<br>307:15, 308:20,<br>341:4, 343:47 |
|  | <b>J</b><br><br><b>Jackson</b> [5] - 319:31,<br>326:24, 328:44,<br>329:1, 329:3<br><b>Jamie</b> [1] - 298:38<br><b>January</b> [2] - 312:15,<br>317:28<br><b>job</b> [2] - 298:2, 315:12<br><b>John</b> [1] - 313:21<br><b>join</b> [3] - 261:2,<br>283:10, 289:21<br><b>joined</b> [1] - 347:28<br><b>Joint</b> [1] - 298:41<br><b>jointly</b> [1] - 336:32<br><b>journey</b> [1] - 300:5<br><b>JSC</b> [2] - 298:42,<br>298:45<br><b>July</b> [18] - 258:42,<br>259:40, 276:44,<br>277:42, 279:11,<br>279:42, 284:32,<br>285:46, 293:11,<br>295:26, 299:21,<br>302:24, 303:2,<br>320:3, 336:24,<br>337:3, 338:18,<br>341:41<br><b>JUNE</b> [1] - 350:36<br><b>June</b> [14] - 250:33,<br>282:33, 296:21,<br>322:8, 324:46,<br>325:38, 326:8,<br>337:4, 337:32,<br>337:38, 339:47,<br>341:14, 341:32,<br>341:41<br><b>justify</b> [1] - 278:36 | <b>L</b><br><br><b>labour</b> [1] - 338:29<br><b>lack</b> [2] - 309:40,<br>338:28<br><b>Land</b> [5] - 337:34,<br>341:23, 343:5,<br>343:6, 343:8<br><b>land</b> [21] - 276:22,<br>290:5, 290:6,<br>290:17, 290:23,<br>293:47, 294:2,<br>294:43, 294:45,<br>295:2, 295:4,<br>304:38, 319:3,<br>339:28, 339:31,<br>339:39, 343:37,<br>346:40, 348:25<br><b>landowner</b> [1] -<br>346:42<br><b>landowner's</b> [1] -<br>252:23<br><b>landowners</b> [3] -<br>345:33, 346:3,<br>346:15<br><b>Landowners</b> [2] -<br>346:12, 347:10<br><b>lands</b> [5] - 297:37,<br>303:42, 304:2,  |  |   |

|   |   |   |  |  |
|---|---|---|--|--|
| <p><b>living</b> <sup>[1]</sup> - 261:16</p> <p><b>load</b> <sup>[2]</sup> - 316:35, 316:38</p> <p><b>loan</b> <sup>[13]</sup> - 273:9, 273:11, 273:31, 275:30, 295:27, 304:15, 306:3, 306:6, 306:19, 330:44, 339:19</p> <p><b>local</b> <sup>[20]</sup> - 259:23, 261:20, 265:44, 272:4, 272:20, 272:27, 278:43, 285:25, 286:15, 297:28, 298:1, 298:30, 303:8, 303:12, 304:9, 313:13, 314:46, 334:18, 343:4, 346:33</p> <p><b>Local</b> <sup>[12]</sup> - 260:2, 275:2, 283:19, 300:24, 300:31, 337:40, 341:47, 342:31, 348:6, 348:15, 348:18, 348:41</p> <p><b>lodged</b> <sup>[2]</sup> - 343:15, 343:16</p> <p><b>long-term</b> <sup>[10]</sup> - 251:25, 251:38, 282:12, 301:31, 305:18, 305:23, 314:18, 314:38, 319:4, 319:15</p> <p><b>look</b> <sup>[28]</sup> - 259:4, 265:17, 267:21, 269:11, 269:31, 270:47, 276:31, 279:3, 281:32, 290:25, 293:32, 298:29, 304:25, 308:41, 309:8, 310:22, 319:19, 319:27, 323:17, 323:44, 324:6, 328:16, 332:13, 333:27, 334:13, 337:14, 343:46, 345:12</p> <p><b>looked</b> <sup>[4]</sup> - 261:26, 288:24, 289:30, 329:28</p> <p><b>looking</b> <sup>[7]</sup> - 262:41, 282:36, 297:47, 298:43, 318:7, 323:20, 327:22</p> <p><b>looks</b> <sup>[1]</sup> - 260:11</p> <p><b>losing</b> <sup>[1]</sup> - 289:27</p> <p><b>loss</b> <sup>[2]</sup> - 261:22, 290:39</p> | <p>290:39</p> <p><b>lost</b> <sup>[1]</sup> - 310:42</p> <p><b>Lotta</b> <sup>[1]</sup> - 336:32</p> <p><b>love</b> <sup>[1]</sup> - 258:19</p> <p><b>low</b> <sup>[1]</sup> - 319:43</p> <p><b>ludicrous</b> <sup>[1]</sup> - 294:28</p> <p><b>lunch</b> <sup>[7]</sup> - 291:41, 291:44, 291:45, 292:20, 292:23, 312:45, 314:2</p> <p><b>LUNCHEON</b> <sup>[1]</sup> - 312:39</p> <p><b>luncheon</b> <sup>[1]</sup> - 312:29</p> <p><b>luxuries</b> <sup>[1]</sup> - 262:5</p> <p><b>luxury</b> <sup>[1]</sup> - 261:17</p> | <p>263:22, 278:7, 294:33, 316:14</p> <p><b>majority</b> <sup>[2]</sup> - 296:41, 337:32</p> <p><b>manage</b> <sup>[2]</sup> - 285:24, 298:12</p> <p><b>managed</b> <sup>[3]</sup> - 275:12, 300:30, 320:13</p> <p><b>management</b> <sup>[23]</sup> - 251:41, 275:28, 278:47, 284:23, 285:12, 285:22, 285:29, 285:31, 285:33, 285:41, 285:46, 286:5, 287:3, 287:20, 287:23, 288:38, 290:41, 319:14, 323:29, 324:35, 325:9, 325:25, 325:32</p> <p><b>management"</b> <sup>[1]</sup> - 327:10</p> <p><b>manager</b> <sup>[20]</sup> - 265:13, 274:36, 274:44, 277:3, 277:17, 290:28, 303:23, 311:4, 317:22, 318:8, 320:8, 321:38, 323:34, 325:22, 325:40, 328:38, 329:19, 335:11, 336:32</p> <p><b>Manager</b> <sup>[1]</sup> - 320:4</p> <p><b>manager's</b> <sup>[4]</sup> - 266:46, 269:32, 274:41, 310:21</p> <p><b>managerial</b> <sup>[1]</sup> - 255:39</p> <p><b>managers</b> <sup>[1]</sup> - 325:29</p> <p><b>managing</b> <sup>[2]</sup> - 283:30, 348:42</p> <p><b>mandatory</b> <sup>[1]</sup> - 255:47</p> <p><b>manner</b> <sup>[5]</sup> - 252:13, 256:17, 267:24, 301:29, 301:33</p> <p><b>map</b> <sup>[6]</sup> - 259:18, 259:29, 298:26, 298:27, 298:28</p> <p><b>March</b> <sup>[8]</sup> - 272:27, 281:2, 286:20, 298:25, 336:33, 341:18, 341:26, 341:27</p> <p><b>Marino</b> <sup>[1]</sup> - 311:23</p> <p><b>maritime</b> <sup>[1]</sup> - 294:3</p> <p><b>match</b> <sup>[3]</sup> - 255:36, 260:5, 315:20</p> <p><b>matched</b> <sup>[1]</sup> - 313:3</p> | <p><b>matching</b> <sup>[2]</sup> - 283:34, 348:42</p> <p><b>maths</b> <sup>[1]</sup> - 291:12</p> <p><b>matter</b> <sup>[7]</sup> - 298:9, 298:10, 301:19, 305:30, 320:6, 342:23, 344:46</p> <p><b>matters</b> <sup>[5]</sup> - 312:47, 326:14, 326:16, 326:17, 326:23</p> <p><b>maximum</b> <sup>[1]</sup> - 263:17</p> <p><b>Mayor</b> <sup>[10]</sup> - 265:29, 291:30, 291:34, 308:15, 309:27, 311:22, 313:7, 321:42, 348:17, 349:22</p> <p><b>Mayor's</b> <sup>[1]</sup> - 268:40</p> <p><b>Mayoral</b> <sup>[11]</sup> - 305:41, 323:20, 324:22, 324:24, 325:17, 325:26, 326:37, 334:42, 335:38, 336:23, 341:15</p> <p><b>McCoy</b> <sup>[12]</sup> - 260:34, 263:34, 266:15, 273:33, 274:1, 283:18, 290:22, 307:46, 308:23, 334:29, 335:33, 342:30</p> <p><b>McCullough</b> <sup>[1]</sup> - 289:12</p> <p><b>McNally</b> <sup>[1]</sup> - 250:20</p> <p><b>McVeigh</b> <sup>[2]</sup> - 313:21, 313:29</p> <p><b>mean</b> <sup>[12]</sup> - 257:19, 264:7, 265:21, 267:42, 313:31, 320:11, 322:25, 326:21, 329:41, 340:30, 342:27, 343:26</p> <p><b>meaningful</b> <sup>[2]</sup> - 290:9, 290:10</p> <p><b>means</b> <sup>[3]</sup> - 256:24, 288:34, 346:21</p> <p><b>meant</b> <sup>[7]</sup> - 254:24, 304:38, 313:36, 327:8, 327:10, 335:35, 340:34</p> <p><b>measure</b> <sup>[1]</sup> - 281:27</p> <p><b>measured</b> <sup>[4]</sup> - 261:20, 312:20, 313:34, 313:37</p> <p><b>measures</b> <sup>[4]</sup> - 260:13, 261:16, 267:30, 273:41</p> <p><b>Measures</b> <sup>[1]</sup> - 347:6</p> <p><b>medium</b> <sup>[1]</sup> - 319:42</p> | <p><b>meet</b> <sup>[7]</sup> - 252:11, 267:33, 276:35, 301:39, 311:26, 315:6, 315:10</p> <p><b>meeting</b> <sup>[49]</sup> - 251:24, 251:28, 251:31, 251:32, 251:37, 251:46, 253:32, 260:1, 262:41, 262:42, 263:13, 263:41, 263:47, 264:3, 264:4, 264:6, 264:9, 264:11, 264:12, 264:17, 264:20, 264:23, 264:26, 264:46, 265:25, 266:3, 271:44, 272:23, 276:21, 276:25, 277:4, 277:32, 277:38, 279:36, 291:2, 291:21, 303:13, 314:31, 315:30, 322:7, 323:38, 329:19, 329:47, 330:39, 335:29, 336:37, 345:4, 345:5, 348:11</p> <p><b>meetings</b> <sup>[2]</sup> - 251:27, 277:22</p> <p><b>meets</b> <sup>[1]</sup> - 295:39</p> <p><b>member</b> <sup>[5]</sup> - 251:20, 287:6, 293:15, 293:19, 299:22</p> <p><b>Member</b> <sup>[2]</sup> - 282:22, 289:40</p> <p><b>members</b> <sup>[6]</sup> - 291:26, 325:21, 330:29, 347:28, 347:32, 348:3</p> <p><b>memorandum</b> <sup>[2]</sup> - 297:41, 297:45</p> <p><b>memory</b> <sup>[2]</sup> - 298:36, 319:41</p> <p><b>mention</b> <sup>[4]</sup> - 298:27, 300:38, 321:25, 334:29</p> <p><b>mentioned</b> <sup>[12]</sup> - 256:18, 265:18, 278:32, 288:29, 290:33, 294:40, 298:26, 316:3, 321:19, 322:22, 332:27, 340:46</p> <p><b>mentioning</b> <sup>[1]</sup> - 317:37</p> <p><b>mentions</b> <sup>[2]</sup> - 267:22, 321:25</p> <p><b>mess</b> <sup>[2]</sup> - 343:2, 343:21</p> |
|---|---|---|--|--|

|   |   |  |  |  |
|---|---|--|--|--|
| <b>message</b> [2] - 274:41, 322:35<br><b>met</b> [3] - 268:21, 332:25, 340:31<br><b>method</b> [1] - 302:22<br><b>middle</b> [1] - 349:33<br><b>midge</b> [1] - 266:24<br><b>midges</b> [1] - 266:23<br><b>might</b> [17] - 258:37, 268:34, 269:8, 273:35, 286:35, 298:26, 300:4, 319:36, 321:42, 322:2, 324:6, 340:41, 340:45, 342:35, 345:32, 347:2, 349:12<br><b>million</b> [81] - 252:18, 252:26, 252:31, 253:36, 253:43, 256:32, 262:37, 264:47, 267:9, 267:14, 267:24, 267:47, 268:28, 272:36, 273:14, 274:24, 274:26, 274:30, 275:20, 275:31, 275:35, 275:39, 275:42, 276:44, 276:45, 278:14, 278:19, 278:21, 279:15, 279:18, 279:22, 280:6, 281:25, 281:46, 282:8, 282:15, 282:41, 286:17, 286:20, 286:22, 295:14, 297:46, 298:37, 304:47, 305:1, 305:4, 306:3, 306:5, 308:46, 310:5, 310:45, 311:24, 311:43, 311:46, 312:2, 312:10, 312:19, 312:23, 335:18, 335:22, 336:7, 336:18, 336:22, 336:23, 336:29, 338:26, 338:37, 338:44, 340:15, 340:23, 341:9, 341:12, 341:31, 342:3, 342:20, 348:9<br><b>million-odd</b> [2] - 286:17, 286:20<br><b>millions</b> [1] - 284:2<br><b>mind</b> [11] - 251:10, 260:46, 263:41, | 295:31, 297:26, 297:47, 300:41, 318:44, 331:15, 333:20, 335:10<br><b>minded</b> [1] - 344:28<br><b>minds</b> [1] - 294:43<br><b>mine</b> [1] - 331:46<br><b>minimum</b> [3] - 252:11, 252:17, 274:16<br><b>Minister</b> [20] - 274:15, 282:26, 288:46, 293:26, 297:23, 297:25, 303:46, 306:1, 308:1, 309:43, 312:25, 313:21, 332:21, 333:46, 334:2, 334:9, 334:15, 343:21, 349:26<br><b>minister</b> [1] - 313:14<br><b>Minister's</b> [3] - 303:39, 303:40, 338:47<br><b>ministerial</b> [1] - 345:42<br><b>MINISTERIAL</b> [1] - 345:47<br><b>Ministers</b> [1] - 338:45<br><b>minor</b> [1] - 287:37<br><b>minute</b> [14] - 260:31, 269:41, 272:15, 280:10, 280:25, 291:40, 291:43, 323:22, 329:45, 332:26, 334:39, 338:35, 345:36<br><b>Minute</b> [9] - 323:20, 324:22, 324:24, 325:17, 325:26, 326:37, 334:42, 335:38, 341:15<br><b>minuted</b> [1] - 262:18<br><b>minutes</b> [7] - 262:14, 262:16, 262:18, 273:1, 291:45, 292:17, 345:2<br><b>missing</b> [1] - 341:5<br><b>mistake</b> [2] - 307:6, 307:7<br><b>mistakes</b> [1] - 307:10<br><b>mix</b> [4] - 281:6, 309:44, 322:25, 322:27<br><b>mmm-hmm</b> [9] - 295:19, 295:23, 321:17, 325:11, 330:46, 332:42, 334:17, 335:19, 335:24<br><b>mobile</b> [1] - 261:4 | <b>model</b> [15] - 298:28, 298:32, 298:46, 300:32, 300:35, 302:32, 302:34, 303:9, 303:12, 306:8, 307:32, 308:2, 308:42, 309:10, 316:1<br><b>model's</b> [1] - 300:39<br><b>modelling</b> [1] - 309:35<br><b>modern</b> [1] - 258:11<br><b>modest</b> [1] - 276:6<br><b>modus</b> [1] - 254:27<br><b>moment</b> [3] - 264:33, 285:38, 315:21<br><b>money</b> [23] - 256:25, 257:19, 257:20, 258:36, 272:44, 273:18, 279:46, 279:47, 281:20, 290:25, 298:16, 308:35, 309:21, 312:5, 316:47, 317:1, 319:21, 323:8, 323:12, 332:20, 338:41, 342:10, 347:20<br><b>monopoly</b> [1] - 294:13<br><b>monthly</b> [1] - 261:21<br><b>months</b> [15] - 251:33, 261:36, 267:18, 267:19, 273:25, 278:18, 303:30, 303:32, 306:19, 311:29, 323:26, 324:26, 335:40, 336:5, 341:11<br><b>morning</b> [9] - 287:10, 298:27, 304:44, 314:14, 316:3, 328:37, 329:41, 343:43, 350:22<br><b>Morris</b> [1] - 250:28<br><b>most</b> [11] - 293:39, 295:41, 300:44, 302:22, 305:21, 305:42, 306:30, 315:37, 315:43, 317:7, 317:10<br><b>motion</b> [1] - 308:23<br><b>motions</b> [1] - 306:1<br><b>motivating</b> [1] - 308:4<br><b>mouth</b> [1] - 324:6<br><b>move</b> [3] - 279:7, 287:11, 349:25<br><b>moved</b> [1] - 303:17<br><b>moving</b> [4] - 298:40, 308:18, 346:40, 348:7<br><b>mud</b> [1] - 344:1 | <b>must</b> [5] - 256:8, 281:37, 301:40, 332:25, 333:1<br><br><b>N</b><br><br><b>Nah</b> [1] - 325:15<br><b>Nah-uh</b> [1] - 325:15<br><b>name</b> [6] - 251:16, 251:18, 285:38, 292:44, 298:9, 303:13<br><b>Nash</b> [3] - 303:46, 306:17, 309:23<br><b>National</b> [1] - 313:13<br><b>national</b> [2] - 298:41<br><b>nature</b> [1] - 259:31<br><b>Nauru</b> [1] - 297:1<br><b>near</b> [2] - 253:8, 296:24<br><b>nearly</b> [1] - 255:35<br><b>necessarily</b> [2] - 286:35, 288:31<br><b>necessary</b> [2] - 268:20, 323:43<br><b>necessity</b> [1] - 256:1<br><b>need</b> [26] - 254:24, 256:36, 256:39, 257:22, 261:6, 261:7, 278:36, 282:40, 286:33, 292:41, 301:9, 301:30, 302:17, 307:38, 311:32, 314:14, 321:39, 322:34, 328:10, 328:11, 338:29, 343:14, 343:18, 350:12<br><b>needed</b> [21] - 259:21, 263:19, 263:38, 287:34, 287:37, 290:4, 290:30, 298:16, 300:44, 301:2, 303:3, 305:22, 305:29, 307:30, 313:36, 313:41, 314:10, 319:22, 320:2, 321:44, 325:41<br><b>needing</b> [1] - 284:37<br><b>needless</b> [1] - 339:42<br><b>needs</b> [4] - 261:45, 280:11, 301:40, 324:14<br><b>negative</b> [1] - 299:25<br><b>negotiate</b> [1] - 303:42<br><b>negotiating</b> [1] - 267:23 | <b>net</b> [1] - 297:44<br><b>network</b> [4] - 257:29, 284:21, 337:21, 337:29<br><b>never</b> [14] - 255:38, 263:26, 281:7, 281:41, 281:42, 284:12, 288:7, 289:26, 305:31, 316:45, 335:26, 338:11, 348:17<br><b>nevertheless</b> [3] - 251:29, 271:1, 284:8<br><b>New</b> [9] - 296:4, 299:15, 299:17, 300:23, 308:47, 341:47, 348:5, 348:15, 348:18<br><b>new</b> [15] - 252:20, 274:47, 287:26, 287:35, 306:8, 314:21, 316:7, 316:22, 316:24, 338:1, 339:25, 340:6, 349:7, 349:8<br><b>newly</b> [1] - 325:3<br><b>news</b> [1] - 270:45<br><b>next</b> [16] - 254:17, 260:7, 264:11, 270:2, 279:17, 282:11, 291:34, 292:31, 298:5, 306:19, 306:31, 311:29, 320:29, 320:39, 320:44, 333:35<br><b>NFT</b> [1] - 250:33<br><b>nice</b> [1] - 344:28<br><b>night</b> [1] - 317:4<br><b>nine</b> [3] - 317:15, 318:21, 318:28<br><b>NIRC</b> [12] - 301:16, 301:25, 301:27, 301:33, 303:5, 303:29, 311:44, 311:45, 312:13, 338:10, 338:14, 339:40<br><b>NIRC's</b> [3] - 302:32, 311:31, 345:12<br><b>NIRC.011.002.0004</b> [1] - 268:35<br><b>NIRC.011.002.0004_006</b> [1] - 269:42<br><b>NIRC.020.001.0002</b> [1] - 264:42<br><b>NIRC.020.001.0002_0002</b> [1] - 332:13<br><b>NIRC.020.001.0002_0003</b> [1] - 332:3 |
|---|---|--|--|--|

|  |   |  |   |  |
|--|---|--|---|--|
| <p><b>NIRC.023.001.0002</b> [2] - 279:4, 279:6</p> <p><b>NIRC.PUB.001.0286_0003</b> [1] - 334:40</p> <p><b>no</b>" [1] - 277:19</p> <p><b>no-one</b> [4] - 286:13, 315:31, 325:13</p> <p><b>No.1</b> [2] - 313:29, 318:41</p> <p><b>No.2</b> [1] - 347:6</p> <p><b>No.6</b> [1] - 332:5</p> <p><b>nobody</b> [2] - 310:46, 321:41</p> <p><b>Nola</b> [1] - 311:23</p> <p><b>non</b> [1] - 301:21</p> <p><b>non-compliances</b> [1] - 301:21</p> <p><b>NORFOLK</b> [1] - 250:6</p> <p><b>Norfolk</b> [118] - 250:14, 251:20, 254:11, 254:36, 255:9, 257:29, 259:7, 259:21, 259:25, 260:7, 260:20, 260:22, 261:47, 262:6, 263:16, 263:36, 264:7, 265:46, 266:17, 266:22, 266:25, 266:27, 266:28, 267:1, 268:5, 268:47, 272:17, 272:38, 273:2, 273:8, 273:12, 274:39, 274:45, 275:1, 275:3, 276:34, 277:14, 278:6, 278:35, 280:43, 283:47, 284:4, 284:6, 284:17, 284:32, 284:37, 285:5, 286:33, 289:1, 289:3, 289:27, 289:40, 290:6, 290:8, 290:35, 290:42, 291:5, 293:6, 293:11, 293:30, 294:42, 294:44, 295:32, 295:35, 296:47, 297:25, 297:40, 297:44, 298:25, 298:29, 298:39, 298:44, 299:7, 299:11, 299:32, 300:25, 300:26, 300:34, 300:47, 301:3, 303:16, 303:28, 303:43,</p> | <p>305:46, 306:8, 308:3, 309:11, 309:32, 309:38, 313:26, 313:30, 313:32, 317:38, 332:40, 333:47, 336:34, 336:41, 337:2, 337:21, 337:23, 337:27, 337:35, 337:42, 338:1, 339:5, 339:21, 339:26, 340:21, 343:8, 343:9, 343:23, 343:25, 346:23, 346:38, 347:5, 348:26, 349:27, 349:32</p> <p><b>Norfolk's</b> [1] - 338:7</p> <p><b>normally</b> [1] - 335:15</p> <p><b>note</b> [6] - 265:12, 289:43, 322:12, 322:13, 337:6, 350:17</p> <p><b>noted</b> [1] - 337:1</p> <p><b>notes</b> [6] - 264:5, 265:16, 266:39, 266:42, 290:35, 329:9</p> <p><b>nothing</b> [1] - 259:37</p> <p><b>notified</b> [1] - 263:26</p> <p><b>notion</b> [1] - 272:42</p> <p><b>notwithstanding</b> [3] - 337:19, 337:29, 343:3</p> <p><b>November</b> [5] - 269:19, 269:22, 269:24, 297:42, 311:21</p> <p><b>nowhere</b> [4] - 259:8, 331:20, 348:21, 348:23</p> <p><b>number</b> [22] - 261:1, 261:4, 261:9, 263:45, 271:25, 271:26, 271:30, 273:3, 276:40, 283:8, 283:11, 283:23, 287:41, 293:19, 295:46, 296:6, 296:7, 296:11, 298:27, 330:34, 336:16, 338:27</p> <p><b>Number</b> [2] - 315:38, 330:35</p> <p><b>numbers</b> [2] - 265:35, 295:41</p> | <p style="text-align: center;"><b>O</b></p> <p><b>o'clock</b> [4] - 291:45, 292:23, 312:33, 312:37</p> <p><b>object</b> [3] - 278:10, 283:11, 283:13</p> <p><b>objected</b> [2] - 278:10, 290:16</p> <p><b>objections</b> [1] - 288:18</p> <p><b>obligations</b> [5] - 260:1, 276:21, 276:36, 299:35, 311:26</p> <p><b>observed</b> [1] - 291:26</p> <p><b>obtain</b> [1] - 287:39</p> <p><b>obtained</b> [1] - 285:18</p> <p><b>obvious</b> [1] - 277:12</p> <p><b>obviously</b> [6] - 315:11, 316:17, 316:18, 328:11, 331:13, 344:18</p> <p><b>occasions</b> [1] - 283:8</p> <p><b>occur</b> [4] - 288:15, 333:39, 333:41, 339:38</p> <p><b>occurred</b> [4] - 281:8, 284:4, 321:3, 342:34</p> <p><b>ocean</b> [1] - 257:22</p> <p><b>Ocean</b> [4] - 309:34, 309:44, 347:43, 349:33</p> <p><b>October</b> [3] - 335:3, 335:28, 335:43</p> <p><b>odd</b> [2] - 286:17, 286:20</p> <p><b>of..</b> [1] - 333:7</p> <p><b>offer</b> [4] - 277:11, 336:24, 340:8, 340:14</p> <p><b>offered</b> [4] - 257:11, 279:45, 279:47, 280:3</p> <p><b>office</b> [10] - 265:15, 266:46, 268:40, 269:32, 305:42, 305:43, 310:21, 328:40, 343:15, 343:17</p> <p><b>officer</b> [5] - 290:44, 298:11, 298:15, 348:19, 348:20</p> <p><b>officers</b> [4] - 251:37, 273:40, 283:45, 347:34</p> <p><b>officially</b> [1] - 263:27</p> <p><b>offshore</b> [1] - 347:34</p> <p><b>often</b> [1] - 278:4</p> | <p><b>old</b> [2] - 343:46, 347:4</p> <p><b>once</b> [6] - 278:8, 286:25, 289:12, 321:24, 325:27, 344:5</p> <p><b>one</b> [76] - 255:8, 260:11, 260:34, 261:1, 261:18, 264:32, 264:35, 264:37, 264:39, 265:15, 265:28, 266:9, 268:39, 268:40, 271:17, 277:22, 278:42, 279:9, 279:10, 279:23, 280:31, 283:30, 285:2, 286:13, 288:34, 288:45, 289:15, 289:36, 290:46, 294:10, 298:28, 299:9, 300:38, 302:7, 304:25, 306:1, 307:5, 308:7, 309:8, 312:20, 312:22, 313:9, 314:30, 315:31, 315:38, 316:24, 317:12, 318:9, 320:23, 321:9, 322:21, 322:27, 322:30, 322:46, 323:38, 323:42, 324:29, 325:13, 328:19, 328:34, 328:40, 329:5, 330:34, 332:34, 340:41, 340:47, 344:26, 344:27, 344:28, 346:36, 348:29</p> <p><b>one-by-one</b> [1] - 255:8</p> <p><b>one-off</b> [3] - 279:23, 312:20, 312:22</p> <p><b>ongoing</b> [4] - 274:18, 316:1, 316:6, 328:3</p> <p><b>onwards</b> [2] - 336:43, 348:9</p> <p><b>open</b> [1] - 313:45</p> <p><b>opening</b> [1] - 281:45</p> <p><b>operandi</b> [1] - 254:28</p> <p><b>operate</b> [1] - 283:20</p> <p><b>operates</b> [1] - 252:13</p> <p><b>operating</b> [4] - 253:33, 259:34, 263:16, 279:15</p> <p><b>operation</b> [3] - 255:30, 294:13, 347:10</p> <p><b>operational</b> [14] - 279:29, 281:36,</p> | <p>285:31, 320:6, 320:24, 321:24, 321:26, 321:43, 323:28, 324:34, 324:39, 325:27, 325:41, 342:23</p> <p><b>operations</b> [4] - 252:38, 253:3, 256:33, 276:9</p> <p><b>operative</b> [1] - 346:14</p> <p><b>opinion</b> [8] - 257:36, 285:17, 285:26, 290:5, 299:18, 299:31</p> <p><b>opportunity</b> [15] - 255:35, 260:1, 278:4, 278:5, 292:15, 292:16, 292:42, 302:3, 303:11, 310:44, 328:39, 329:8, 337:7, 345:24, 349:24</p> <p><b>oppose</b> [2] - 277:2, 347:29</p> <p><b>Option</b> [5] - 270:7, 270:14, 270:18, 270:23, 270:43</p> <p><b>option</b> [1] - 253:47</p> <p><b>options</b> [13] - 253:19, 272:10, 284:31, 284:36, 322:16, 322:22, 322:25, 322:26, 322:30, 322:34, 322:37, 345:10, 348:16</p> <p><b>order</b> [9] - 271:31, 271:33, 316:35, 324:14, 330:22, 334:18, 343:7, 344:1, 347:1</p> <p><b>ordered</b> [1] - 322:6</p> <p><b>ordinance</b> [1] - 304:39</p> <p><b>Ordinance</b> [5] - 300:27, 337:35, 341:23, 343:5, 347:6</p> <p><b>ordinarily</b> [1] - 342:28</p> <p><b>original</b> [6] - 259:12, 275:14, 281:5, 344:27, 345:37</p> <p><b>originally</b> [4] - 274:46, 297:38, 304:46, 331:15</p> <p><b>osmosis</b> [1] - 304:37</p> <p><b>otherwise</b> [2] - 266:29, 271:43</p> <p><b>outcome</b> [3] - 301:35, 305:45, 313:45</p> <p><b>outcomes</b> [2] - 311:28, 314:3</p> |
|--|---|--|---|--|

|  |   |  |   |   |
|--|---|--|---|---|
| <b>outset</b> [2] - 283:42, 305:46<br><b>outside</b> [2] - 289:24, 290:1<br><b>outstanding</b> [1] - 347:2<br><b>outwardly</b> [1] - 345:3<br><b>overall</b> [3] - 275:26, 302:45, 344:17<br><b>overcome</b> [1] - 320:46<br><b>overdue</b> [1] - 319:1<br><b>overnight</b> [1] - 266:26<br><b>overrides</b> [1] - 343:4<br><b>overruns</b> [7] - 273:9, 273:32, 273:33, 335:4, 335:8, 335:47, 336:1<br><b>oversee</b> [1] - 320:13<br><b>oversight</b> [1] - 320:11<br><b>oversimplification</b> [1] - 257:3<br><b>own</b> [5] - 291:5, 291:12, 297:4, 308:47, 314:28<br><b>owned</b> [4] - 304:10, 337:30, 337:33, 339:37<br><b>ownership</b> [1] - 339:7<br><b>owns</b> [3] - 319:34, 343:9, 343:10 | 331:41<br><b>paid</b> [4] - 268:13, 295:7, 297:24, 297:28<br><b>pandemic</b> [4] - 273:4, 321:4, 323:31, 324:37<br><b>panel</b> [1] - 332:9<br><b>paper</b> [2] - 274:8, 344:19<br><b>papers</b> [1] - 256:29<br><b>paperwork</b> [1] - 290:47<br><b>paragraph</b> [5] - 265:2, 330:25, 331:47, 332:18, 333:35<br><b>parameters</b> [1] - 282:12<br><b>parents</b> [2] - 297:37<br><b>Parliament</b> [10] - 259:20, 282:23, 283:10, 293:21, 293:23, 293:25, 298:20, 298:21, 299:16, 299:17<br><b>Parliamentary</b> [1] - 299:8<br><b>Parsons</b> [1] - 338:6<br><b>part</b> [18] - 254:27, 255:42, 260:31, 260:34, 265:31, 268:13, 268:45, 270:35, 270:46, 272:18, 285:2, 298:17, 298:34, 299:7, 300:25, 303:14, 340:6, 345:38<br><b>particular</b> [4] - 280:26, 283:19, 289:36, 343:29<br><b>particularly</b> [6] - 255:20, 261:36, 280:42, 283:30, 284:23, 328:9<br><b>partly</b> [1] - 338:44<br><b>partner</b> [1] - 313:44<br><b>partnering</b> [1] - 338:14<br><b>partnership</b> [2] - 313:12, 313:20<br><b>parts</b> [2] - 259:23, 263:33<br><b>pass</b> [1] - 317:12<br><b>passed</b> [4] - 295:4, 298:31, 307:33, 341:23<br><b>passenger</b> [1] - 288:17<br><b>passengers</b> [1] - | 273:5<br><b>passion</b> [1] - 293:33<br><b>past</b> [4] - 263:20, 278:42, 293:5, 318:24<br><b>Paul</b> [2] - 250:27, 254:31<br><b>pause</b> [2] - 273:1, 312:29<br><b>pausing</b> [2] - 252:29, 316:16<br><b>PAVEMENT</b> [1] - 345:46<br><b>pavement</b> [3] - 330:30, 331:12, 345:40<br><b>pay</b> [18] - 254:31, 257:26, 258:21, 260:28, 268:3, 268:11, 284:10, 288:47, 294:22, 295:11, 310:39, 311:25, 321:47, 330:11, 330:16, 335:28, 348:28, 348:33<br><b>paying</b> [8] - 252:31, 311:33, 316:26, 331:22, 333:19, 335:36, 342:40, 348:27<br><b>payment</b> [5] - 267:7, 275:19, 306:18, 306:19, 327:35<br><b>payments</b> [1] - 306:15<br><b>peace</b> [5] - 307:30, 307:31, 308:3, 349:31<br><b>pegged</b> [1] - 257:18<br><b>pension</b> [1] - 297:39<br><b>pensions</b> [2] - 297:28, 297:29<br><b>people</b> [36] - 256:15, 258:6, 258:10, 260:22, 260:33, 260:39, 261:12, 261:17, 278:7, 284:32, 284:36, 285:7, 290:8, 293:6, 293:29, 294:45, 295:33, 295:36, 295:45, 296:14, 296:15, 297:36, 300:34, 300:47, 301:1, 305:4, 305:43, 308:3, 316:23, 316:26, 319:9, 335:46, 340:40, 340:46, 343:43 | <b>People</b> [1] - 289:41<br><b>per</b> [2] - 279:15, 279:22<br><b>perfectly</b> [3] - 308:6, 308:7<br><b>performance</b> [2] - 251:33, 304:45<br><b>perhaps</b> [10] - 264:27, 269:2, 271:26, 279:6, 286:34, 292:18, 310:13, 318:40, 349:14, 349:15<br><b>period</b> [10] - 257:11, 265:15, 282:14, 283:38, 292:20, 293:33, 305:11, 330:41, 337:3, 346:24<br><b>periods</b> [3] - 294:36, 343:19, 346:24<br><b>person</b> [4] - 305:35, 334:3, 346:22, 346:23<br><b>personal</b> [1] - 290:5<br><b>personally</b> [3] - 283:39, 284:11, 298:18<br><b>perspective</b> [3] - 286:33, 287:18, 308:30<br><b>pests</b> [1] - 340:45<br><b>Peter</b> [3] - 254:31, 337:44, 338:47<br><b>philosophy</b> [2] - 254:27, 286:47<br><b>phones</b> [1] - 261:4<br><b>photovoltaic</b> [1] - 255:29<br><b>pick</b> [3] - 304:31, 314:25, 329:38<br><b>picked</b> [1] - 313:20<br><b>picking</b> [1] - 280:33<br><b>Pine</b> [2] - 256:39, 294:23<br><b>place</b> [19] - 258:12, 260:24, 285:32, 290:8, 290:10, 292:19, 296:4, 298:11, 303:15, 307:30, 308:43, 309:10, 313:10, 313:23, 316:7, 316:22, 317:16, 323:17, 339:21<br><b>placed</b> [3] - 255:47, 257:31, 259:26<br><b>places</b> [4] - 252:9, 257:34, 259:26, 285:18 | <b>placing</b> [1] - 289:8<br><b>PLAN</b> [1] - 344:33<br><b>plan</b> [29] - 251:25, 251:38, 252:1, 259:29, 282:13, 301:32, 301:40, 301:44, 313:25, 313:31, 314:15, 314:18, 314:24, 314:28, 314:33, 315:2, 315:36, 317:15, 318:18, 318:21, 318:38, 319:15, 319:44, 323:28, 324:34, 324:39, 324:45, 344:26<br><b>planned</b> [1] - 281:37<br><b>planning</b> [1] - 318:46<br><b>plans</b> [13] - 251:41, 251:42, 256:14, 285:30, 285:31, 285:32, 286:8, 287:23, 287:24, 319:14<br><b>planted</b> [1] - 344:5<br><b>platform</b> [2] - 299:46, 300:32<br><b>play</b> [2] - 262:42, 307:25<br><b>playing</b> [3] - 258:5, 307:29, 323:44<br><b>plead</b> [2] - 271:2, 289:43<br><b>pleased</b> [2] - 269:5, 318:4<br><b>point</b> [27] - 254:17, 263:9, 271:6, 293:41, 297:6, 298:13, 299:33, 305:14, 305:30, 306:6, 306:40, 310:26, 317:15, 320:39, 320:44, 321:39, 332:46, 335:22, 338:36, 340:16, 340:19, 341:5, 341:7, 342:39, 342:41, 343:39, 348:22<br><b>pointed</b> [3] - 258:43, 273:33, 331:17<br><b>pointing</b> [1] - 309:24<br><b>points</b> [2] - 318:21, 321:16<br><b>poles</b> [2] - 316:26, 316:29<br><b>police</b> [2] - 261:7, 295:21<br><b>policing</b> [1] - 259:11 |
| <b>P</b>   |   |  |   |   |
| <b>Pacific</b> [5] - 250:13, 289:13, 349:31, 349:32, 349:33<br><b>page</b> [39] - 265:1, 266:33, 266:36, 267:21, 269:1, 269:2, 269:8, 269:35, 270:2, 270:6, 270:10, 270:20, 270:23, 270:40, 271:9, 271:10, 271:37, 279:32, 282:2, 282:4, 290:34, 301:11, 318:20, 321:6, 321:8, 321:9, 321:12, 331:36, 331:37, 331:45, 331:47, 332:3, 332:5, 332:17, 332:33<br><b>paged</b> [2] - 268:36, 331:40<br><b>pages</b> [6] - 268:32, 270:18, 318:36, 330:1, 331:33,   |   |  |   |   |

|   |  |   |   |  |
|---|--|---|---|--|
| <p><b>polls</b> [1] - 255:25</p> <p><b>pool</b> [1] - 298:36</p> <p><b>population</b> [3] - 289:5, 298:3, 318:30</p> <p><b>port</b> [1] - 309:41</p> <p><b>Porter</b> [6] - 274:1, 278:3, 283:18, 288:32, 307:45, 308:19</p> <p><b>portions</b> [3] - 343:13, 343:17, 343:29</p> <p><b>position</b> [29] - 252:10, 253:1, 253:40, 256:13, 256:16, 258:33, 258:35, 262:10, 262:29, 271:6, 274:16, 274:29, 274:34, 275:8, 275:18, 282:33, 286:32, 305:37, 305:41, 310:8, 311:32, 312:46, 325:10, 325:37, 327:1, 333:28, 338:11</p> <p><b>positions</b> [1] - 303:20</p> <p><b>positive</b> [6] - 275:7, 295:41, 300:39, 305:35, 314:3, 314:5</p> <p><b>possibilities</b> [1] - 348:11</p> <p><b>possibility</b> [2] - 316:20, 347:35</p> <p><b>possible</b> [5] - 277:18, 292:18, 325:5, 339:19, 339:28</p> <p><b>possibly</b> [6] - 257:25, 259:36, 277:4, 313:4, 322:46, 326:9</p> <p><b>potential</b> [5] - 275:37, 276:43, 299:44, 299:46</p> <p><b>potentially</b> [2] - 281:26, 333:19</p> <p><b>pothole</b> [2] - 344:2, 344:5</p> <p><b>potholes</b> [1] - 280:31</p> <p><b>power</b> [5] - 316:13, 316:36, 316:37, 318:29, 342:31</p> <p><b>powers</b> [1] - 290:2</p> <p><b>practices</b> [3] - 285:41, 285:46, 286:5</p> <p><b>precursor</b> [1] - 265:12</p> <p><b>prefer</b> [1] - 291:43</p> <p><b>preoccupied</b> [1] - 308:9</p> <p><b>preparation</b> [2] - 272:1, 350:9</p> <p><b>prepared</b> [12] -</p> | <p>260:28, 260:40, 260:41, 263:34, 263:35, 267:32, 307:15, 314:24, 317:44, 333:44, 335:10, 349:17</p> <p><b>preparing</b> [1] - 283:47</p> <p><b>prescribed</b> [1] - 346:38</p> <p><b>present</b> [6] - 252:47, 254:35, 262:11, 290:45, 293:6, 319:27</p> <p><b>presentation</b> [1] - 345:12</p> <p><b>presented</b> [8] - 251:38, 253:19, 267:12, 279:45, 291:21, 301:46, 330:8, 337:7</p> <p><b>press</b> [1] - 345:10</p> <p><b>pressure</b> [2] - 312:1, 341:7</p> <p><b>pressures</b> [1] - 315:2</p> <p><b>presume</b> [1] - 333:42</p> <p><b>prevent</b> [1] - 291:27</p> <p><b>previous</b> [8] - 261:19, 323:29, 324:35, 325:8, 325:24, 325:32, 327:10, 347:13</p> <p><b>previously</b> [3] - 278:18, 278:25, 341:29</p> <p><b>price</b> [12] - 256:19, 270:7, 270:13, 270:43, 280:3, 294:30, 316:20, 331:5, 332:38, 332:44, 333:2, 342:21</p> <p><b>Price</b> [3] - 261:15, 261:16, 261:25</p> <p><b>prices</b> [3] - 257:1, 261:36, 288:38</p> <p><b>primarily</b> [2] - 323:28, 324:34</p> <p><b>principal</b> [1] - 267:31</p> <p><b>principally</b> [1] - 346:37</p> <p><b>principle</b> [3] - 254:30, 257:4, 287:16</p> <p><b>principles</b> [5] - 283:24, 288:45, 300:14, 339:2, 339:36</p> <p><b>priorities</b> [1] - 258:13</p> <p><b>prioritise</b> [1] - 301:38</p> <p><b>priority</b> [6] - 278:24, 279:37, 280:39,</p> | <p>320:3, 343:45</p> <p><b>private</b> [2] - 278:45, 339:31</p> <p><b>privy</b> [2] - 270:47, 310:19</p> <p><b>probing</b> [1] - 291:14</p> <p><b>problem</b> [15] - 259:38, 260:31, 267:40, 283:4, 284:8, 288:25, 293:39, 304:2, 304:28, 308:34, 316:14, 321:23, 322:35, 322:37, 329:38</p> <p><b>problems</b> [16] - 257:21, 285:35, 286:11, 293:35, 293:36, 295:46, 310:2, 313:5, 319:8, 323:39, 324:13, 324:15, 327:46, 328:20, 328:23</p> <p><b>procedures</b> [1] - 285:41</p> <p><b>proceed</b> [2] - 272:28, 338:31</p> <p><b>process</b> [9] - 255:42, 255:47, 264:27, 276:41, 291:18, 298:6, 329:19, 338:3, 339:27</p> <p><b>processes</b> [3] - 257:24, 300:38, 331:15</p> <p><b>Procurement</b> [1] - 269:36</p> <p><b>produced</b> [2] - 272:17, 322:12</p> <p><b>producing</b> [1] - 317:1</p> <p><b>production</b> [1] - 319:16</p> <p><b>Professor</b> [1] - 264:12</p> <p><b>profile</b> [1] - 285:41</p> <p><b>profit</b> [3] - 276:3, 276:6, 276:9</p> <p><b>Program</b> [2] - 336:34, 336:42</p> <p><b>program</b> [4] - 263:44, 337:2, 337:9, 341:42</p> <p><b>programs</b> [3] - 257:40, 285:29, 321:1</p> <p><b>progress</b> [1] - 275:10</p> <p><b>PROJECT</b> [1] - 345:47</p> <p><b>project</b> [20] - 267:32, 267:47, 270:34, 275:19, 279:23, 281:7, 282:7, 283:4, 330:20, 330:27, 330:36, 331:13, 332:19, 332:23,</p> | <p>332:30, 334:35, 334:45, 336:21, 342:28, 345:41</p> <p><b>project</b> [1] - 330:32</p> <p><b>projects</b> [5] - 275:9, 275:11, 279:37, 282:13, 301:39</p> <p><b>promising</b> [3] - 330:23, 337:42, 337:47</p> <p><b>proof</b> [1] - 267:5</p> <p><b>proper</b> [4] - 263:36, 309:2, 309:9, 327:31</p> <p><b>properly</b> [1] - 319:32</p> <p><b>property</b> [3] - 339:19, 339:29, 339:31</p> <p><b>proposal</b> [5] - 271:10, 273:40, 276:44, 281:25, 336:29</p> <p><b>proposals</b> [2] - 288:11, 288:39</p> <p><b>proposed</b> [5] - 263:13, 279:32, 282:7, 305:47, 341:10</p> <p><b>proposing</b> [2] - 252:30, 334:3</p> <p><b>proposition</b> [5] - 256:33, 260:15, 281:22, 283:41, 343:42</p> <p><b>protagonist</b> [2] - 266:14, 266:18</p> <p><b>protesting</b> [1] - 340:46</p> <p><b>provide</b> [10] - 264:32, 285:34, 289:4, 299:44, 311:35, 312:13, 325:3, 333:43, 338:16, 340:8</p> <p><b>provided</b> [17] - 261:20, 264:28, 264:29, 266:47, 274:11, 274:43, 279:10, 279:16, 285:11, 291:38, 297:43, 311:4, 311:45, 312:10, 312:15, 336:8, 338:7</p> <p><b>providers</b> [1] - 294:7</p> <p><b>providing</b> [1] - 289:33</p> <p><b>provision</b> [8] - 265:43, 265:44, 266:5, 272:4, 272:5, 301:10, 327:39, 348:41</p> <p><b>provisions</b> [4] - 252:39, 259:13, 273:34, 283:19</p> <p><b>Public</b> [3] - 302:45,</p> | <p>340:35, 349:28</p> <p><b>public</b> [9] - 256:1, 256:2, 257:13, 257:15, 264:9, 264:11, 288:14, 300:20, 301:37</p> <p><b>PUBLIC</b> [2] - 250:6, 350:35</p> <p><b>publicly</b> [2] - 268:34, 334:41</p> <p><b>published</b> [4] - 261:21, 271:27, 310:27, 345:11</p> <p><b>pull</b> [1] - 263:26</p> <p><b>pun</b> [1] - 272:16</p> <p><b>purchase</b> [1] - 287:35</p> <p><b>purchased</b> [1] - 278:39</p> <p><b>purchasing</b> [1] - 287:33</p> <p><b>purely</b> [3] - 268:46, 308:4, 324:6</p> <p><b>purposes</b> [6] - 264:19, 267:29, 267:33, 269:30, 346:16, 346:20</p> <p><b>pursue</b> [4] - 273:45, 273:46, 322:16, 347:46</p> <p><b>pursuing</b> [1] - 266:10</p> <p><b>pushing</b> [4] - 256:20, 291:25, 306:37, 306:42</p> <p><b>put</b> [42] - 253:18, 256:2, 257:13, 257:15, 257:16, 257:17, 265:42, 278:7, 280:21, 283:1, 285:30, 285:32, 288:11, 288:14, 288:39, 296:4, 296:31, 298:6, 298:11, 298:46, 299:9, 303:14, 308:42, 309:10, 313:10, 313:22, 316:7, 316:22, 316:25, 317:16, 320:18, 322:30, 323:16, 325:9, 326:44, 335:38, 344:37, 344:38, 345:12, 347:29, 348:14</p> <p><b>putting</b> [1] - 320:20</p> |
| <b>Q</b>  |  |   |   |  |
| <p><b>qualifications</b> [1] -</p>  |  |   |   |  |

|   |   |  |   |   |
|---|---|--|---|---|
| <p>271:38<br/> <b>qualified</b> [1] - 327:47<br/> <b>quality</b> [4] - 274:6,<br/> 285:4, 285:5, 334:27<br/> <b>quarries</b> [2] - 272:3,<br/> 334:16<br/> <b>quarry</b> [2] - 319:5,<br/> 334:24<br/> <b>Queen</b> [1] - 294:45<br/> <b>queries</b> [3] - 276:40,<br/> 290:46<br/> <b>query</b> [1] - 290:44<br/> <b>questionable</b> [1] -<br/> 276:24<br/> <b>questioning</b> [1] -<br/> 254:38<br/> <b>questions</b> [9] -<br/> 287:43, 288:1,<br/> 288:3, 303:1,<br/> 329:32, 349:23,<br/> 349:39, 350:3, 350:5<br/> <b>queue</b> [1] - 258:12<br/> <b>quick</b> [1] - 316:1<br/> <b>quickly</b> [1] - 286:9<br/> <b>quite</b> [12] - 257:30,<br/> 258:19, 258:45,<br/> 263:45, 276:30,<br/> 276:34, 280:26,<br/> 287:38, 299:2,<br/> 302:19, 320:30,<br/> 331:13<br/> <b>quote</b> [3] - 257:33,<br/> 272:16, 337:12<br/> <b>quoted</b> [2] - 275:19,<br/> 285:33</p> | <p>288:37, 290:6,<br/> 294:17, 294:19,<br/> 347:29<br/> <b>rates</b> [23] - 276:22,<br/> 288:6, 288:12,<br/> 290:17, 293:47,<br/> 294:2, 294:16,<br/> 294:40, 295:6,<br/> 302:37, 309:11,<br/> 317:38, 319:3,<br/> 346:40, 347:20,<br/> 347:21, 347:27,<br/> 347:32, 347:37,<br/> 347:42, 348:27,<br/> 348:32<br/> <b>rather</b> [4] - 257:26,<br/> 257:39, 290:1,<br/> 347:36<br/> <b>rating</b> [3] - 252:17,<br/> 274:6, 348:10<br/> <b>Rawson</b> [3] - 264:12,<br/> 264:17, 345:5<br/> <b>reaction</b> [4] - 251:47,<br/> 283:40, 319:26,<br/> 319:30<br/> <b>read</b> [33] - 251:46,<br/> 265:46, 266:2,<br/> 271:25, 278:34,<br/> 289:43, 290:47,<br/> 291:1, 300:6, 301:6,<br/> 301:9, 301:11,<br/> 302:12, 303:5,<br/> 304:30, 309:25,<br/> 311:17, 314:14,<br/> 316:2, 318:26,<br/> 321:10, 324:22,<br/> 324:23, 329:42,<br/> 331:31, 332:35,<br/> 333:15, 333:22,<br/> 334:41, 336:31,<br/> 346:4, 346:8, 346:44<br/> <b>readily</b> [2] - 271:42,<br/> 274:18<br/> <b>reading</b> [7] - 265:34,<br/> 268:40, 281:18,<br/> 282:1, 317:3, 329:8,<br/> 350:10<br/> <b>reads</b> [1] - 346:18<br/> <b>ready</b> [1] - 291:29<br/> <b>real</b> [4] - 285:13,<br/> 313:31, 313:36,<br/> 337:23<br/> <b>realities</b> [1] - 277:26<br/> <b>really</b> [16] - 255:33,<br/> 272:19, 279:40,<br/> 281:38, 284:24,<br/> 285:34, 288:27,<br/> 301:5, 304:23,<br/> 304:38, 312:47,<br/> 314:9, 344:13,</p> | <p>344:46, 349:34,<br/> 350:7<br/> <b>reason</b> [10] - 278:40,<br/> 282:20, 293:25,<br/> 313:40, 315:46,<br/> 316:33, 326:7,<br/> 326:43, 326:47,<br/> 341:9<br/> <b>reasonable</b> [1] - 308:7<br/> <b>reasoning</b> [1] - 342:31<br/> <b>reasons</b> [3] - 266:9,<br/> 319:4, 338:28<br/> <b>recalculation</b> [1] -<br/> 309:29<br/> <b>receive</b> [2] - 259:32,<br/> 318:4<br/> <b>received</b> [10] - 252:26,<br/> 264:26, 266:38,<br/> 275:10, 285:21,<br/> 288:17, 304:3,<br/> 336:39, 341:14,<br/> 348:17<br/> <b>receiving</b> [3] - 264:42,<br/> 324:38, 337:14<br/> <b>recent</b> [1] - 311:41<br/> <b>recently</b> [2] - 278:38,<br/> 324:41<br/> <b>recognise</b> [1] - 261:40<br/> <b>recognised</b> [3] -<br/> 259:37, 321:38,<br/> 339:32<br/> <b>recollection</b> [2] -<br/> 264:10, 271:1<br/> <b>recommendations</b> [7]<br/> - 281:19, 301:46,<br/> 311:40, 319:41,<br/> 320:26, 325:4,<br/> 349:25<br/> <b>recommended</b> [2] -<br/> 301:17, 332:20<br/> <b>RECONSTRUCTION</b><br/> [1] - 345:46<br/> <b>reconstruction</b> [2] -<br/> 330:31, 345:41<br/> <b>reconvene</b> [2] -<br/> 312:37, 350:22<br/> <b>reconvened</b> [1] -<br/> 345:4<br/> <b>record</b> [14] - 251:16,<br/> 264:41, 282:1,<br/> 292:41, 292:43,<br/> 299:43, 307:42,<br/> 307:44, 307:45,<br/> 318:26, 322:14,<br/> 332:2, 332:12,<br/> 345:11<br/> <b>recorded</b> [2] - 256:29,<br/> 262:24<br/> <b>records</b> [1] - 255:34<br/> <b>recovered</b> [1] - 347:14</p> | <p><b>recovery</b> [2] - 310:37,<br/> 347:2<br/> <b>Recovery</b> [8] - 336:34,<br/> 336:42, 337:1,<br/> 341:18, 341:26,<br/> 341:30, 341:42,<br/> 342:15<br/> <b>rectified</b> [1] - 310:3<br/> <b>red</b> [1] - 279:29<br/> <b>reduce</b> [3] - 316:12,<br/> 316:17, 334:17<br/> <b>reduced</b> [6] - 256:21,<br/> 306:18, 306:19,<br/> 324:45, 324:47<br/> <b>reduction</b> [2] - 261:35,<br/> 273:35<br/> <b>redundancies</b> [1] -<br/> 327:35<br/> <b>refer</b> [3] - 254:38,<br/> 274:39, 311:21<br/> <b>reference</b> [10] -<br/> 262:28, 265:41,<br/> 283:23, 321:46,<br/> 323:34, 324:1,<br/> 331:30, 338:4,<br/> 341:8, 349:21<br/> <b>Reference</b> [1] - 271:38<br/> <b>referenced</b> [1] -<br/> 301:44<br/> <b>referred</b> [3] - 279:42,<br/> 302:6, 340:15<br/> <b>referring</b> [1] - 265:35<br/> <b>reflect</b> [2] - 261:34,<br/> 345:3<br/> <b>reflected</b> [2] - 302:32,<br/> 332:26<br/> <b>reforms</b> [1] - 299:26<br/> <b>refute</b> [1] - 335:11<br/> <b>regard</b> [1] - 342:17<br/> <b>regarded</b> [1] - 313:46<br/> <b>regards</b> [2] - 264:16,<br/> 267:12<br/> <b>regeneration</b> [1] -<br/> 318:31<br/> <b>regime</b> [5] - 287:26,<br/> 287:27, 299:14,<br/> 316:23, 316:26<br/> <b>REGIONAL</b> [1] - 250:6<br/> <b>Regional</b> [27] -<br/> 251:21, 260:7,<br/> 267:1, 268:6,<br/> 268:16, 268:47,<br/> 269:36, 272:38,<br/> 273:8, 274:45,<br/> 275:1, 278:9,<br/> 278:35, 283:47,<br/> 290:35, 300:30,<br/> 301:3, 309:38,<br/> 332:21, 333:47,<br/> 336:34, 336:41,</p> | <p>337:24, 338:1,<br/> 339:26, 340:21,<br/> 349:27<br/> <b>Register</b> [1] - 343:8<br/> <b>registered</b> [2] -<br/> 343:14, 343:23<br/> <b>registers</b> [1] - 286:8<br/> <b>registration</b> [1] -<br/> 343:28<br/> <b>registry</b> [1] - 343:15<br/> <b>regrettably</b> [9] -<br/> 266:37, 281:41,<br/> 284:22, 288:29,<br/> 289:11, 338:9,<br/> 342:40, 345:2,<br/> 348:23<br/> <b>regularly</b> [1] - 286:34<br/> <b>regulator</b> [2] - 321:40,<br/> 321:41<br/> <b>rejected</b> [2] - 288:40,<br/> 316:21<br/> <b>related</b> [2] - 319:8,<br/> 327:31<br/> <b>relating</b> [1] - 327:23<br/> <b>relation</b> [10] - 251:42,<br/> 262:36, 262:43,<br/> 262:46, 263:1,<br/> 267:24, 327:39,<br/> 338:36, 344:36,<br/> 346:21<br/> <b>relationship</b> [1] -<br/> 266:18<br/> <b>relayed</b> [1] - 325:38<br/> <b>relevant</b> [1] - 349:21<br/> <b>relied</b> [2] - 276:36,<br/> 333:31<br/> <b>reluctance</b> [2] -<br/> 260:13, 347:31<br/> <b>rely</b> [3] - 274:35,<br/> 295:40, 333:29<br/> <b>remain</b> [1] - 330:7<br/> <b>remains</b> [1] - 342:41<br/> <b>remediation</b> [1] -<br/> 272:36<br/> <b>remember</b> [18] -<br/> 251:26, 251:34,<br/> 251:43, 253:15,<br/> 254:5, 265:5,<br/> 279:43, 303:16,<br/> 313:18, 317:34,<br/> 317:37, 317:41,<br/> 317:42, 321:29,<br/> 322:18, 323:8,<br/> 328:41, 336:25<br/> <b>remembering</b> [2] -<br/> 304:8, 304:39<br/> <b>remind</b> [1] - 269:2<br/> <b>remove</b> [1] - 316:12<br/> <b>removed</b> [2] - 298:12,<br/> 299:32</p> |
| <b>R</b>  |   |  |   |   |
| <p><b>radical</b> [1] - 278:27<br/> <b>radically</b> [1] - 271:47<br/> <b>raise</b> [4] - 254:25,<br/> 347:33, 348:1, 348:8<br/> <b>raised</b> [10] - 257:39,<br/> 273:4, 281:10,<br/> 283:18, 290:22,<br/> 295:14, 303:46,<br/> 310:45, 324:18,<br/> 347:20<br/> <b>raising</b> [3] - 255:46,<br/> 281:20, 315:10<br/> <b>ramifications</b> [2] -<br/> 264:14, 288:15<br/> <b>ran</b> [2] - 274:14,<br/> 323:11<br/> <b>range</b> [2] - 312:47,<br/> 331:5<br/> <b>ranging</b> [1] - 322:20<br/> <b>rapidly</b> [1] - 253:24<br/> <b>rate</b> [6] - 253:2,</p>   | <p>288:37, 290:6,<br/> 294:17, 294:19,<br/> 347:29<br/> <b>rates</b> [23] - 276:22,<br/> 288:6, 288:12,<br/> 290:17, 293:47,<br/> 294:2, 294:16,<br/> 294:40, 295:6,<br/> 302:37, 309:11,<br/> 317:38, 319:3,<br/> 346:40, 347:20,<br/> 347:21, 347:27,<br/> 347:32, 347:37,<br/> 347:42, 348:27,<br/> 348:32<br/> <b>rather</b> [4] - 257:26,<br/> 257:39, 290:1,<br/> 347:36<br/> <b>rating</b> [3] - 252:17,<br/> 274:6, 348:10<br/> <b>Rawson</b> [3] - 264:12,<br/> 264:17, 345:5<br/> <b>reaction</b> [4] - 251:47,<br/> 283:40, 319:26,<br/> 319:30<br/> <b>read</b> [33] - 251:46,<br/> 265:46, 266:2,<br/> 271:25, 278:34,<br/> 289:43, 290:47,<br/> 291:1, 300:6, 301:6,<br/> 301:9, 301:11,<br/> 302:12, 303:5,<br/> 304:30, 309:25,<br/> 311:17, 314:14,<br/> 316:2, 318:26,<br/> 321:10, 324:22,<br/> 324:23, 329:42,<br/> 331:31, 332:35,<br/> 333:15, 333:22,<br/> 334:41, 336:31,<br/> 346:4, 346:8, 346:44<br/> <b>readily</b> [2] - 271:42,<br/> 274:18<br/> <b>reading</b> [7] - 265:34,<br/> 268:40, 281:18,<br/> 282:1, 317:3, 329:8,<br/> 350:10<br/> <b>reads</b> [1] - 346:18<br/> <b>ready</b> [1] - 291:29<br/> <b>real</b> [4] - 285:13,<br/> 313:31, 313:36,<br/> 337:23<br/> <b>realities</b> [1] - 277:26<br/> <b>really</b> [16] - 255:33,<br/> 272:19, 279:40,<br/> 281:38, 284:24,<br/> 285:34, 288:27,<br/> 301:5, 304:23,<br/> 304:38, 312:47,<br/> 314:9, 344:13,</p> | <p>344:46, 349:34,<br/> 350:7<br/> <b>reason</b> [10] - 278:40,<br/> 282:20, 293:25,<br/> 313:40, 315:46,<br/> 316:33, 326:7,<br/> 326:43, 326:47,<br/> 341:9<br/> <b>reasonable</b> [1] - 308:7<br/> <b>reasoning</b> [1] - 342:31<br/> <b>reasons</b> [3] - 266:9,<br/> 319:4, 338:28<br/> <b>recalculation</b> [1] -<br/> 309:29<br/> <b>receive</b> [2] - 259:32,<br/> 318:4<br/> <b>received</b> [10] - 252:26,<br/> 264:26, 266:38,<br/> 275:10, 285:21,<br/> 288:17, 304:3,<br/> 336:39, 341:14,<br/> 348:17<br/> <b>receiving</b> [3] - 264:42,<br/> 324:38, 337:14<br/> <b>recent</b> [1] - 311:41<br/> <b>recently</b> [2] - 278:38,<br/> 324:41<br/> <b>recognise</b> [1] - 261:40<br/> <b>recognised</b> [3] -<br/> 259:37, 321:38,<br/> 339:32<br/> <b>recollection</b> [2] -<br/> 264:10, 271:1<br/> <b>recommendations</b> [7]<br/> - 281:19, 301:46,<br/> 311:40, 319:41,<br/> 320:26, 325:4,<br/> 349:25<br/> <b>recommended</b> [2] -<br/> 301:17, 332:20<br/> <b>RECONSTRUCTION</b><br/> [1] - 345:46<br/> <b>reconstruction</b> [2] -<br/> 330:31, 345:41<br/> <b>reconvene</b> [2] -<br/> 312:37, 350:22<br/> <b>reconvened</b> [1] -<br/> 345:4<br/> <b>record</b> [14] - 251:16,<br/> 264:41, 282:1,<br/> 292:41, 292:43,<br/> 299:43, 307:42,<br/> 307:44, 307:45,<br/> 318:26, 322:14,<br/> 332:2, 332:12,<br/> 345:11<br/> <b>recorded</b> [2] - 256:29,<br/> 262:24<br/> <b>records</b> [1] - 255:34<br/> <b>recovered</b> [1] - 347:14</p> | <p><b>recovery</b> [2] - 310:37,<br/> 347:2<br/> <b>Recovery</b> [8] - 336:34,<br/> 336:42, 337:1,<br/> 341:18, 341:26,<br/> 341:30, 341:42,<br/> 342:15<br/> <b>rectified</b> [1] - 310:3<br/> <b>red</b> [1] - 279:29<br/> <b>reduce</b> [3] - 316:12,<br/> 316:17, 334:17<br/> <b>reduced</b> [6] - 256:21,<br/> 306:18, 306:19,<br/> 324:45, 324:47<br/> <b>reduction</b> [2] - 261:35,<br/> 273:35<br/> <b>redundancies</b> [1] -<br/> 327:35<br/> <b>refer</b> [3] - 254:38,<br/> 274:39, 311:21<br/> <b>reference</b> [10] -<br/> 262:28, 265:41,<br/> 283:23, 321:46,<br/> 323:34, 324:1,<br/> 331:30, 338:4,<br/> 341:8, 349:21<br/> <b>Reference</b> [1] - 271:38<br/> <b>referenced</b> [1] -<br/> 301:44<br/> <b>referred</b> [3] - 279:42,<br/> 302:6, 340:15<br/> <b>referring</b> [1] - 265:35<br/> <b>reflect</b> [2] - 261:34,<br/> 345:3<br/> <b>reflected</b> [2] - 302:32,<br/> 332:26<br/> <b>reforms</b> [1] - 299:26<br/> <b>refute</b> [1] - 335:11<br/> <b>regard</b> [1] - 342:17<br/> <b>regarded</b> [1] - 313:46<br/> <b>regards</b> [2] - 264:16,<br/> 267:12<br/> <b>regeneration</b> [1] -<br/> 318:31<br/> <b>regime</b> [5] - 287:26,<br/> 287:27, 299:14,<br/> 316:23, 316:26<br/> <b>REGIONAL</b> [1] - 250:6<br/> <b>Regional</b> [27] -<br/> 251:21, 260:7,<br/> 267:1, 268:6,<br/> 268:16, 268:47,<br/> 269:36, 272:38,<br/> 273:8, 274:45,<br/> 275:1, 278:9,<br/> 278:35, 283:47,<br/> 290:35, 300:30,<br/> 301:3, 309:38,<br/> 332:21, 333:47,<br/> 336:34, 336:41,</p> | <p>337:24, 338:1,<br/> 339:26, 340:21,<br/> 349:27<br/> <b>Register</b> [1] - 343:8<br/> <b>registered</b> [2] -<br/> 343:14, 343:23<br/> <b>registers</b> [1] - 286:8<br/> <b>registration</b> [1] -<br/> 343:28<br/> <b>registry</b> [1] - 343:15<br/> <b>regrettably</b> [9] -<br/> 266:37, 281:41,<br/> 284:22, 288:29,<br/> 289:11, 338:9,<br/> 342:40, 345:2,<br/> 348:23<br/> <b>regularly</b> [1] - 286:34<br/> <b>regulator</b> [2] - 321:40,<br/> 321:41<br/> <b>rejected</b> [2] - 288:40,<br/> 316:21<br/> <b>related</b> [2] - 319:8,<br/> 327:31<br/> <b>relating</b> [1] - 327:23<br/> <b>relation</b> [10] - 251:42,<br/> 262:36, 262:43,<br/> 262:46, 263:1,<br/> 267:24, 327:39,<br/> 338:36, 344:36,<br/> 346:21<br/> <b>relationship</b> [1] -<br/> 266:18<br/> <b>relayed</b> [1] - 325:38<br/> <b>relevant</b> [1] - 349:21<br/> <b>relied</b> [2] - 276:36,<br/> 333:31<br/> <b>reluctance</b> [2] -<br/> 260:13, 347:31<br/> <b>rely</b> [3] - 274:35,<br/> 295:40, 333:29<br/> <b>remain</b> [1] - 330:7<br/> <b>remains</b> [1] - 342:41<br/> <b>remediation</b> [1] -<br/> 272:36<br/> <b>remember</b> [18] -<br/> 251:26, 251:34,<br/> 251:43, 253:15,<br/> 254:5, 265:5,<br/> 279:43, 303:16,<br/> 313:18, 317:34,<br/> 317:37, 317:41,<br/> 317:42, 321:29,<br/> 322:18, 323:8,<br/> 328:41, 336:25<br/> <b>remembering</b> [2] -<br/> 304:8, 304:39<br/> <b>remind</b> [1] - 269:2<br/> <b>remove</b> [1] - 316:12<br/> <b>removed</b> [2] - 298:12,<br/> 299:32</p> |



|  |   |  |  |   |
|--|---|--|--|---|
| <b>renew</b> [2] - 319:33, 320:5<br><b>renewable</b> [4] - 252:27, 316:6, 318:19, 318:29<br><b>renewal</b> [3] - 252:11, 252:32, 253:10<br><b>renewals</b> [1] - 252:39<br><b>rental</b> [1] - 273:6<br><b>rentals</b> [1] - 273:7<br><b>REPAIR</b> [1] - 345:46<br><b>repair</b> [6] - 308:36, 319:32, 320:5, 330:30, 345:16, 345:40<br><b>repaired</b> [3] - 263:10, 276:13, 279:33<br><b>repairs</b> [2] - 279:37, 287:37<br><b>repaying</b> [1] - 276:25<br><b>replace</b> [5] - 256:36, 286:33, 289:25, 308:36, 338:30<br><b>replaced</b> [1] - 280:11<br><b>replacement</b> [5] - 257:21, 276:18, 279:39, 287:31, 287:32<br><b>replenish</b> [1] - 311:26<br><b>report</b> [25] - 251:32, 258:25, 264:26, 264:29, 264:43, 266:33, 266:37, 266:41, 267:21, 275:17, 275:21, 290:26, 301:7, 301:15, 301:47, 302:5, 302:9, 304:30, 304:45, 304:47, 319:36, 338:6, 349:5<br><b>reportage</b> [1] - 335:4<br><b>reports</b> [4] - 255:40, 255:43, 285:15, 285:18<br><b>represent</b> [1] - 257:45<br><b>representation</b> [4] - 265:16, 299:16, 344:43, 348:3<br><b>represented</b> [2] - 260:40, 308:21<br><b>REQUEST</b> [1] - 345:47<br><b>request</b> [2] - 309:27, 345:41<br><b>requesting</b> [2] - 297:46, 309:28<br><b>requests</b> [1] - 312:13<br><b>require</b> [3] - 292:4, 324:42, 343:14<br><b>required</b> [9] - 252:12, | 267:30, 272:6, 308:27, 316:17, 320:11, 332:29, 333:2, 333:10<br><b>requirement</b> [2] - 330:34, 334:4<br><b>requires</b> [1] - 343:19<br><b>requiring</b> [1] - 298:19<br><b>rescind</b> [1] - 277:18<br><b>reseal</b> [1] - 281:7<br><b>reserves</b> [6] - 253:2, 253:4, 253:11, 297:5, 311:27, 336:30<br><b>reside</b> [1] - 339:7<br><b>resignation</b> [1] - 274:44<br><b>resolution</b> [13] - 279:41, 298:31, 307:33, 307:46, 308:44, 309:24, 309:25, 313:11, 314:29, 330:24, 348:2, 348:13<br><b>resolutions</b> [5] - 262:21, 262:24, 281:18, 305:47, 341:15<br><b>resolve</b> [1] - 309:14<br><b>resolved</b> [1] - 348:5<br><b>resources</b> [1] - 270:3<br><b>resourcing</b> [2] - 320:46, 321:5<br><b>respect</b> [6] - 260:6, 272:9, 272:19, 289:43, 343:12, 343:17<br><b>respite</b> [1] - 273:35<br><b>respond</b> [1] - 319:35<br><b>response</b> [5] - 251:47, 283:40, 315:47, 347:42, 347:45<br><b>responsibilities</b> [8] - 259:10, 259:24, 259:34, 275:38, 298:1, 298:30, 300:29, 301:41<br><b>responsibility</b> [14] - 260:35, 267:4, 278:8, 301:26, 320:22, 335:31, 336:14, 339:40, 340:17, 340:22, 340:26, 341:20, 342:7, 342:10<br><b>responsible</b> [5] - 268:6, 268:28, 304:10, 333:12, 340:32<br><b>rest</b> [2] - 320:22, | 330:36<br><b>restrictions</b> [1] - 311:39<br><b>result</b> [7] - 264:10, 275:28, 306:22, 316:19, 338:2, 339:26, 349:24<br><b>resulting</b> [2] - 323:28, 324:34<br><b>results</b> [1] - 252:47<br><b>resurface</b> [3] - 279:46, 280:3, 336:24<br><b>resurfaced</b> [1] - 295:25<br><b>resurfacing</b> [1] - 325:33<br><b>retained</b> [1] - 347:12<br><b>retaining</b> [1] - 327:46<br><b>rethink</b> [1] - 288:20<br><b>reticulation</b> [1] - 316:30<br><b>retirees</b> [1] - 296:46<br><b>return</b> [3] - 333:26, 344:23, 345:37<br><b>returned</b> [1] - 276:3<br><b>revalued</b> [1] - 286:20<br><b>revenue</b> [20] - 252:17, 254:25, 260:5, 260:12, 260:13, 260:20, 260:21, 273:3, 275:29, 281:21, 282:37, 289:9, 290:18, 290:19, 290:23, 302:37, 315:19, 315:20, 348:42<br><b>review</b> [1] - 318:46<br><b>reviewed</b> [1] - 268:39<br><b>revisit</b> [1] - 298:28<br><b>rid</b> [1] - 347:9<br><b>right-o</b> [1] - 330:1<br><b>rightly</b> [1] - 273:33<br><b>rise</b> [1] - 280:27<br><b>risk</b> [15] - 275:45, 275:47, 278:25, 285:12, 285:22, 285:29, 285:31, 285:33, 285:41, 285:46, 286:5, 287:20, 330:11, 330:19, 336:21<br><b>Roach</b> [14] - 277:32, 317:25, 317:44, 319:31, 320:4, 320:35, 321:4, 322:8, 322:35, 323:38, 325:38, 328:15, 328:20, 341:14<br><b>Roach's</b> [1] - 319:20 | <b>Road</b> [5] - 250:14, 280:12, 280:18, 280:26, 280:42<br><b>road</b> [29] - 256:30, 256:31, 256:34, 257:29, 257:32, 257:37, 259:17, 259:18, 259:29, 262:14, 277:41, 279:37, 280:31, 280:32, 280:37, 281:3, 282:13, 286:36, 298:26, 298:27, 298:28, 298:40, 307:31, 326:36, 341:10, 343:25, 343:30, 348:21<br><b>Roads</b> [8] - 336:33, 336:42, 337:1, 341:18, 341:26, 341:30, 341:41, 342:15<br><b>roads</b> [77] - 256:36, 257:5, 257:20, 257:27, 257:33, 257:34, 257:39, 258:6, 259:13, 260:29, 260:47, 261:1, 261:5, 276:13, 276:46, 277:7, 277:8, 277:13, 277:19, 278:6, 278:24, 279:29, 279:32, 279:46, 280:3, 280:9, 280:16, 280:41, 280:43, 281:4, 282:10, 282:41, 284:22, 286:21, 286:26, 286:34, 286:42, 296:17, 304:4, 304:10, 304:13, 325:33, 326:4, 326:44, 336:25, 337:21, 337:24, 337:29, 337:33, 338:7, 338:12, 338:17, 338:38, 339:11, 339:37, 340:9, 340:18, 340:33, 341:20, 341:27, 341:31, 341:46, 342:7, 342:44, 343:2, 343:10, 343:23, 343:44, 343:45, 343:47, 344:16, 344:20, 344:36, 349:16, 349:17 | <b>rob</b> [1] - 254:31<br><b>Robin</b> [6] - 292:32, 292:45, 311:22, 337:39, 338:46, 348:21<br><b>ROBIN</b> [1] - 292:34<br><b>robust</b> [1] - 301:34<br><b>rock</b> [31] - 265:43, 265:44, 265:45, 266:5, 266:10, 266:16, 266:20, 266:30, 267:2, 268:12, 268:20, 271:13, 272:4, 272:17, 272:20, 272:27, 272:29, 319:8, 329:39, 330:40, 331:16, 331:18, 334:18, 334:27, 334:30, 334:31, 334:36, 340:39, 340:42, 344:44, 344:47<br><b>rock-related</b> [1] - 319:8<br><b>role</b> [4] - 274:44, 313:7, 328:12, 348:37<br><b>room</b> [1] - 329:28<br><b>Room</b> [1] - 250:13<br><b>roost</b> [1] - 277:26<br><b>rosy</b> [1] - 278:31<br><b>route</b> [2] - 261:35, 294:3<br><b>Royal</b> [2] - 307:32, 308:1<br><b>run</b> [1] - 305:11<br><b>running</b> [6] - 287:28, 297:2, 309:39, 319:40, 322:46, 323:8<br><b>runway</b> [10] - 263:6, 263:9, 267:32, 268:19, 276:26, 281:7, 295:25, 325:33, 326:36, 334:28<br><b>rushed</b> [1] - 302:27 |
| <b>S</b>   |   |  |  |   |
| <b>sad</b> [1] - 309:22<br><b>salaries</b> [1] - 290:38<br><b>sand</b> [1] - 332:39<br><b>Sarah</b> [1] - 311:15<br><b>sat</b> [3] - 303:2, 329:20, 329:28<br><b>satisfactory</b> [2] - 337:25, 338:12   |   |  |  |   |

|   |  |   |   |   |
|---|--|---|---|---|
| <p><b>satisfy</b> [2] - 289:6, 289:9</p> <p><b>save</b> [1] - 290:25</p> <p><b>saving</b> [4] - 273:34, 273:41, 281:20, 316:39</p> <p><b>savings</b> [2] - 274:8, 333:36</p> <p><b>saw</b> [6] - 268:30, 269:31, 270:45, 271:42, 299:43, 310:25</p> <p><b>scalpings</b> [1] - 281:7</p> <p><b>scanning</b> [1] - 266:44</p> <p><b>scenario</b> [7] - 252:6, 252:7, 252:8, 252:44, 253:28, 254:7, 330:17</p> <p><b>scene</b> [1] - 314:21</p> <p><b>Schedule</b> [1] - 270:13</p> <p><b>schedules</b> [3] - 269:38, 319:16, 339:4</p> <p><b>Schedules</b> [1] - 269:46</p> <p><b>Schedules"</b> [1] - 269:44</p> <p><b>scheme</b> [1] - 260:32</p> <p><b>school</b> [4] - 284:44, 285:8, 295:21, 343:46</p> <p><b>screen</b> [2] - 269:11, 269:16</p> <p><b>screening</b> [2] - 267:3, 269:39</p> <p><b>SDA</b> [2] - 312:3, 312:11</p> <p><b>sea</b> [3] - 261:31, 261:35, 309:40</p> <p><b>search</b> [1] - 343:9</p> <p><b>seat</b> [1] - 292:40</p> <p><b>second</b> [5] - 253:32, 265:2, 308:43, 332:17, 335:22</p> <p><b>second-last</b> [2] - 332:17, 335:22</p> <p><b>secondhand</b> [1] - 278:46</p> <p><b>Secretary</b> [1] - 311:16</p> <p><b>Section</b> [1] - 346:34</p> <p><b>section</b> [2] - 301:47, 334:1</p> <p><b>secured</b> [1] - 275:19</p> <p><b>security</b> [1] - 318:29</p> <p><b>see</b> [54] - 252:18, 256:14, 256:40, 268:36, 269:3, 269:19, 269:26, 269:36, 269:37, 269:42, 269:43,</p> | <p>269:46, 270:2, 270:6, 270:13, 270:15, 270:18, 270:23, 270:43, 270:44, 271:9, 271:10, 271:18, 271:37, 279:5, 279:11, 279:12, 279:25, 279:27, 279:32, 279:45, 282:21, 286:33, 287:40, 303:3, 303:15, 307:31, 314:21, 315:12, 318:23, 322:41, 325:10, 332:17, 332:19, 333:34, 334:45, 335:14, 335:17, 335:23, 340:24, 340:29, 343:9, 349:26, 349:45</p> <p><b>seeing</b> [1] - 267:33</p> <p><b>seek</b> [4] - 254:45, 280:46, 288:11, 288:15</p> <p><b>seeking</b> [3] - 305:47, 311:23, 334:9</p> <p><b>seem</b> [2] - 260:11, 278:24</p> <p><b>selected</b> [1] - 280:40</p> <p><b>self</b> [16] - 261:43, 262:2, 262:4, 296:46, 299:32, 299:38, 302:34, 306:33, 306:36, 306:37, 306:42, 307:6, 316:46, 337:9, 337:12, 339:22</p> <p><b>self-determination</b> [1] - 299:38</p> <p><b>self-funded</b> [1] - 296:46</p> <p><b>self-governing</b> [1] - 339:22</p> <p><b>self-government</b> [8] - 299:32, 306:33, 306:36, 306:37, 306:42, 307:6, 337:9, 337:12</p> <p><b>self-sufficient</b> [3] - 261:43, 262:2, 262:4</p> <p><b>self-supporting</b> [1] - 316:46</p> <p><b>self-sustaining</b> [1] - 302:34</p> <p><b>Senator</b> [3] - 303:46, 306:17, 309:23</p> <p><b>sense</b> [1] - 346:5</p> | <p><b>sent</b> [4] - 265:13, 267:14, 267:27, 267:28</p> <p><b>sentence</b> [4] - 269:3, 325:7, 325:10, 325:26</p> <p><b>sentences</b> [1] - 324:23</p> <p><b>sentiment</b> [1] - 288:28</p> <p><b>separate</b> [1] - 255:33</p> <p><b>September</b> [2] - 274:40, 347:12</p> <p><b>series</b> [4] - 251:41, 263:17, 319:43</p> <p><b>serious</b> [1] - 315:30</p> <p><b>seriously</b> [1] - 350:12</p> <p><b>service</b> [16] - 273:9, 273:31, 296:6, 301:38, 302:23, 310:2, 310:4, 310:10, 310:16, 310:19, 310:22, 310:27, 310:36, 310:45, 311:44, 314:4</p> <p><b>services</b> [8] - 252:36, 253:8, 288:17, 295:7, 310:38, 311:34, 324:44</p> <p><b>Services</b> [2] - 269:37, 341:47</p> <p><b>session</b> [1] - 328:40</p> <p><b>set</b> [9] - 279:37, 290:13, 308:36, 321:45, 321:46, 331:5, 332:25, 334:46, 349:6</p> <p><b>setting</b> [1] - 274:47</p> <p><b>seven</b> [2] - 295:15, 295:17</p> <p><b>several</b> [1] - 252:8</p> <p><b>sewer</b> [1] - 284:21</p> <p><b>sewerage</b> [8] - 252:37, 255:4, 257:21, 258:10, 259:14, 260:30, 260:32, 276:18</p> <p><b>Sexton</b> [2] - 285:39</p> <p><b>shall</b> [2] - 262:8, 281:32</p> <p><b>shape</b> [1] - 271:27</p> <p><b>shelves</b> [1] - 294:23</p> <p><b>short</b> [4] - 292:20, 302:39, 311:36, 311:46</p> <p><b>SHORT</b> [1] - 292:27</p> <p><b>short-term</b> [2] - 302:39, 311:36</p> <p><b>shortage</b> [1] - 328:6</p> <p><b>shortages</b> [1] - 294:37</p> <p><b>shortfall</b> [2] - 330:26,</p> | <p>330:36</p> <p><b>show</b> [6] - 264:27, 268:26, 317:21, 334:39, 343:34, 344:36</p> <p><b>showed</b> [3] - 253:40, 253:41, 282:21</p> <p><b>showing</b> [1] - 279:28</p> <p><b>shown</b> [5] - 268:34, 268:46, 270:26, 270:29</p> <p><b>shows</b> [1] - 257:3</p> <p><b>side</b> [5] - 260:12, 315:19, 315:33, 322:30, 348:27</p> <p><b>sides</b> [1] - 348:36</p> <p><b>signed</b> [4] - 297:40, 298:5, 298:26, 310:34</p> <p><b>significant</b> [12] - 251:31, 258:7, 260:13, 287:22, 294:36, 295:41, 301:15, 301:20, 305:21, 320:47, 327:46, 334:9</p> <p><b>significantly</b> [3] - 261:26, 281:36, 284:33</p> <p><b>signs</b> [1] - 270:14</p> <p><b>silent</b> [1] - 333:13</p> <p><b>similarly</b> [1] - 291:17</p> <p><b>Simon</b> [2] - 297:24, 298:25</p> <p><b>SIMONE</b> [4] - 288:1, 292:15, 292:25, 350:5</p> <p><b>simple</b> [1] - 331:2</p> <p><b>simply</b> [1] - 298:17</p> <p><b>sit</b> [2] - 299:39, 314:15</p> <p><b>site</b> [1] - 334:23</p> <p><b>situation</b> [7] - 266:16, 276:31, 277:14, 281:39, 284:43, 314:11, 345:7</p> <p><b>six</b> [4] - 295:15, 295:17, 331:40</p> <p><b>six-paged</b> [1] - 331:40</p> <p><b>size</b> [3] - 296:12, 298:3, 342:28</p> <p><b>skills</b> [1] - 328:6</p> <p><b>slightly</b> [1] - 253:40</p> <p><b>slow</b> [2] - 270:8</p> <p><b>small</b> [3] - 252:9, 313:33, 313:46</p> <p><b>snakes</b> [2] - 266:27, 340:46</p> <p><b>Snell</b> [29] - 251:3, 251:4, 251:18, 255:38, 258:16,</p> | <p>269:11, 269:42, 270:33, 271:30, 271:41, 274:14, 288:3, 290:12, 291:35, 291:37, 292:6, 292:9, 293:27, 298:27, 304:44, 307:47, 308:23, 328:37, 329:11, 329:41, 331:16, 331:27, 335:33, 343:43</p> <p><b>SNELL</b> [1] - 251:6</p> <p><b>social</b> [3] - 284:24, 297:43, 298:33</p> <p><b>society</b> [3] - 256:5, 258:3, 261:10</p> <p><b>solar</b> [5] - 255:20, 255:22, 255:27, 316:13, 316:23</p> <p><b>solutions</b> [1] - 285:34</p> <p><b>solvent</b> [1] - 340:36</p> <p><b>someone</b> [9] - 280:32, 286:34, 300:45, 305:28, 324:4, 328:16, 340:26, 340:45</p> <p><b>sometimes</b> [1] - 254:31</p> <p><b>somewhere</b> [5] - 256:25, 308:46, 310:44, 317:4, 331:17</p> <p><b>soon</b> [2] - 277:34, 313:22</p> <p><b>sorry</b> [15] - 268:44, 269:3, 269:41, 271:28, 274:40, 282:2, 296:22, 297:20, 306:34, 311:1, 312:31, 317:8, 320:6, 340:10, 341:35</p> <p><b>sort</b> [12] - 258:36, 258:41, 279:38, 288:8, 291:21, 291:40, 308:6, 318:7, 319:8, 321:5, 329:20, 347:19</p> <p><b>sorts</b> [1] - 285:13</p> <p><b>sought</b> [2] - 312:23, 313:1</p> <p><b>source</b> [2] - 290:18, 330:40</p> <p><b>sourced</b> [1] - 266:10</p> <p><b>sources</b> [2] - 254:25, 289:9</p> <p><b>South</b> [9] - 250:13, 299:15, 299:17, 300:24, 308:47,</p> |
|---|--|---|---|---|

|  |   |  |   |  |
|--|---|--|---|--|
| <p>341:47, 348:6,<br/>348:15, 348:18</p> <p><b>sovereignty</b> [2] -<br/>298:21, 299:38</p> <p><b>space</b> [1] - 263:19</p> <p><b>Speaker</b> [1] - 293:24</p> <p><b>speaking</b> [1] - 287:7</p> <p><b>specialist</b> [1] - 331:12</p> <p><b>specific</b> [2] - 290:14,<br/>315:21</p> <p><b>specifically</b> [1] - 290:2</p> <p><b>spectrum</b> [1] - 348:37</p> <p><b>spells</b> [1] - 315:38</p> <p><b>spend</b> [9] - 257:19,<br/>257:20, 258:37,<br/>278:45, 282:41,<br/>310:37, 330:19,<br/>340:22, 342:10</p> <p><b>spending</b> [3] - 258:36,<br/>276:45, 317:2</p> <p><b>spent</b> [5] - 265:28,<br/>268:40, 279:28,<br/>284:18</p> <p><b>spiders</b> [1] - 266:28</p> <p><b>spoken</b> [1] - 318:35</p> <p><b>spread</b> [1] - 282:8</p> <p><b>stabilise</b> [1] - 304:14</p> <p><b>staff</b> [33] - 252:30,<br/>256:11, 256:21,<br/>264:26, 265:10,<br/>266:38, 267:13,<br/>267:23, 274:34,<br/>274:39, 275:8,<br/>275:27, 276:37,<br/>279:3, 280:21,<br/>280:40, 281:19,<br/>281:21, 285:22,<br/>285:23, 287:38,<br/>287:39, 290:40,<br/>293:15, 311:33,<br/>320:19, 321:20,<br/>327:15, 327:47,<br/>328:10, 333:29,<br/>333:31, 347:30</p> <p><b>staffing</b> [8] - 326:14,<br/>326:16, 326:23,<br/>327:23, 327:24,<br/>327:25, 327:28</p> <p><b>stage</b> [2] - 320:2,<br/>333:6</p> <p><b>staggered</b> [2] -<br/>309:19, 309:22</p> <p><b>staggering</b> [1] -<br/>306:45</p> <p><b>standard</b> [4] - 263:15,<br/>263:17, 337:25,<br/>338:12</p> <p><b>standards</b> [2] -<br/>288:30, 301:37</p> <p><b>Standing</b> [1] - 298:41</p> | <p><b>stands</b> [1] - 281:17</p> <p><b>start</b> [5] - 278:35,<br/>305:47, 306:42,<br/>323:33, 325:4</p> <p><b>started</b> [2] - 285:46,<br/>286:1</p> <p><b>starting</b> [1] - 278:33</p> <p><b>starts</b> [1] - 331:42</p> <p><b>state</b> [14] - 251:16,<br/>258:26, 259:22,<br/>297:27, 298:1,<br/>298:30, 298:39,<br/>299:45, 304:9,<br/>309:34, 321:40,<br/>321:41, 343:4</p> <p><b>statement</b> [7] -<br/>278:34, 300:14,<br/>301:4, 302:31,<br/>314:23, 319:20,<br/>326:28</p> <p><b>statements</b> [2] -<br/>290:30, 290:36</p> <p><b>states</b> [1] - 275:17</p> <p><b>stating</b> [2] - 288:18,<br/>349:10</p> <p><b>statutory</b> [1] - 343:19</p> <p><b>stay</b> [1] - 310:10</p> <p><b>stays</b> [1] - 345:28</p> <p><b>steep</b> [1] - 280:27</p> <p><b>step</b> [2] - 298:5,<br/>313:29</p> <p><b>steps</b> [3] - 285:28,<br/>313:6, 314:2</p> <p><b>still</b> [18] - 269:39,<br/>272:28, 281:6,<br/>288:47, 292:22,<br/>303:28, 305:25,<br/>306:45, 310:32,<br/>319:20, 320:4,<br/>324:38, 335:31,<br/>336:13, 346:13,<br/>346:14, 347:2,<br/>347:14</p> <p><b>stone</b> [1] - 260:21</p> <p><b>stood</b> [8] - 293:25,<br/>299:21, 299:43,<br/>300:12, 300:19,<br/>300:22, 313:40,<br/>329:7</p> <p><b>stop</b> [1] - 316:35</p> <p><b>stopped</b> [1] - 343:29</p> <p><b>story</b> [4] - 294:46,<br/>299:6, 325:42,<br/>349:17</p> <p><b>straight</b> [1] - 287:11</p> <p><b>strange</b> [1] - 293:25</p> <p><b>strapped</b> [2] - 284:7,<br/>311:5</p> <p><b>STRATEGIC</b> [1] -<br/>344:33</p> | <p><b>Strategic</b> [1] - 269:37</p> <p><b>strategic</b> [11] - 285:30,<br/>301:31, 301:44,<br/>313:25, 313:30,<br/>314:24, 314:33,<br/>315:36, 317:15,<br/>319:43, 344:26</p> <p><b>strategy</b> [3] - 314:15,<br/>314:18, 318:30</p> <p><b>stream</b> [1] - 338:10</p> <p><b>street</b> [1] - 261:5</p> <p><b>strength</b> [1] - 306:31</p> <p><b>strengths</b> [1] - 301:12</p> <p><b>stress</b> [1] - 312:7</p> <p><b>stressful</b> [1] - 284:43</p> <p><b>strike</b> [1] - 326:35</p> <p><b>strong</b> [1] - 299:46</p> <p><b>structure</b> [1] - 254:14</p> <p><b>struggle</b> [2] - 315:40,<br/>315:42</p> <p><b>students</b> [1] - 284:45</p> <p><b>studies</b> [6] - 260:17,<br/>288:8, 288:13,<br/>288:24, 288:42,<br/>288:43</p> <p><b>study</b> [1] - 302:3</p> <p><b>stuffy</b> [1] - 345:31</p> <p><b>stupid</b> [1] - 257:25</p> <p><b>submission</b> [6] -<br/>272:6, 289:42,<br/>289:44, 331:43,<br/>331:46, 332:37</p> <p><b>submissions</b> [3] -<br/>289:36, 299:9,<br/>324:39</p> <p><b>submit</b> [1] - 269:5</p> <p><b>submitted</b> [2] -<br/>268:46, 289:41</p> <p><b>subparagraphs</b> [1] -<br/>271:14</p> <p><b>subsequent</b> [1] -<br/>267:27</p> <p><b>subsequently</b> [1] -<br/>300:41</p> <p><b>substance</b> [1] -<br/>265:36</p> <p><b>substantial</b> [5] -<br/>262:9, 276:20,<br/>285:22, 285:40,<br/>290:40</p> <p><b>substantially</b> [2] -<br/>275:14, 287:25</p> <p><b>successful</b> [1] - 349:3</p> <p><b>successfully</b> [1] -<br/>275:12</p> <p><b>sufficient</b> [6] - 261:43,<br/>262:2, 262:4, 273:8,<br/>285:12, 301:27</p> <p><b>sugar</b> [1] - 262:2</p> <p><b>suggest</b> [15] - 255:37,</p> | <p>258:5, 258:16,<br/>267:46, 271:41,<br/>281:17, 283:37,<br/>285:37, 287:10,<br/>306:33, 322:36,<br/>323:15, 323:37,<br/>328:19, 341:13</p> <p><b>suggested</b> [4] -<br/>256:11, 256:17,<br/>323:15, 323:42</p> <p><b>suggesting</b> [2] -<br/>283:39, 285:10</p> <p><b>suggestion</b> [5] -<br/>291:40, 323:47,<br/>325:8, 331:22,<br/>348:13</p> <p><b>suggestions</b> [2] -<br/>281:3, 333:36</p> <p><b>suitable</b> [2] - 272:4,<br/>334:28</p> <p><b>suitably</b> [1] - 327:46</p> <p><b>summarising</b> [1] -<br/>258:33</p> <p><b>summed</b> [1] - 329:25</p> <p><b>summons</b> [1] - 292:7</p> <p><b>sunny</b> [1] - 316:37</p> <p><b>suppliers</b> [2] - 302:40,<br/>311:33</p> <p><b>support</b> [5] - 289:26,<br/>289:36, 313:10,<br/>331:3, 336:21</p> <p><b>supported</b> [1] - 336:9</p> <p><b>supporting</b> [1] -<br/>316:46</p> <p><b>supportive</b> [1] -<br/>332:29</p> <p><b>supports</b> [1] - 330:29</p> <p><b>suppose</b> [1] - 329:42</p> <p><b>surely</b> [4] - 267:4,<br/>267:37, 333:1,<br/>342:34</p> <p><b>surplus</b> [3] - 252:10,<br/>275:28, 275:35</p> <p><b>surprise</b> [3] - 323:2,<br/>323:3, 329:40</p> <p><b>surprised</b> [5] - 255:10,<br/>273:36, 278:37,<br/>287:35, 290:20</p> <p><b>surrounding</b> [2] -<br/>284:47, 289:1</p> <p><b>surveyed</b> [1] - 343:26</p> <p><b>Surveyor</b> [1] - 343:24</p> <p><b>survive</b> [2] - 262:6</p> <p><b>Susan</b> [1] - 303:14</p> <p><b>suspicious</b> [1] -<br/>278:33</p> <p><b>Sussan</b> [1] - 336:33</p> <p><b>sustainability</b> [5] -<br/>302:18, 312:9,<br/>315:39, 316:4, 316:5</p> | <p><b>sustainable</b> [3] -<br/>313:2, 316:34, 349:6</p> <p><b>sustainable</b>" [1] -<br/>349:4</p> <p><b>sustainably</b> [4] -<br/>260:5, 283:30,<br/>348:41, 349:3</p> <p><b>sustaining</b> [1] -<br/>302:34</p> <p><b>sworn</b> [2] - 251:6,<br/>292:34</p> <p><b>Sydney</b> [1] - 303:37</p> <p><b>system</b> [18] - 258:10,<br/>259:30, 261:7,<br/>261:20, 263:20,<br/>280:37, 283:42,<br/>284:42, 289:17,<br/>289:21, 289:25,<br/>295:18, 295:21,<br/>297:43, 298:34,<br/>343:24, 348:10</p> |
| <b>T</b>   |   |  |   |  |
| <p><b>table</b> [5] - 300:45,<br/>303:2, 315:10,<br/>315:19, 326:45</p> <p><b>talented</b> [2] - 285:7,<br/>291:30</p> <p><b>talks</b> [2] - 315:36,<br/>331:14</p> <p><b>target</b> [2] - 275:26,<br/>318:43</p> <p><b>targets</b> [1] - 318:28</p> <p><b>task</b> [4] - 258:17,<br/>306:28, 309:43,<br/>314:46</p> <p><b>tasked</b> [2] - 298:43,<br/>320:11</p> <p><b>Tasmania</b> [1] - 255:40</p> <p><b>tax</b> [4] - 290:5, 290:23,<br/>295:8, 295:11</p> <p><b>taxation</b> [3] - 259:31,<br/>297:43, 298:33</p> <p><b>Taylor</b> [2] - 290:27,<br/>328:47</p> <p><b>Taylors</b> [1] - 250:14</p> <p><b>tea</b> [1] - 287:10</p> <p><b>teachers</b> [1] - 284:45</p> <p><b>team</b> [1] - 303:14</p> <p><b>teams</b> [1] - 311:37</p> <p><b>telecom</b> [2] - 252:36,<br/>255:1</p> <p><b>temporary</b> [1] - 320:46</p> <p><b>tender</b> [45] - 264:27,<br/>265:38, 265:40,<br/>265:42, 265:44,<br/>268:19, 268:30,<br/>268:46, 269:6,</p>   |   |  |   |  |

|  |   |   |  |  |
|--|---|---|--|--|
| <p>269:29, 269:38,<br/>269:46, 270:2,<br/>270:7, 270:13,<br/>270:33, 270:34,<br/>270:35, 270:37,<br/>270:43, 270:46,<br/>270:47, 271:38,<br/>272:1, 272:2, 272:6,<br/>272:12, 272:26,<br/>301:5, 322:2,<br/>328:29, 329:4,<br/>331:3, 331:14,<br/>331:16, 331:29,<br/>332:20, 333:22,<br/>338:36, 342:28,<br/>342:29, 345:22,<br/>345:36, 345:38,<br/>345:39</p> <p><b>Tender</b> [1] - 269:43<br/><b>tendered</b> [1] - 344:30<br/><b>tenderer</b> [1] - 268:47<br/><b>tenderer's</b> [1] - 265:42<br/><b>tenderers</b> [3] - 266:7,<br/>328:30, 328:33<br/><b>tenders</b> [12] - 264:24,<br/>265:21, 265:22,<br/>265:24, 265:34,<br/>270:29, 270:30,<br/>287:33, 328:38,<br/>328:40</p> <p><b>tenor</b> [1] - 322:18<br/><b>tent</b> [3] - 289:24,<br/>290:1</p> <p><b>term</b> [15] - 251:25,<br/>251:38, 282:12,<br/>284:17, 301:31,<br/>302:39, 305:18,<br/>305:23, 311:36,<br/>311:46, 314:18,<br/>314:38, 319:4,<br/>319:15, 325:5</p> <p><b>terms</b> [15] - 253:41,<br/>256:36, 263:6,<br/>265:41, 303:47,<br/>313:31, 313:36,<br/>314:3, 315:30,<br/>321:46, 323:34,<br/>324:1, 327:35,<br/>341:7, 349:21</p> <p><b>terrible</b> [2] - 257:32,<br/>257:33</p> <p><b>Territories</b> [3] - 298:7,<br/>332:21, 337:40</p> <p><b>territories</b> [4] -<br/>259:25, 309:35,<br/>309:44, 347:44</p> <p><b>territory</b> [4] - 259:24,<br/>297:27, 298:32,<br/>339:22</p> <p><b>tested</b> [4] - 297:29,</p> | <p>297:32, 297:33,<br/>297:34</p> <p><b>that..</b> [1] - 337:42</p> <p><b>THE</b> [38] - 250:6,<br/>251:1, 251:10,<br/>264:35, 264:39,<br/>271:33, 271:35,<br/>287:14, 287:46,<br/>288:3, 291:34,<br/>291:43, 292:2,<br/>292:4, 292:9,<br/>292:13, 292:22,<br/>292:29, 292:38,<br/>312:31, 312:36,<br/>312:41, 327:20,<br/>327:43, 329:13,<br/>329:18, 329:35,<br/>345:28, 349:42,<br/>349:45, 349:47,<br/>350:7, 350:15,<br/>350:17, 350:22,<br/>350:29, 350:33,<br/>350:35</p> <p><b>themselves</b> [6] -<br/>254:33, 254:40,<br/>257:10, 308:21,<br/>319:46, 333:3</p> <p><b>theory</b> [1] - 276:2</p> <p><b>there'd</b> [1] - 335:47</p> <p><b>therefore</b> [7] - 267:2,<br/>282:7, 286:42,<br/>286:43, 311:35,<br/>332:29, 346:8</p> <p><b>they've</b> [2] - 289:10,<br/>337:11</p> <p><b>thinking</b> [1] - 308:18</p> <p><b>third</b> [2] - 253:47,<br/>332:33</p> <p><b>thoughts</b> [2] - 256:30,<br/>346:46</p> <p><b>thousand</b> [1] - 296:34</p> <p><b>threatening</b> [2] -<br/>263:26, 266:28</p> <p><b>three</b> [13] - 251:33,<br/>253:19, 254:18,<br/>255:35, 256:32,<br/>259:22, 265:18,<br/>271:13, 282:40,<br/>287:31, 304:11,<br/>328:29, 343:17</p> <p><b>throughout</b> [1] -<br/>262:11</p> <p><b>thrown</b> [2] - 322:27,<br/>324:19</p> <p><b>Thursday</b> [2] - 250:33,<br/>345:9</p> <p><b>ticket</b> [1] - 259:15</p> <p><b>tier</b> [1] - 339:7</p> <p><b>tiers</b> [2] - 259:22,<br/>304:11</p> | <p><b>timeframe</b> [1] - 334:17</p> <p><b>timeframes</b> [1] -<br/>301:42</p> <p><b>timely</b> [1] - 301:29</p> <p><b>timing</b> [1] - 302:26</p> <p><b>Title</b> [3] - 343:6, 343:9,<br/>343:15</p> <p><b>title</b> [2] - 343:13,<br/>343:18</p> <p><b>titles</b> [1] - 343:7</p> <p><b>TO</b> [1] - 350:36</p> <p><b>today</b> [19] - 255:8,<br/>259:1, 261:8, 262:5,<br/>276:32, 278:11,<br/>285:47, 292:10,<br/>295:47, 298:38,<br/>299:33, 307:23,<br/>308:24, 318:29,<br/>319:20, 319:39,<br/>320:4, 347:1, 350:13</p> <p><b>together</b> [5] - 311:37,<br/>313:35, 314:15,<br/>314:16, 314:32</p> <p><b>token</b> [1] - 299:42</p> <p><b>tomorrow</b> [1] - 350:22</p> <p><b>tonne</b> [2] - 294:25,<br/>294:27</p> <p><b>took</b> [17] - 258:22,<br/>258:30, 258:35,<br/>258:41, 259:33,<br/>260:27, 261:25,<br/>282:18, 297:12,<br/>304:15, 306:11,<br/>306:18, 308:44,<br/>314:3, 333:18,<br/>340:41</p> <p><b>top</b> [10] - 258:12,<br/>270:19, 270:23,<br/>296:22, 315:37,<br/>319:38, 319:47,<br/>331:47, 332:8</p> <p><b>total</b> [3] - 281:35,<br/>282:13, 335:17</p> <p><b>totally</b> [3] - 265:37,<br/>298:20, 335:12</p> <p><b>tough</b> [1] - 312:25</p> <p><b>tourism</b> [3] - 266:26,<br/>288:20, 318:31</p> <p><b>towards</b> [2] - 296:5,<br/>305:24</p> <p><b>track</b> [4] - 310:21,<br/>331:17, 334:31,<br/>335:41</p> <p><b>trading</b> [1] - 256:21</p> <p><b>traditional</b> [2] - 293:7,<br/>297:36</p> <p><b>traditions</b> [1] - 260:24</p> <p><b>traffic</b> [1] - 273:6</p> <p><b>training</b> [5] - 281:40,<br/>321:20, 328:10,</p> | <p>328:11</p> <p><b>transcript</b> [1] - 292:43</p> <p><b>transfer</b> [12] - 303:42,<br/>304:2, 304:22,<br/>304:28, 304:38,<br/>337:38, 338:2,<br/>339:3, 339:27,<br/>339:28, 342:44,<br/>349:16</p> <p><b>Transfer</b> [3] - 337:34,<br/>341:23, 343:5</p> <p><b>transferred</b> [3] -<br/>337:34, 339:39,<br/>343:3</p> <p><b>transfers</b> [2] - 339:20,<br/>343:16</p> <p><b>transition</b> [11] -<br/>260:18, 285:24,<br/>288:42, 302:5,<br/>302:9, 303:14,<br/>303:17, 303:30,<br/>305:8, 305:11,<br/>314:23</p> <p><b>transparency</b> [1] -<br/>300:36</p> <p><b>transport</b> [2] - 288:34,<br/>332:39</p> <p><b>transportation</b> [1] -<br/>288:34</p> <p><b>travelled</b> [1] - 257:34</p> <p><b>treatment</b> [3] - 275:30,<br/>280:44, 332:38</p> <p><b>tremendously</b> [1] -<br/>312:25</p> <p><b>tried</b> [6] - 284:9,<br/>289:7, 289:11,<br/>290:25, 291:4, 349:2</p> <p><b>tries</b> [1] - 290:46</p> <p><b>true</b> [1] - 286:13</p> <p><b>trust</b> [1] - 337:20</p> <p><b>truthful</b> [1] - 265:42</p> <p><b>try</b> [10] - 254:28,<br/>267:42, 273:1,<br/>291:26, 291:27,<br/>305:35, 333:24,<br/>342:21, 342:35</p> <p><b>trying</b> [9] - 267:29,<br/>291:3, 311:1,<br/>330:40, 334:17,<br/>340:16, 343:34,<br/>348:22</p> <p><b>tumble</b> [1] - 284:25</p> <p><b>turn</b> [6] - 262:8, 301:4,<br/>304:22, 331:1,<br/>345:25</p> <p><b>two</b> [25] - 261:37,<br/>262:8, 268:36,<br/>270:18, 272:10,<br/>276:20, 282:8,<br/>282:11, 288:35,</p> | <p>290:39, 291:37,<br/>294:7, 296:34,<br/>300:38, 306:47,<br/>307:2, 311:28,<br/>311:40, 324:23,<br/>329:47, 330:27,<br/>330:35, 331:34,<br/>343:13, 344:2</p> <p><b>two-paged</b> [1] -<br/>268:36</p> <p><b>type</b> [3] - 263:15,<br/>265:40, 288:23</p> <p><b>types</b> [4] - 278:44,<br/>282:17, 290:46</p> |
| <b>U</b>   |   |   |  |  |
| <p><b>ultimately</b> [3] - 309:4,<br/>310:1</p> <p><b>umbrage</b> [1] - 258:30</p> <p><b>UN</b> [1] - 299:35</p> <p><b>unable</b> [3] - 253:7,<br/>309:1</p> <p><b>unanimous</b> [1] -<br/>307:33</p> <p><b>uncertainty</b> [2] -<br/>284:42, 284:47</p> <p><b>undeniable</b> [1] - 338:9</p> <p><b>under</b> [22] - 259:24,<br/>260:1, 275:38,<br/>279:11, 287:4,<br/>300:30, 301:11,<br/>305:15, 308:43,<br/>310:4, 312:21,<br/>315:34, 331:4,<br/>333:35, 334:1,<br/>337:34, 341:7,<br/>342:31, 346:33,<br/>347:2, 347:5, 348:18</p> <p><b>underestimates</b> [2] -<br/>315:31, 315:32</p> <p><b>undergone</b> [1] -<br/>255:47</p> <p><b>underlying</b> [1] -<br/>316:45</p> <p><b>underspend</b> [7] -<br/>256:31, 256:34,<br/>256:36, 256:40,<br/>257:5, 276:14</p> <p><b>understandable</b> [1] -<br/>308:7</p> <p><b>understood</b> [15] -<br/>257:4, 263:14,<br/>266:44, 272:2,<br/>272:32, 272:35,<br/>272:37, 286:9,<br/>301:1, 302:14,<br/>302:26, 334:14,<br/>334:28, 345:19</p>  |   |   |  |  |



|   |
|---|
| 255:36, 256:32,<br>260:7, 260:14,<br>261:37, 262:1,<br>262:4, 262:10,<br>263:45, 278:5,<br>279:17, 282:9,<br>282:11, 282:37,<br>282:40, 288:44,<br>291:31, 293:24,<br>294:4, 296:5, 303:4,<br>306:12, 308:35,<br>309:30, 310:21,<br>313:8, 320:24,<br>347:13, 349:2<br><b>yesterday</b> <sup>[4]</sup> - 274:2,<br>288:32, 290:22,<br>342:30<br><b>yourself</b> <sup>[7]</sup> - 257:33,<br>267:12, 268:36,<br>269:15, 307:37,<br>332:34, 334:42<br><b>yourselves</b> <sup>[3]</sup> -<br>257:31, 258:17,<br>280:25 |
| <b>Z</b>  |
| <b>Zealand</b> <sup>[1]</sup> - 296:4   |