# PUBLIC INQUIRY INTO THE NORFOLK ISLAND REGIONAL COUNCIL

**Registrar Generals Building**

# Level 3, Records Wing, 1 Prince Albert Road Sydney, NSW 2000

**Before: Ms Carolyn McNally, Commissioner**

# Counsel Assisting:

**Mr Paul Bolster Ms Kathleen Morris**

# On Friday, 11 June 2021 at 9.34am AEST

**(Day 8)**

1 THE COMMISSIONER: Okay, Mr Bolster, we continue.

2

1. MR BOLSTER: Good morning, Commissioner. There is a
2. matter of housekeeping that we need to attend to before we
3. get back to the evidence. A conflict has arisen on the
4. other side of the Bar table and I think there's a couple of
5. matters that need to be articulated by my learned friend
6. and an application to be made by a Mr Ahmed Rizk.

9

1. MR SIMONE: Madam Commissioner, I appear for the staff and
2. councillors of Norfolk Island Regional Council, both
3. formerly employed and currently employed, with the
4. exception of Mr Roach. I now withdraw my appearance in
5. respect of Mr Phillip Wilson due to a conflict that arose
6. yesterday with his evidence, and I understand that my
7. learned colleague, Mr Rizk, attends here today and he has
8. an application in respect of appearing for Mr Wilson.

18

19 THE COMMISSIONER: Okay.

20

1. MR RIZK: Thank you, Madam Commissioner. My name is Rizk,
2. R-i-z-k, instructor, I also seek leave to appear on behalf
3. of Mr Wilson.

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1. THE COMMISSIONER: Okay, thank you, Mr Rizk, you have
2. leave to attend on behalf of Mr Wilson.

27

1. Are we clear there are not going to be any other
2. conflicts?

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1. MR BOLSTER: I should say that, for the record,
2. Commissioner, we raised the issue of conflict very early on
3. in the piece when it became clear that my learned friend
4. was appearing for all former staff. We thought there was a
5. reasonable prospect, until now, that conflict has not
6. arisen.

37

1. I apprehend, given the way I expect the evidence to go
2. today, that there's going to be a further conflict in
3. relation to the evidence of Ms Jackson. I just want to
4. flag that so that my learned friend can consider his
5. position.

43

1. It's the last day of the hearing and I don't want
2. anything to obviously get in the way of the mechanics, but
3. obviously we're very keen to ensure that the process is
4. procedurally fair from Ms Jackson's point of view, she's a

1 significant and material witness in the matter.

2

1. THE COMMISSIONER: Okay, thanks, Mr Bolster. So,
2. Mr Simone, if you identify anything, can you please raise
3. at that?

6

7 MR SIMONE: Yes.

8

1. THE COMMISSIONER: And we'll make a decision about what
2. the next steps are.

11

12 MR SIMONE: May it please.

13

1. MR BOLSTER: So, on that basis, if we could have Mr Wilson
2. brought up on the screen, please.

16

# 17 <PHILLIP JAMES WILSON, recalled: [9.36am]

18

# 19 <EXAMINATION BY MR BOLSTER, continued:

20

1. MR BOLSTER: Q. Mr Wilson, can you hear me?
2. Unfortunately, we can't hear you, you may have muted
3. yourself; if you can just check that.
4. A. My --

25

1. Q. That's better.
2. A. -- mute is off now, yep.

28

1. Q. Well, done, thank you.
2. A. Morning.

31

1. Q. When we were interrupted yesterday by technology, you
2. were describing the extent of your knowledge of the total
3. cost of the airport runway project; you recall that?
4. A. Yes, I recall talking about the airport.

36

1. Q. If I understand your evidence correctly, you recall
2. being told that the project would cost $45 million, or a
3. slight amount less than that, about $48-49 million;
4. correct?
5. A. That's correct.

42

|  |  |  |
| --- | --- | --- |
| 43 | Q. | And you understood that would be funded by a grant |
| 44 | from | the Commonwealth of $43 million? |
| 45 | A. | Yes. |
| 46 |  |  |
| 47 | Q. | And that council would be taking out a loan of |

1. $2 million?
2. A. That's right.

3

1. Q. And I think, correct me if I'm wrong, you said that
2. the loan would be a loan from the Commonwealth?
3. A. That's what I understood.

7

1. Q. And you prepared the budget for 2019/20 on that basis?
2. A. Yes, that was the information that we put in there and
3. it was based on the supporting documentation.

11

1. Q. We'll come back to the supporting documentation in a
2. minute, but I just want to show you the draft budget or the
3. draft operational plan which included the budget. Could we
4. please bring up NIRC.PUB.001.0204\_0054.

16

1. If we just go back to the top page before we come down
2. to page 54, just so that you recognise the document. Go to
3. page 1, sorry about that. You see, that's the draft
4. operational plan?
5. A. Yes.

22

1. Q. And that included the budget?
2. A. I just read that.

25

1. Q. All right, let's go back to page 54 at the top of the
2. page, the first paragraph:

28

1. *Council has included a $2 million provision*
2. *in 2019-2020 for borrowings to cover any*
3. *shortfall in funding for the airport*
4. *resurface project. Where grants are*
5. *available which may allow construction of*
6. *an asset sooner, then loans are used to*
7. *attract or match that grant.*

36

1. Pausing there, did you understand that the project
2. would extend beyond 2019/20, and that is --
3. A. That's that stage. At that stage in writing the
4. budget, that was what information we had, so that was the
5. costing.

42

1. Q. Please, just listen to my question and answer my
2. question. Did you understand that the project would extend

45 beyond 2019/20 and into 2020/21?

46 A. Um, extend beyond that year?

47

|  |  |  |
| --- | --- | --- |
| 1 | Q. | Yes. |
| 2 | A. | There was a possibility that it would. |
| 3 |  |  |
| 4 | Q. | Did you have in mind any further expenditure that you |
| 5 | may | need to budget for in the second year; that is, 2020 |
| 6 | and | 2021? |
| 7 | A. | No, it was - the budget was for that year and, if it |

1. hadn't have been finalised, it would carry forward into the
2. following year.

10

1. Q. So, just to be perfectly clear: the total cost of the
2. entire project, whether it was spent in 2019/20 or 2020/21,
3. you understood to be $45 million?
4. A. Yes, at that time.

15

1. Q. If we could go down to page 62. You will see, in the
2. third grouping under, "Airport", airport runway reseal
3. $45 million funded by a grant of $43 million and
4. $2 million; do you see that?
5. A. Yes, I can read that.

21

1. Q. When you came to include those figures in the budget,
2. did you review any of the primary documents that council
3. had in its files which demonstrated the full extent of the
4. airport runway reseal project?
5. A. The files that I were given for that budget were
6. provided to me from the commercial manager and the group
7. manager section, so the costings were done in their area,
8. so that information was built up from that, from their
9. commercial section.

31

1. Q. Were you given a copy of the Boral tender?
2. A. No, I wasn't.

34

1. Q. What was the extent of the documentation that was
2. provided to you?
3. A. The extent was the budget package that we sent out to
4. all managers; they completed their requirements in the
5. budget, it was discussed with one of our financial
6. accountants with them, they would go through all their
7. budgets and the information would then come into our budget
8. package.

43

1. Q. Did you look at the resolution passed by council that
2. dealt with the project?
3. A. You'll have to refresh my memory which one that was.

47

1. Q. Can I suggest that you would have, in budgeting for
2. this project, addressed and at least checked up on
3. council's resolution in which it accepted the Boral tender;
4. correct?
5. A. I don't recall that resolution, it was three years
6. ago, you'll have to show me it.

7

1. Q. I'll show it to you in a minute, but don't you agree
2. with me that, in budgeting for a $45 million project, you
3. would have at least gone back and checked council's
4. resolution that accepted the tender for that project?
5. A. I based my information on the commercial manager's
6. input into the budget, that's the section that did that --

14

1. Q. You're not answering my question, Mr Wilson. Do you
2. think it would have been proper for you to have gone back
3. and looked at the council resolution whereby Boral's tender
4. was accepted?
5. A. I'm not sure what you mean by the question, can you
6. ask me that again?

21

1. Q. All right. Council had committed to accept a tender
2. for a project that you understood to be $45 million;
3. correct?
4. A. That's the budget figure, yes.

26

1. Q. Clearly, the biggest single contract in the council's
2. then short history; correct?
3. A. You're asking me a question about a resolution; I
4. don't even know the date, so I don't know how to answer
5. that.

32

1. Q. Well, you wouldn't need to know the date, would you?
2. Wouldn't you just go back and see what council had resolved
3. to do in the first place?
4. A. You know, you're asking me a question about three
5. years ago and it's about a resolution, and you haven't got
6. it in front of me, so I don't remember, the day before.

39

1. Q. Bring up, please, NIRC.PUB.001.0192\_0021. See that
2. resolution?
3. A. Yeah, what date's on that there?

43

1. Q. 20 February 2019.
2. A. Yes, I've read that.

46

47 Q. When was the first time you read it?

1. A. The first time I read it, I can't remember, it's three
2. years ago. It's 20 February 2019. I can't recall, I'm
3. sorry, I don't have my diary with me for back then.

4

1. Q. You see, I want to suggest to you that a council
2. resolution of that magnitude, of that significance, is a
3. resolution that you would have reviewed as the chief
4. financial officer and the responsible accounting officer
5. before you prepared the budget for the 2019/2020
6. financial year; do you agree with that or not?
7. A. The budget would have been formulated, the draft one
8. you're talking about there, around a similar time, so I
9. can't recall which was first. The budget was based on the
10. person who wrote the input to the budget, which was the
11. commercial section.

16

1. THE COMMISSIONER: Q. Yesterday, Mr Wilson, you said
2. that the budget from a preliminary purpose was prepared in
3. the first three months of the year and it was finalised in
4. the last three months of the financial year; so I would
5. suggest, if it was finalised in April, May, June, and that
6. was February, that would need to be taken into account.
7. Particularly point (d).

24

1. Can you also tell me: you said that you were focused
2. on the budget information provided by the commercial
3. manager; can you please explain to me how that information
4. came to you, in what form? What kind of document did that
5. information come in?
6. A. Oh, yes. The budget template was split up into cost
7. centres and sent to each manager that had previous budget,
8. actual, and they had areas where they put in there new
9. sections. The financial accountant responsible for that
10. would sit down with them, work through it; a number of
11. categories, it would be salary, wages, costs and operating
12. costs, so they would come back into the main package and
13. then it would be reviewed, checked.

38

1. Q. So, you sat down with the various managers, including
2. the commercial manager, to go through their budget which is
3. to be before; I would expect that's what would happen.
4. A. No look, the person responsible for that area was,
5. yes.

44

1. Q. I would find it very hard to understand that Mr Taylor
2. would not raise the fact that there was a potential
3. requirement for biosecurity costs at that point?

1 A. Well, I don't think it was known then.

2

1. Q. He was completely aware at that point, according to
2. his evidence, so if he sat down with you and went through
3. the budget, do you not recall that ever being raised?
4. A. Well, there's an opportunity to update the budgets
5. through the quarterly review process, and so, each manager
6. gets a copy of the budget with the actuals of each quarter
7. prior to the quarterly review being finalised and they have
8. an opportunity to update their budgets in that situation,
9. there's three times a year that happens and we distribute
10. it out and we base the next adjustments on their
11. information. We're relying on their information.

14

1. MR BOLSTER: Q. Let me get this clear. You obviously
2. attended a meeting on 20 February because your quarterly
3. budget review was placed before the council that day; do
4. you agree with that proposition?
5. A. I'd have to look at the attendance at the top of the
6. report, so if I was there, I was there; I don't recall that
7. particular meeting.

22

1. Q. If we could go, please, to page 1 of the minutes. See
2. there, "In attendance: Mr Wilson"?
3. A. Yes, that's right.

26

1. Q. You didn't walk out of the room, did you, when council
2. came to consider the airport reseal project, did you?
3. A. Was it in the confidential section?

30

1. Q. Yes, it was. Did you walk out of the meeting when
2. council came to consider whether to award a tender worth
3. $44.8 million to Boral?
4. A. I don't see any reason why I would.

35

1. Q. Why you would walk out?
2. A. M'mm.

38

1. Q. No. And, you were there for the discussion when
2. Mr Taylor briefed councillors?
3. A. I imagine so, I don't recall the specifics of that
4. meeting. I was in attendance, and there are my reports,
5. and so, it would have been discussed.

44

1. Q. I want to suggest to you that Mr Taylor made it clear
2. to councillors at that meeting that there was a potential
3. that the project would cost a lot more than $45 million
4. because of the risk associated with obtaining biosecurity
5. clearance to bring rock onto the Island from the mainland?
6. A. I appreciate your question, Mr Bolster; can you show
7. me the minutes where that was said, because I don't recall
8. the cost of biosecurity being addressed until later, and I
9. never got a costing for it.

7

1. Q. Let's go back to the briefing note for that meeting
2. that you were shown yesterday. If we could have that up,
3. please, let me find the reference. Briefing report, No.15.
4. And, that should not be shown publicly, thank you. If we
5. could go down to page 3 of the document.
6. A. I haven't got that document on the screen.

14

1. Q. We'll arrange for it to be displayed for you.
2. A. Yep, here we go. What date's this one?

17

1. Q. This was the briefing prepared for that meeting on
2. 20 February, which you were at, when the Boral tender was
3. selected over the other two tenders. You will see there
4. that, in the first paragraph at the top of the page, "Boral
5. scored the highest", et cetera. Then the second paragraph:

23

1. *Boral has indicated in their submission*
2. *that their price does not include treatment*
3. *of bulk aggregate and sand for transport to*
4. *Norfolk Island. This is because*
5. *biosecurity is assessed according to how*
6. *clean the material is at the source and how*
7. *the importer will mitigate any risks ...*

31

1. Et cetera, you can read the rest. You can see there
2. that Boral had estimated that amount - please don't mention
3. that amount - no, I can mention that amount, thank you.
4. I'll withdraw that and put that again.

36

37 You will see there that Boral has mentioned --

38

39 (Technical difficulty.)

40

1. Commissioner, the only thing we can do, may I suggest
2. we have a short recess.

43

1. THE COMMISSIONER: I'm just wondering whether the issue is
2. that, if it keeps dropping out at his end, the room's only
3. booked for a certain amount of time.

47

1. MR BOLSTER: So, the instructions from the technical
2. people is that it's an issue at our end on the network.

3

4 THE COMMISSIONER: All right.

5

1. MR BOLSTER: They keep happening at significant moments,
2. just to add to a bit of a drama.

8

1. THE COMMISSIONER: Okay, we'll take five minutes and see
2. if we can work it out.

11

12 MS PERKOVIC: We've got him back.

13

14 MR BOLSTER: Q. Mr Wilson, can you hear me?

15

16 THE COMMISSIONER: It's frozen, I think.

17

18 THE WITNESS: ... seem to be moving much.

19

1. MR BOLSTER: Q. Can you hear us now?
2. A. Yes, I can hear you.

22

1. Q. Do you still have that document displayed?
2. A. Yeah, I can see the document, I can't see the day or
3. when it was put into the --

26

1. Q. You can assume from us, assume that this was the
2. briefing provided to council for the 20th.
3. A. I wouldn't assume; I'm not good at assuming things.

30

1. Q. I want to suggest to you then that you were present
2. when this briefing was discussed with councillors, and that
3. it was made clear to councillors by Mr Taylor that Boral
4. had indicated that there was a chance that up to
5. $4.2 million was going to be required to cover the cost of
6. bringing clean aggregate to Norfolk Island; what do you say
7. about that?
8. A. I can't actually see the date of that, and I wouldn't
9. assume anything.

40

1. Q. I'm not asking you to assume anything, I'm not asking
2. you about the date: I'm asking you whether on 20 February,
3. when you were at a meeting where the Boral contract was
4. discussed, Mr Taylor made clear to councillors that Boral
5. had estimated a cost of about $4.2 million to cover the
6. biosecurity risk of bringing aggregate to the Island. Do
7. you recall that being said or not?
8. A. I don't recall that being said, and I'm not sure I've
9. seen that document. I can't recall seeing that document.
10. Where did that document come from?

4

1. Q. It was produced by the council.
2. A. Yeah, what's the date, what was the forum?

7

1. Q. The evidence that we've heard to date is that this was
2. the briefing provided to councillors at the confidential
3. session on 20 February. Councillors agree that this was
4. provided to them. Three councillors say that they
5. understood, when they walked away from that meeting, that
6. the cost of the project could have been 47, 48,
7. $49 million. Three councillors say that. Two councillors,
8. to be fair to you, say that they understood when they
9. walked away from that meeting that the project costs would
10. be $45 million: they're Councillor Adams and Councillor
11. Snell. I want to know what you recall?
12. A. I recall the costs of that project was $45 million and
13. that's what we put in the budget.

21

1. Q. Can I suggest that you ought to have reviewed Boral's
2. tender for this project before you made any entry in the
3. budget for 2019/20. What do you say about that?
4. A. No, I don't agree, I think that information wasn't
5. available until the budget was set sometime after. That
6. document there doesn't indicate to me that that was part of
7. the budget process in the operating plan.

29

1. Q. Could we go back to the minutes of that meeting.
2. NIRC.PUB.OO1.0192\_0021. If that can now go on the public
3. stream. The Commissioner's already pointed out to you
4. subparagraph 2(d) which indicates that:

34

1. *The scope of the work was to be negotiated*
2. *to minimise any grant funding shortfall.*

37

1. I want to add to the Commissioner's query,
2. paragraph 3, which says:

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1. *Council contributes any shortfall of*
2. *funding for the project, over and above the*
3. *funding provided by the Commonwealth of*
4. *Australia, by way of a loan from the*
5. *Norfolk Island International Airport*
6. *Government Business Enterprise.*

47

1. I want to suggest to you that it's implicit from that
2. minute that the final costs had not been established as of
3. 20 February 2019; do you agree with that?
4. A. No.

5

6 Q. You don't, okay.

7

8 THE COMMISSIONER: Can I just ask a question?

9

1. Q. What do you think it actually meant there when they
2. said they wanted to minimise any grant funding shortfall?
3. A. Well, I think that's an area that you would do on any
4. contract, you would try and minimise your costs.

14

1. Q. So, what you're saying is that in any contract there's
2. the potential for costs to increase?
3. A. In this situation, it's saying:

18

1. *The scope of the work be negotiated to*
2. *minimise any grant-funding shortfall.*

21

1. And then they're talking about the loan, and in the
2. budget we had a $2 million provision, so that was the
3. budget at that point in time.

25

1. MR BOLSTER: Q. Mr Wilson, why didn't you question the
2. group services representatives about what the extent of the
3. shortfall might be?
4. A. I was told that the shortfall was a $2 million loan
5. component.

31

1. Q. That was the extent of the shortfall as you understood
2. it?
3. A. At that point in time, yes.

35

1. Q. To be fair to you, I want to suggest to you that you
2. were on notice that there was a risk that this project
3. would cost well in excess of $45 million after 20 February
4. 2019 and before you came to finalise the budget, whether
5. that be in April, May or June 2019; what do you say about
6. that?
7. A. I think it's ridiculous. The budget was set by the
8. people that were answering your questions and, if they
9. wanted it higher, we would have taken that into account;
10. like, there was no reason to be saying something different.

46

47 Q. You understood that there was a biosecurity issue

1. associated with this contract, weren't you?
2. A. It became knowledge later on; it wasn't at the stage
3. of the budget process when we were fleshing out the costs
4. and the funding via their figures.

5

1. Q. But you --
2. A. Hang on, this light's gone off. Sorry.

8

1. Q. The biosecurity risk was something that was discussed
2. at the meeting on 20 February, wasn't it?
3. A. I don't recall discussing it then; it came up later
4. and it was something that would be addressed in
5. future years' budgets, the quarterly budget reviews would
6. pick up that type of information. That particular budget
7. that we put to council is the information that I was given
8. from the commercial section.

17

1. Q. When do you say you were made aware of the cost
2. associated with the biosecurity risk for the airport
3. contract?
4. A. It was starting to be discussed later in the year, I
5. think it was - I can't recall the exact date - it was
6. probably the first quarter of the next year at the time, so
7. would have been later in the year, I don't recall the exact
8. date, I'm sorry.

26

1. Q. Did you make any provision in the budget, that is,
2. amending the existing budget, to reflect that risk?
3. A. There wasn't in that budget at the time the need to.
4. There was in the future budgets in the information that
5. came back from those areas and put it in their papers, so
6. at the time, no.

33

1. Q. Could we please bring up document, and if this could
2. not be shown publicly, NIRC.012.001.0016. Just familiarise
3. yourself with that document. These are minutes --
4. A. I can't see that.

38

1. Q. It can be shown publicly, okay, thank you. Scroll
2. down the page, you will see that you were present at this
3. meeting on 10 October 2019.
4. A. That's right, I was sitting in for the general
5. manager.

44

1. Q. How long were you sitting in as the acting general
2. manager?
3. A. One week. It was one week Bruce Taylor and one week

1 myself; she had to go on a holiday.

2

1. Q. And this was shortly before you finished up with the
2. council?
3. A. That's correct.

6

1. Q. If we go down to page 0002, at the foot of that page,
2. second-last dot point, the second-last dot point in that
3. paragraph; do you see there?
4. A. Mmm-hmm.

11

1. Q. Who requested the release of the biosecurity
2. requirements on behalf of the council?
3. A. I'm not sure who said that at that meeting.

15

16 Q. You see there:

17

1. *The biosecurity process was explained*
2. *including the thorough cleaning of all*
3. *equipment ...*

21

1. Et cetera. You knew all about the biosecurity process
2. before that, didn't you?
3. A. No. That's something that would have been talked
4. about, but I didn't know about the process, that wasn't my
5. area.

27

1. Q. I want to take you to a new different document,
2. NIRC.023.001.0002. This can be shown publicly because the
3. relevant commercial in-confidence material has been
4. redacted. You will see here, there was a discussion at a
5. council meeting on 17 July in a confidential session about
6. additional road maintenance works that were to be carried
7. out on the Island by Boral. Do you remember that?
8. A. I can read that, yes.

36

1. Q. Were you present at that meeting when this issue was
2. discussed?
3. A. I believe so, but you'll have to just check that form
4. at the top again if I was.

41

1. Q. Yes, if we go to page 1, it's actually page 0002.
2. We'll go back to the original document,

44 NIRC.PUB.001.0227\_0002. See there?

45 A. Yep, that's correct, I was.

46

47 Q. Going into that meeting, what did you know about the

1. proposal by Boral to carry out some roadworks on the
2. Island?
3. A. The group manager services, Mr Taylor, had asked me
4. whether it was financially possible to do the addition of
5. the roads, and so, I knew about the proposal; I didn't see
6. it particularly written prior because sometimes you don't
7. get the minute until the meeting.

8

1. Q. If we could go down to page 3 of the document, and you
2. will see there the financial implications. Did you have
3. any input into that paragraph headed, "Cashflow" and the
4. subsequent paragraph headed, "Conclusion"?
5. A. I don't remember the specifics, but the figures look
6. like they are in line with what we would have in those
7. budget areas, cashflow, yes.

16

1. Q. This was a significant deviation from the budget,
2. wasn't it?
3. A. It would be in that year coming up.

20

1. Q. The only way in which it could be funded was through
2. council using or deploying its cash reserves; correct?
3. A. It was funded through the next year's budget. At the
4. time when he spoke to me about it, he said, "Would it be
5. possible to do this next year at the end of the Boral
6. contract?" So, I had a look at the figures and I said, "It
7. was, it was going to be fairly tight, you'd have to drop
8. out other items in the budget, in next year's budget."

29

1. Q. Do you know whether that occurred or not?
2. A. No, well, I had left six months before the next year's
3. budget was implemented, so I don't have any - you know, I
4. was gone six months before.

34

1. Q. Were you not concerned by the fact that this was a
2. substantial deviation from the budget?
3. A. It wasn't away from the budget because it was in
4. next year's budget, so it was a requirement to, you know,
5. make sure that you take that into account when you're
6. setting the next year's budget; like, you can't put it on
7. top of things. I think, as I explained, it was in the
8. limits, that you couldn't continue adding on to things, so
9. it was one of those areas where, if you underspent in one
10. area you could carry forward that amount and, if you were
11. also looking at a future budget, you would take that into
12. consideration.

47

1. Q. Is it fair to say that when that report says that
2. "cash is available to commit to this project and funds
3. budgeted in future years can be brought forward", that
4. effectively summarised the advice you gave to Mr Taylor
5. when he came and saw you?
6. A. Yes, in the next year I felt that was the case at that
7. time if they took into account - on the proviso that you
8. put it in your budget and pick it up in your quarterly
9. analysis.

10

1. Q. Do I take it, in giving that advice, you were
2. proceeding on the basis that the total cost of the airport
3. runway resealing was only $45 million?
4. A. Let's have a look at what you've got, the date on
5. there?

16

1. Q. This is 17 July 2019.
2. A. Yes, it would have been at the time, it's just before
3. or it was just as the new budget had started, so July was
4. the first month of that airport budget.

21

1. Q. If you had been aware that the total cost of the
2. airport runway project could have been as much as
3. $48 million or $49 million, would you have told Mr Taylor
4. that cash was available to commit to the project?
5. A. Well, in that situation the overrun of the airport was
6. being looked at with a loan provision, so in that situation
7. in another year's time, if there was a shortfall there, you
8. would be looking at extending your budget for borrowings;
9. at the time we had $2 million, so you would have to
10. increase that to more: that was the logic --

32

1. Q. That wasn't really --
2. A. -- of council.

35

1. Q. That wasn't really responsive to my question,
2. Mr Wilson. What I want to suggest to you --
3. A. I'm sorry.

39

1. Q. -- is that, if Mr Taylor had come and asked you, "Do
2. you have cash available to commit to this project?", before
3. 17 July 2019, if he had come and asked you then, and you
4. knew that there was a risk that the airport project might
5. be as high as $48 million or $49 million, that is, another
6. $4 million over what you had budgeted, don't you think
7. you --
8. A. No, I don't accept.

1

1. Q. -- would have asked him to think twice about
2. proceeding with this particular project?
3. A. No, I think at that time future cashflow would support
4. that project as long as they kept it within the parameters
5. of the next year's capital budget.

7

1. Q. I want to suggest to you that it would have been
2. prudent for you to have told Mr Taylor in those
3. circumstances, "We have around $10 million or $11 million
4. in cash reserves".
5. A. You see, you're looking at reserves one and a
6. half years prior, so you have to look at your forecasted
7. cash reserves, and in the next budget coming up you take
8. that into consideration. I know that, by looking at the
9. next budget, that they looked through when I had since
10. moved away, that they put items in there that had been not
11. funded and it was up to the budget in the following year to
12. make sure that was correct. The cashflow in there was
13. looking at the forecast at the time, so one and a
14. half years later when the actual project is in place it
15. should have been locked in by the future budget.

23

1. Q. The performance of the council, since its
2. incorporation and up to 30 June 2019, did not suggest that
3. there were going to be any surpluses available to meet the
4. sort of expenditure that was required for both the airport
5. runway project and the roads project taken together, may I
6. suggest to you; do you agree with that or not?
7. A. No, I don't.

31

1. Q. So, assuming council was required to fund $2 million
2. for the airport and another $5 million for the roads, where
3. was that money going to come from other than, as you say, a
4. $2 million loan from the Commonwealth?
5. A. You're talking about the airport overrun?

37

1. Q. Yes.
2. A. Yes, it overruns - after the budget was set at that
3. amount, the overrun was to be a loan with the Commonwealth.

41

1. Q. What about the 5, where was that $5 million going to
2. be paid from?
3. A. Well, there was - unspent roads in the budget that we
4. were in would be re-voted, carried forward into next year;
5. the next year's component which would be in the budget
6. because it's a standard amount, would be applied to it, so

1 it's just part of your normal budget process.

2

1. In that case because they had a once-off opportunity
2. because of the situation with the Boral company on the
3. Island, which is that most of the costs of getting it there
4. were already mobilised, to have the roads done while
5. they're there was a logical option, and it was prior
6. unspent monies in the organisation, future monies which
7. were going to be available, and at the time you get to that
8. section in your next budget you make sure you allocate the
9. cash available.

12

1. I notice, they didn't do that in the next budget; in
2. actual fact they put a budget to council for $15 million of
3. unfunded capital expenditure, and their cashflow, they ran
4. it down to nearly zero. They had an opportunity in
5. three-quarter reviews and a budget to know that. They
6. didn't use the provision for the loan for the airport and
7. they also didn't seek funding in other areas, which you
8. would.

21

1. Another option that I think they overlooked was, the
2. budget that we did in 19/20 had batteries that were funded;
3. it looks like that got moved into the next year's budget as
4. an unfunded amount. So, there were areas there where
5. they've compounded the problem in the future. If they had
6. have stuck to the budget with the normal process, as I've
7. said in that document, there was available cash in the
8. future if they budgeted into the next year's budget.

30

1. MR BOLSTER: Commissioner, I have no further questions for
2. Mr Wilson.

33

34 MR SIMONE: I have no questions, Madam Commissioner.

35

36 MR RIZK: No questions.

37

1. THE COMMISSIONER: All right, Mr Wilson, you're excused
2. from your summons, thank you.

40

# 41 <THE WITNESS WITHDREW

42

1. MR BOLSTER: I call Mr Taylor, Commissioner, if we could
2. bring him up onto the screen. Mr Taylor, if you just wait
3. one moment, you will be given an affirmation to take before
4. we take your evidence.

47

# 1 <BRUCE GLOSTER TAYLOR, affirmed: [10.22am]

2

# 3 <EXAMINATION BY MR BOLSTER:

4

1. MR BOLSTER: Q. Thank you, Mr Taylor. Some evidence has
2. arisen in the course of the Inquiry that means that we have
3. to ask you some more questions and take up your time. Can
4. I ask, firstly, about the in-confidential meeting on
5. 20 February 2019 at which councillors were given a briefing
6. about the tender process and the preferred tenderer, namely
7. Boral; you recall that meeting, I take it?
8. A. Yes.

13

1. Q. It's been suggested by two councillors and by
2. Mr Wilson that they left that meeting with an understanding
3. that the total cost of the Boral contract to reseal the
4. airport was $45 million, that is, the tender price of
5. $48,900,000-odd; no significant difference from
6. $45 million. You recall that figure, don't you?
7. A. Yes.

21

1. Q. What do you say to the suggestion that the cost of the
2. biosecurity risk was something that Boral was going to pick
3. up and was not something that could be a risk that was
4. taken up by the Norfolk Island Regional Council?
5. A. That was never my understanding. The Boral tender
6. submission stated, and it's in the business paper, that
7. Boral in lieu of knowing the accurate costs at this stage
8. had estimated an amount of $4.2 million to cover such
9. biosecurity cost should it be required. There was no
10. understanding that the 4.2 was included in the 48 or Boral
11. would be nice guys and pay $4.2 million if we needed it.

33

1. Q. Tell us about the discussion that occurred around that
2. particular issue. What do you recall being said by either
3. yourself or the general manager at the time?
4. A. Again, it's a couple of years ago; my recollection was
5. that it was discussed, yes, and it's in black and white in
6. the business paper that the $4.2 million was exclusive from
7. the $48 million that Boral had tendered.

41

1. Q. I don't know whether you were listening to Mr Wilson's
2. evidence this morning: were you?
3. A. I listened to some of it, yes; not all, but some, yes.

45

1. Q. He gave some evidence about how the budget for 2019/20
2. was prepared and he said that the services group provided a
3. budget template to him which indicated that the cost of the
4. airport project was $45 million, that the Commonwealth was
5. making a grant of $43 million, and that the balance would
6. be funded by an a loan from the Commonwealth of $2 million.
7. Do you recall being provided with any documentation to that
8. effect?
9. A. No, none that I recall; no, nothing.

8

1. Q. Did you review the draft budget that went to council
2. and then subsequently went on public display?
3. A. Yes, I would have, yep.

12

1. Q. Have you had a chance to have a look at that budget
2. recently?
3. A. Yes. Yeah, I revisited it where it has $43 million
4. plus in a column that says "loan for $2 million", yep.

17

1. Q. Do you have any explanation as to why the budget says
2. that when, according to your evidence, it was understood
3. that the cost could be well in excess of that?
4. A. No, I can't recall at the time the reasoning for the
5. budget being set at 45, not at the possible high figure.

23

1. Q. Did you question it with Mr Wilson when you saw the
2. budget?
3. A. I don't recall questioning of Mr Wilson was not all
4. that productive in cases and, as I've said before, it was a
5. little bit of a closed shop with the GM and Mr Wilson.

29

1. Q. What do you mean by that?
2. A. As I said in my previous evidence, as an example, the
3. first set of financial statements indicated that the fuel
4. operation which we exited from in May/June of the
5. first year, in June 17, the financial statements indicated
6. the fuel business that we exited lost $1.3 million, I think
7. it was; which, when I queried that - because, quite simply,
8. the fuel business, port fuel had sold at a higher price -
9. when I queried that it was just before the financial
10. statements were put out and the explanation as far as I'm
11. concerned was that the fuel business sold to the
12. electricity business but the final shipment of fuel hadn't
13. been charged to the electricity area, thus the electricity
14. area made a book profit of $1.3 million and the fuel
15. business made a loss of $1.3 million. When I brought that
16. up I was told that was how it was, and even now Pitcher
17. Partners auditors supported that thinking, so I was told
18. that was the way it was and that sort of thing happened on

1 other occasions.

2

1. Q. But you must have known, in this instance, that
2. council's exposure under the airport contract was
3. significantly more than $45 million; correct?
4. A. Yes, and as in - sorry.

7

1. Q. Please go on.
2. A. From memory, it was discussed that at the first
3. quarter review, second quarter review, when we had a more
4. accurate figure of the biosecurity costs, then the capital
5. budget could be amended at that stage.

13

1. Q. Was that discussed with Mr Wilson?
2. A. I recall it being discussed in the general manager's
3. office generally, so I would imagine Mr Wilson was there
4. too.

18

19 THE COMMISSIONER: Can I just ask a question, Mr Bolster?

20

21 MR BOLSTER: Yes, Commissioner.

22

1. THE COMMISSIONER: Q. Hi, Mr Taylor, how are you?
2. A. I'm well, thank you, how are you?

25

1. Q. Good, thanks. In respect of the financial information
2. you had to fill out to provide for the budget each year,
3. did you have to flag any sort of risks or potential amounts
4. of money that may need to be covered, or was it just monies
5. that were actually known?

31

1. I guess what I'm trying to get to is, if information
2. is being provided to the CFO and there's a likelihood of a
3. $4 million-plus cost for a particular project, how is that
4. flagged formally in the preparation of a budget process?
5. A. I think most of our capital budget wouldn't fall into
6. that sort of category, it's more known costs with a lot
7. less risk of a variation. As far as filling out
8. documentation, I can't recall that a great deal was done,
9. but yeah, the risk was certainly known. Even back in
10. that February meeting there was a list of possible savings
11. that could be made that were provided by Greg White with
12. the general knowledge that a big project like that would
13. have variations.

45

1. Q. Were these sort of issues discussed at your executive
2. meetings? And I mean --

1 A. I don't recall.

2

1. Q. So, with the GM and the --
2. A. Sorry. Sorry, there's a time lag, there's a delay in
3. our timing. Yes, it would have been discussed but I cannot
4. recall in how much detail, no.

7

8 THE COMMISSIONER: Okay, thanks, Mr Taylor.

9

1. MR BOLSTER: Commissioner, I don't have any further
2. questions for Mr Taylor.

12

1. THE COMMISSIONER: Okay, thank you for being available,
2. Mr Taylor, and you are released from this particular
3. summons. Thank you.

16

17 THE WITNESS: Thank you.

18

# 19 <THE WITNESS WITHDREW

20

1. MR BOLSTER: The next witness, Commissioner, is
2. Mr Gesling. We're ready to proceed with that now.

23

24 THE COMMISSIONER: Okay, Ms Morris?

25

1. MS MORRIS: Yes, Mr Gesling is at the back of the room,
2. Commissioner. Come forward into the witness box.

28

# 29 <PETER GREGORY GESLING, sworn: [10.34am]

30

# 31 <EXAMINATION BY MS MORRIS:

32

1. MS MORRIS: Q. Thank you, Mr Gesling. Could you give
2. your full name for the record?
3. A. Peter Gregory Gesling.

36

1. Q. You held the position as executive director during the
2. transition period in 2015 to 2016 at Norfolk Island and
3. then three months on into the Norfolk Island Regional
4. Council's operation?
5. A. Yeah, for the last three months I wasn't the executive
6. director, it was a contract position.

43

1. Q. What was the title with that position?
2. A. I can't remember the title, it would be on the
3. contract there.

47

1. Q. How did it come about that you took on the position as
2. executive director for the 2015 period?
3. A. It was through - the position was advertised through
4. consultants and through a selection process and I was
5. appointed to that position.

6

1. Q. What interested you to apply for that position?
2. A. I was invited to apply for it. I was at that stage
3. developing my consulting career, having left the local
4. government sector in 2014, and initially I wasn't
5. interested. I was requested to apply. I, a number of
6. times, indicated that I was probably not interested, but
7. eventually I did apply for the position and was successful.

14

1. Q. Was that due to the nature of the position itself or
2. was it personal reasons?
3. A. No, the nature of the position, it was an interesting
4. position, it's something quite unique in certainly my
5. working career.

20

1. Q. Prior to that role, you'd been at Port Stephens
2. Council for 25 years or so?
3. A. Yeah, about that time; 16 and a half as general
4. manager.

25

1. Q. What sort of responsibilities did you have in that
2. role?
3. A. In that role I managed an organisation of around 500
4. staff, about 1,000 volunteers. The budget was around
5. $100 million it had got to at that particular stage, and
6. had major capital works in both private sector and public
7. sector activity.

33

1. Q. And that council operated under the Local Government
2. Act?
3. A. That's right, Local Government Act of New South Wales.

37

1. Q. And you're aware, that's the same Act that then the
2. Norfolk Island Regional Council, with some slight
3. modifications, came under?
4. A. Yes, within applied legislation, correct.

42

1. Q. And so, was part of the reason you were recruited or
2. asked to apply was that experience with the legislative
3. framework?
4. A. Yes, that was certainly a criteria in the job
5. application.

1

1. Q. When did you arrive on the Island itself?
2. A. I arrived on the Island I think about the end of June,
3. just before - I think about 30 June it was, from memory.

5

1. Q. What was the situation when you arrived? Were you
2. given a briefing, were you taken to a meeting with the
3. former Administration; how did you start off?
4. A. No, the induction was cursory, I think; I think I was
5. introduced to the existing executive and staff members of
6. the Norfolk Island Administration, I was provided
7. accommodation in their building, and I was basically
8. embedded in the Norfolk Island Administration operations.

14

1. Q. Do you recall any persons in particular that you were
2. embedded in the room with?
3. A. The current CEO at the time was Mr John Gibbons, the
4. deputy CEO was Mr Bruce Taylor; they were the key people in
5. the organisation that I worked with at that time initially.

20

1. Q. Did you have any meetings or work with any of the
2. members of the Legislative Assembly that had existed before
3. that time?
4. A. No, not at that particular time. I was introduced to
5. the Norfolk Island Advisory Board and obviously worked with
6. the Commonwealth Administrator on the Island at that time.

27

1. Q. When you arrived and were given information, what was
2. your understanding as to the reason for the change in
3. governance structure that was being considered at that
4. time?
5. A. It was a decision of the Commonwealth Parliament and
6. essentially I was appointed by the Minister of the day
7. responsible for Norfolk Island. I had attended a day of
8. induction in Canberra prior to going to the Island and met
9. with the Deputy Secretary of the Department of
10. Infrastructure and Regional Development and was provided
11. documentation of reports and information that had been
12. collated by that department over time which had been part
13. of the decision-making to transition the Island to a local
14. government authority.

42

1. Q. What did you understand the purpose of making the
2. transition to local government authority was meant to be?
3. A. The purpose as I understood it is that the Parliament
4. of Australia had determined that the current form of
5. government wasn't sustainable and that it would be better
6. served by becoming a local government authority and
7. subsuming a lesser role than it had previously.

3

1. Q. Did you understand in particular any reasons why it
2. was thought not to be sustainable, the former model?
3. A. Financially was the primary reason as I understood it.

7

1. Q. Was that due to any particular issues financially,
2. revenue sources, expenditure for example?
3. A. I think there's a whole lot of issues there. I mean,
4. in terms of a small operation, trying to manage some of the
5. services which were provided by the Commonwealth such as
6. social security, health, education were thought to be
7. outside the scope of a small community and there were
8. better ways of organising that.

16

1. Q. I understand part of the task of yourself and the
2. advisory council was building that new structure that was
3. going to assist with the transition to the local government
4. model?
5. A. That's right. It was to first of all make a
6. recommendation about a structure for that and to take into
7. account how other services could be provided if there was a
8. possibility of them being done in other ways; I was to
9. review that, provide a structure, and then when that was
10. approved by the Minister, that would then transition and be
11. implemented, and it was within that 12-month period.

28

1. Q. What was the level of staffing maintained? Were there
2. a large number of the council staff that were there pre
3. 1 July 2015 that then remained on post 1 July 2016, for
4. example, or were there large changes in numbers?
5. A. No, there were changes and people had the option to
6. apply for those positions or to take a redundancy. There
7. was various options that people had at that time, so there
8. was a transition and there was a new structure in place,
9. certainly a different executive structure, and new roles
10. that people were appointed to.

39

1. Q. With the roles that were then appointed was there a
2. level of corporate knowledge, of collective knowledge of
3. the state of finances and assets and the situation at
4. Norfolk Island with those people?
5. A. There was, there was certainly key people that did
6. transfer across to the new organisation; some people chose
7. not to, and others elected to leave the organisation.

47

1. Q. Was one of the tasks that was being done in that year
2. pulling together the records and information to have an
3. accurate standing of the state of the finances and the
4. assets on the Island?
5. A. As best we could; I mean, the financial position was
6. going to be different, a new budget had to be established
7. and a proposal that could be put to a new organisation to
8. take that forward; new appointments were coming in and they
9. all had to take time to adjust to that. In the
10. requirements of the New South Wales local government
11. system, a requirement to have a community strategic plan,
12. an operational plan, et cetera, were developed in draft for
13. the new council to consider and adopt or vary: they were
14. all part of the process.

15

1. Q. Just to unpack that a little bit. So, there was a
2. draft of the community strategic plan and there was a draft
3. of the operational plan?
4. A. That's correct.

20

1. Q. Where did the information come from that was used as
2. the basis for those drafts?
3. A. The community strategic plan, a consultant was engaged
4. to undertake community consultation, so there was a whole -
5. there was the normal process that happens around that
6. occurred in consultation with the community, and that was
7. taken into account in preparing a draft document which was
8. provided to the organisation to accept or not or vary; that
9. was a decision that was in their authority and that was why
10. they were being established.

31

1. The budget position had to take into account that
2. there were a number of services which the council was going
3. to be providing for the Commonwealth, what was called
4. state-based services, and a service delivery agreement was
5. developed on that with a framework for reporting against
6. which, again, was a draft form which had to be formally
7. signed off between the Commonwealth and the new
8. organisation.

40

1. Q. Do you recall any names in particular of persons who
2. were contributing for the budget that was prepared and the
3. operational plan that was prepared?
4. A. Mr Taylor was certainly a key person at that time, he
5. was acting CEO at the transition, and then was successful
6. in becoming one of the group managers in the new
7. organisation, so he was key in that sort of space.

1

* 1. We engaged consultants to assist in that sort of
  2. transition process to make sure that we had a system
  3. available that was validated, and the Commonwealth
  4. financial officer was involved in that because there was
  5. obviously an amount that was going to be contributed by the
  6. Commonwealth to get to a financially operable position.

8

1. Q. Were you, and the team as a whole, satisfied that you
2. had sufficient information available to you to be able to
3. prepare that budget and the operational plan?
4. A. We had the information we had; you could always, you
5. know, get more information. I mean, some of the
6. information around assets, for instance, wasn't clear, it
7. was interim, it was draft, and the asset management plans
8. were draft, but they were in a form that was able to
9. provide background documents for the financial plan that
10. was there.

19

1. Again, in a situation like Norfolk when you're dealing
2. with assets there and a lack of data - the water assurance
3. scheme, for instance, there was no real clear knowledge of
4. the condition of that at the time that we were doing that
5. report and you were having to make judgments about
6. allowance for that which had to be firmed up over time.

26

1. Q. You mentioned that the idea was to give the drafts to
2. then the council that could then finalise it: was that
3. always the intended plan, that they would be in draft form
4. but it would be left to the elected councillors?
5. A. The elected council needed to adopt that and that was
6. the agreed document, the transition from the Commonwealth
7. to the new council, and then it was up to a negotiation
8. between the new council to work through that and their
9. relationship with the Commonwealth as it would be with a
10. normal local government authority; in this case it was with
11. the Federal Minister rather than a state organisation,
12. state system.

39

1. Q. Those plans then eventually were adopted and finalised
2. by the council in late 2016. Were you called upon or asked
3. to assist in your consulting role for those three months in
4. that process?
5. A. No, I wasn't.

45

1. Q. To what extent were you asked, if at all, to
2. contribute during that three-month period to the council
3. dealing with those documents that you were presented with?
4. A. Cursory, I would say.

3

1. Q. Was that your understanding of how it was intended to
2. operate?
3. A. Well, no, there's no intention, it was a matter for -
4. you know, there was a legitimate local government
5. authority, they needed to determine how they took up the
6. availability of services or support; that was not a
7. decision I could enforce or the Commonwealth.

11

1. Q. Did you form an impression as to the council's view on
2. using those resources?
3. A. No, there was no - I didn't have a view about that, it
4. was a matter that they were, you know, paddling like ducks,
5. I suppose, to use the analogy. It was a new organisation,
6. it was a new budget, there was a whole lot of things that
7. needed to be confirmed; there was new people that hadn't
8. been working in a local government system, so there was a
9. whole lot of stressors involved in that, and that was
10. acknowledged.

22

1. My original appointment with the Commonwealth, the
2. understanding was that it would be a two-year appointment,
3. but there was no way as we worked through that first year
4. of saying, well, you can force the council to use my
5. services or I could have a role in the new organisation in
6. any formal sense; that was something that just wasn't
7. possible to do in a formal sense respecting the entity of a
8. new organisation established to make those decisions.

31

1. So, the option then moved to being a consultative role
2. which was available if needed and, as I wasn't being called
3. on, I advised the department that I thought that my
4. services - I could use my time better elsewhere, so I left
5. the Island in late 2016.

37

1. Q. Did you have an understanding as to why you weren't
2. being called upon?
3. A. I didn't have a view, no; I mean, that's not a -
4. that's not something for me to dwell on, that's a decision
5. that other people had to make; they had statutory roles and
6. they had responsibilities about how they collected and used
7. the information. It's certainly very difficult in any new
8. council in my experience: you get a council election,
9. there's always some changeover, normally a changeover to
10. the new council; there may be a new Mayor.

1

* 1. In this particular case you had a Mayor and a general
  2. manager that had never really met before, had any
  3. understanding, and that's a critical role there of those
  4. two people coming to an understanding and being able to
  5. meet their responsibilities; and certainly in that first
  6. period I would expect that that's going to be the majority
  7. of the time the general manager and Mayor are trying to
  8. sort through.

10

1. Q. I'm not sure whether you listened to or reviewed any
2. of the evidence from last week, but Mayor Adams was called
3. last week and in the course of her evidence she described
4. your role, amongst others, as being part of the experts in
5. the Local Government Act framework and the experts in
6. setting up. Given that was her description of you and your
7. team, is it surprising then to you that she and the other
8. councillors didn't seek to engage with you?
9. A. I mean, it was, you know, at the time I thought that
10. there were things I could offer but, you know, it wasn't
11. really my place to sort of demand that or to expect that.

22

1. Q. I understand there was some training done with Susan
2. Law and yourself with the councillors about the Local
3. Government Act.
4. A. Yes, we engaged a consultant to come in and there was
5. candidate sessions run with candidates before the election,
6. and the new council then provided back-up support over time
7. to follow that through. I can't remember now, I really
8. can't recall whether we provided any formal training to the
9. five people who were elected, I can't - I don't know that I
10. had authority to offer that.

33

1. Q. Yes, I'm not sure whether it was a formal training,
2. I believe both Councillor McCoy and Mayor Adams had
3. mentioned going through the Local Government Act with
4. yourself and Susan Law. Do you recall in general terms
5. what may have been told to the councillors or to the
6. intended councillors about their role compared to, for
7. example, the general manager's role or operational roles
8. and how that was to work under the Act?
9. A. We certainly had consultation with a number of the new
10. elected councillors about that responsibility and
11. requirement. Certainly, the briefing that was given to
12. them as candidates were made very clear what their roles
13. were; that was provided by the Local Government Association
14. of New South Wales, their training system, and those were
15. the same information that's given to every candidate who
16. runs for local government in New South Wales. So, that
17. information about their responsibilities would have been
18. covered in that space.

5

1. Q. From your experience and knowledge of that, what would
2. your understanding then be of what was told to them about
3. the responsibilities of councillors?
4. A. The responsibilities is for the strategic direction of
5. the council. There's certainly key decisions that they
6. make, a lot of the information is delegated to the general
7. manager and that comes through - the Act requires that as
8. delegated to the general manager for all operational
9. matters and it's up to individual general managers and
10. their council about how that flows out.

16

1. I worked in situations where I had prohibited staff
2. from, you know, engaging with councillors, and at other
3. times where I've had a more open approach where they're
4. able to talk to them as long as I was aware of the
5. conversations and anything that was of particular
6. importance. So, again, that depends on the relationships
7. and your understanding of the people you're dealing with
8. and, and if councillors, you know, go beyond their remit in
9. terms of dealing with operational matters, that changes
10. your view about how you deal with that within an
11. organisation.

28

1. Q. Just returning back then to the budget. So, the new
2. council was given a budget that had been prepared by
3. yourself and your team for the 2016/2017 year?
4. A. Yep.

33

1. Q. And that was going to be a deficit budget?
2. A. No, I'm not sure that it was then; I can't recall, I
3. don't know. My recollection was that it wasn't a deficit
4. budget.

38

1. Q. I might, just to assist, this is a copy of your final
2. report. PGS.001.001.0001. That top figure, and just to
3. page 9. If we scroll down under the section that says,
4. "The results of the transition plan delivered". Do you see
5. there, this is an outline of that, talking about the
6. deficit budgets are trending to a balanced.
7. A. That's right.

46

47 Q. Do you recall any discussions with the transition team

1. around why it would be a deficit budget or concerns about
2. that?
3. A. A lot of that was driven by the Commonwealth. They
4. had an amount that they had available to support a Norfolk
5. Island sort of project within the Department of
6. Infrastructure and Regional Development, and certainly the
7. Commonwealth financial officer was very clear about what
8. was available and what was not available in that framework,
9. so it was a key factor in the outcome of that financial
10. plan.

11

1. Q. I take it from that though, when it says "trend to a
2. balanced position over three to five years", it was
3. envisaged that the council would be able to quite quickly
4. at least balance its budget?
5. A. Yeah, unless other things came up. We didn't
6. envisage - you know, we knew about a whole lot of the
7. issues around assets, and roads, and airport, and that was
8. certainly canvassed; the water assurance scheme, the waste,
9. wherever you looked there were areas you could spend a lot
10. of money, electricity et cetera, there are areas you could
11. spend a lot of money, but within a framework of continuing
12. business as usual, that expectation could have been met,
13. but again, it depends on what occurs during operations.

25

1. Q. Of course, of course. So, you just touched on roads
2. as one of the examples. What was your understanding as to
3. how roads were managed before the Norfolk Island Regional
4. Council was formed?
5. A. It was reactive and there was very little, if any,
6. capital works being undertaken unless there was a failure
7. somewhere.

33

1. Q. Who had responsibility for funding the capital works
2. and for performing maintenance on those roads?
3. A. It was the Norfolk Island Administration.

37

1. Q. Did you see records of the extent to which that was
2. funded or the extent to which works of that kind were done?
3. A. Yes, and there'd been a consultant's report done in

41 2015.

42

1. Q. The Worley Parsons report?
2. A. That's right, the Worley Parsons report, which quite
3. clearly did an analysis of the condition of the road
4. infrastructure, including bridges and culverts et cetera,
5. and had a recommendation about where to apply funds in the
6. future, but it always required external input to that work
7. because there wasn't money available within the resources
8. of the community to do that.

4

1. Q. No, but your understanding was that it was the Norfolk
2. Island Administration that had responsibility for paying or
3. sourcing those funds to do maintenance renewal?
4. A. That's correct.

9

1. Q. Was it also your understanding, though, that those
2. roads were at the time owned by the Commonwealth?
3. A. Absolutely, and that was all part of the transition
4. process in terms of those assets.

14

1. Q. So, part of the transition process was that the
2. ownership then went to council?
3. A. Yeah.

18

1. Q. Part of the evidence that was coming out again last
2. week, particularly from Mayor Adams, was around that asset
3. transfer, and her evidence was that, as I understood, there
4. wouldn't be any detriment in effect to the council from
5. that transfer.
6. A. Nothing more than there was, you know, at the present
7. time; you know, the situation was - stayed the same, in
8. effect, other than the ownership transferred, and that was
9. to do with the situation which was usual within the
10. Australian context.

29

1. Q. So, was there discussions around whether the transfer
2. of ownership and the accounting consequences of that, as
3. ownership around depreciation, for example, whether that
4. had to affect funding that went to the council for roads?
5. A. There was discussion around that but the Commonwealth
6. was clear that the money they had available was what was
7. available through the Federal approval system and that
8. anything outside that would have to be justified.

38

1. Q. To your recollection, was that made evident in the
2. material that was then provided to council upon its
3. formation?
4. A. I have no recollection.

43

1. Q. Do you have any recollection of it being within
2. briefing photos or any handovers or?
3. A. Not that I'm aware of, no. I mean, certainly, you
4. know, quite clearly the condition of the asset which was
5. contained in the 2015 report, it was obvious to everyone
6. that it wasn't in a sustainable condition long-term and was
7. going to require some input. Even the Federal assistance
8. grant calculation was at the understanding of the - I can't
9. think of it - the factors that go into determining that
10. weren't analysed in detail, and I understand that
11. subsequently it was significantly changed when that
12. understanding of the limitations of that community, and
13. that applies in every local government area when they're
14. doing the Federal assistance grant calculation.

11

1. Q. Was there a reason that the later discussions that
2. happened in 2017 and 2018 around financial assistance
3. grants, that there wasn't that same discussion to that same
4. extent in 2015 to 2016?
5. A. There wasn't time.

17

1. Q. There wasn't time?
2. A. I mean, the fact of just getting the legislation to a
3. point where you could run elections, and the other
4. legislation that applied there, you know, that legislative
5. framework is always fraught with time constraints when
6. you're going through Parliamentary council and you have to
7. get that level of detail into the law, and the law system
8. on Norfolk Island was a combination of things drawn from
9. all over different parts of the world which, you know, had
10. be allowed to continue.

28

1. Q. Were there other things such as those discussions
2. around the FAG grants that, in your view, if there had been
3. more time, should have been looked at during that
4. transition period?
5. A. Oh, there were a whole lot of things; I mean, the most
6. important thing I view is about the cultural and dealing
7. with the cultural impacts of change and, you know, I wasn't
8. alone in suggesting that it should have been given more
9. time, but we had the time the Parliament gave us and that
10. was what we had to work to. So, within that timeframe you
11. had to limit your activities to what you could achieve
12. there to get to the end of that time with a council in
13. position.

42

1. They had the elections, for instance, which required
2. the consultant to engage to rewrite all the forms for
3. Norfolk Island because they couldn't use the forms that
4. applied in New South Wales, so that was an example of the
5. extra time we had to go through.

1

1. Q. Do you have, say, one to two of the key issues that
2. you thought at the end of that transition period were
3. pressing and needed to be done at that point?
4. A. I think, in re-reading my report, my reflections at
5. the end there, I wasn't entitled to give recommendations,
6. so I could give reflections, but I think at the time there
7. I said that the two things that were most important were
8. resources and rock and water were the two critical factors.
9. Apart from that the social impact, in my mind, was the
10. cultural: the people in the organisation understanding that
11. the changes weren't there to change the culture of the
12. Island or understanding practices.

14

1. One of those reflections I recall making was that
2. there should be a communication to that effect to the
3. community and a conversation that that wasn't the purpose.
4. That then followed on to the cultural: people working in
5. the system understanding how they could best contribute to
6. it and how they work with their community in making sure
7. that that happened. They're probably the key factors that
8. came to mind when I re-read my report.

23

1. Q. So, as you say, within the report that was in November
2. 2016 sort of timing?
3. A. M'mm.

27

1. Q. So, when you left the Island, were those your main
2. concerns around that cultural communication and assets or?
3. A. I still say that they - you know, I wrote that report
4. post - in early that financial year, up to September, I
5. think I delivered the report in October, so they were still
6. my concerns at that particular time, yes.

34

1. Q. If we just go to page 4 of this report, one of the
2. things that you've highlighted, and this may be what you
3. were already touching upon, is that:

38

1. *Failure to progress the reform agenda will*
2. *limit the future sustainability of Norfolk*
3. *Island.*

42

1. Could you expand on what you meant by that?
2. A. Yeah, well, the reform agenda included the legislative
3. framework and whether it be courts, whether it be
4. registering births, deaths and marriages, whether it's to
5. do with asset management, all of those things are part of
6. the reform agenda and, unless particular effort was put to
7. those, it would affect the sustainability of the Island.
8. You know, you can't continue to put waste into the ocean in
9. a World Heritage area, so those things are going to take
10. resources and time and effort and, if the Commonwealth
11. weren't able to address those issues, well, it was going to
12. affect the sustainability of the Island.

8

9 Q. You go on in that paragraph to say:

10

1. *There appears scant interest from the*
2. *Regional Council in continuing an ongoing*
3. *reform program.*

14

15 A. Yeah.

16

1. Q. Can you expand on that?
2. A. Well, I think that, again, is a time issue. I could
3. see the focus on needing to do that, but you've got a new
4. council with people who haven't been in the system coming
5. up to speed, you've got new staff coming on board, so it's
6. not surprising that to continue the form of program that I
7. was working on with Commonwealth resources was something
8. that was going to be very difficult for a new council, new
9. organisation to do, but without that it was going to affect
10. the sustainability of the Island.

27

1. Q. So, do I take it, the "scant interest" comment is more
2. that they had other pressing issues to deal with, not that
3. they didn't see the value or didn't see the priority?
4. A. No, I'm not saying that they didn't see the value;
5. they had a choice about where they spent their time and
6. effort, and it may not be it was where I would have put my
7. time and effort but that was a decision that they had to
8. make.

36

1. Q. Does that go hand-in-hand with the observations we
2. discussed earlier about them not making use of you within
3. your consultancy role?
4. A. Potentially, yes.

41

1. Q. If we go to page 7 of the report, this is an outline
2. of some of the things that were discussed in the transition
3. period. Could we stay up the top, please. You talk about
4. meetings and key principles being isolating business
5. activities and state-type services from direct influence of
6. the future Regional Council. Could you expand on that?
7. A. One of our considerations, there was a committee of
8. the - on Island, the Commonwealth Administrator, the deputy
9. secretary from the department and myself that used to meet
10. monthly and monitor progress, and we talked about the issue
11. about how things could be structured and how could we take
12. away responsibilities or - not take away - how could
13. responsibilities be delivered in another form which would
14. allow the council to focus on local government issues.
15. That was the whole focus of the transition.

10

1. But at the end of the day we couldn't find ways to
2. take away business activities, like workers' compensation,
3. you know, education and health was sort of transitioned
4. with the agreement with New South Wales Government, but
5. things like workers' compensation, things like registration
6. of courts even, they're not the normal purview of a local
7. authority and they obviously take time to make sure that
8. they're still doing things.

19

1. So, any of those government services - electricity is
2. not normally a local government authority these days - it
3. used to be - but, you know, certainly waste is and those
4. things, but all those other elements outside of that -
5. telecommunications was a big one; still operating on 2G
6. when I was there and not long since it's changed: those are
7. things that take up time and effort when you should be able
8. to focus on local government services.

28

1. Q. You mentioned telecommunications, you mentioned
2. electricity, which were both still in the control of the
3. council going forward. Did you have a view as to whether
4. that should have been different or structured differently?
5. A. We looked at whether we could structure it
6. differently, but the mechanisms to do that in a logical
7. fashion required change in legislation, required different
8. structures to be formed in terms of government - there
9. wasn't time to do it.

38

1. Q. So, was that something that was, to your view, left
2. open for future consideration?
3. A. Absolutely, there were a number of reports there that
4. had been done prior to me going there on a number of those
5. government business entities and they'd made
6. recommendations which we'd sought to activate, but there
7. wasn't time to do that.

46

47 Q. We discussed the financial assistance grants which are

1. the grants that the Commonwealth extends to all local
2. councils. Was there discussions also during this period
3. about other sources of grant funding for Norfolk Island,
4. given its slightly different structure from other local
5. governments?
6. A. One of the things that became obvious, that some of
7. the Federal grants that are available to local government
8. go through state governments, so therefore it was going to
9. be difficult, if not impossible, for Norfolk Island to
10. apply for those level of types of grants and I think that's
11. been played out in some of the commentary I've seen over
12. time in casual observation of what's happening on Norfolk
13. Island, so that limits their capacity to participate as
14. much as other local government authorities.

15

1. Q. Was that an issue that was being discussed, as to how
2. to overcome that?
3. A. Well, it was a bit like the issue of GST, you know.
4. Norfolk Island isn't subject to GST because, as I
5. understand it as advised to me, that the Commonwealth
6. didn't want to renegotiate that agreement with the states;
7. to do that would have opened up all sorts of other issues
8. which are beyond the purview of certainly the Minister for
9. Territories, and would have gone right to the heart of the
10. Federal Government, Federal/state relationships, and so
11. therefore Norfolk Island was excluded from GST as I
12. understand for that purpose, so that payment's not
13. available to them either in that sense.

29

1. Q. If we go to page 22 of the report, this is part of
2. your "reflections" section. You see, at number 3 you
3. refer, and we discussed this briefly, so your "access to
4. ANI resources, these were limited and not equipped to
5. support a major social and cultural change." Could you
6. expand on that?
7. A. I was placed in the organisation. There was two
8. executive officers and an organisation CEO and a deputy
9. CEO; they shared an executive assistant resource. I was
10. then added to that resource so that that person who was
11. then having to split their time more than three ways on top
12. of other responsibilities - there was no specific
13. allocation of resources to do my project outside what I
14. could glean from, you know, within the organisation there.

44

1. I did get Commonwealth agreement to appoint two other
2. executive positions to assist me: that was Susan Law and
3. Peter - I can't remember their names, they're in the report
4. there somewhere. They came along to assist in that process
5. to give me some scope to deal with the higher level
6. strategy issues, because I was still responsible for
7. operating those services, be they Customs decisions and
8. disputes, et cetera. I was promised, you know, dedicated
9. legal services to deal with those complex situations and
10. that wasn't available either during that time, I was
11. sharing resources.

9

1. Q. If we could go to the next page, we see in (7) the
2. discussion there of the asset management plans and
3. long-term maintenance investment, so I take it that's what
4. we were discussing earlier, your reflections?
5. A. Yeah, we provided an overview there which is basically
6. a schedule of what we understood from the records available
7. at the time. We hadn't had the ability to go and do
8. evaluations of those as you'd do in condition assessments.
9. Where that was available from existing reports it was
10. included, and so, those asset management plans as they were
11. at the time needed ongoing and dedicated work.

21

1. Q. Was Mr Taylor used in the process of preparing those
2. original asset management plans?
3. A. No, his role at that particular time was acting CEO
4. and he was responsible for developing the budget, the draft
5. budget, and of keeping the current organisation going. The
6. asset management plans were done by the operations manager
7. that I brought in from outside the organisation. So, Peter
8. came in as the operations manager and he also took on the
9. responsibility of that initial preparation of those draft
10. plans as well as contract works that were running at the
11. time.

33

1. Q. But Mr Taylor assisted with the budget?
2. A. Yeah.

36

1. Q. Did he also assist with the operational plan where you
2. had financial --
3. A. He would have been involved in the operational plan,
4. yeah.

41

42 MS MORRIS: Commissioner, no further questions from me.

43

44 THE COMMISSIONER: Mr Simone?

45

46 MR SIMONE: No questions from me, Commissioner.

47

1 THE COMMISSIONER: Mr Rizk?

2

3 MR RIZK: No questions.

4

5 THE COMMISSIONER: One question from me.

6

1. Q. Just in respect, Mr Gesling, of your asset management
2. plan, you said there should be a common system between the
3. Commonwealth and Norfolk Island Regional Council; do you
4. think that was achieved?
5. A. No.

12

1. Q. What would you think the barriers were to the asset
2. management plan being a shared approach?
3. A. Well, I don't know the Commonwealth in my
4. understanding, quite frankly, had a standard asset
5. management plan across their own resources within this
6. department or others. So, if I was involved, I would have
7. had the system on other external territories the same as it
8. would be for Norfolk Island and that information available
9. and collected, but that information wasn't information at
10. the Commonwealth level before transfer, let alone a common
11. system that could be used afterwards. If that had
12. happened, that would have provided a basis to work from
13. rather than starting from scratch.

26

1. Q. Do you think that that's been achieved now?
2. A. I don't know. I'd be surprised if it had.

29

1. Q. So, you think that would make all the difference going
2. forward?
3. A. It would make some difference, but it would mean that
4. the council would have a system that they were working to
5. in a structured basis. In the local government in New
6. South Wales that's become standardised across organisations
7. and you can go between organisations and know what you're
8. looking at, but you're not coming up with spreadsheets that
9. you're trying to put together.

39

1. Q. Do you think that it would have also helped the
2. Commonwealth understand the condition of the assets earlier
3. or more clearly?
4. A. Yes, it would have.

44

1. THE COMMISSIONER: All right, I don't have any more
2. questions. Mr Gesling, I think you're released from your
3. summons and thank you so much. You travelled here today, I

1 think?

2

3 THE WITNESS: Thank you, yeah.

4

1. THE COMMISSIONER: Thank you so much for coming and giving
2. your evidence.

7

8 THE WITNESS: Thanks very much, Commissioner.

9

10 <THE WITNESS WITHDREW

11

12 THE COMMISSIONER: Okay, we might break for morning tea?

13

14 MR BOLSTER: Yes, Commissioner.

15

1. THE COMMISSIONER: And then we'll commence in about half
2. an hour.

18

19 MR BOLSTER: Thank you.

20

# 21 SHORT ADJOURNMENT

22

23 THE COMMISSIONER: Mr Bolster.

24

1. MR BOLSTER: Thank you, Commissioner, for that short
2. break. We're now ready to proceed and I propose to call
3. the final witness for the hearings, and that's Ms Lotta
4. Jackson. If she could come forward, please.

29

# 30 <EVA LISELOTTE JACKSON, affirmed: [12.02pm]

31

# 32 <EXAMINATION BY MR BOLSTER:

33

1. MR BOLSTER: Q. Ms Jackson, for the record, could you
2. indicate your full name, please?
3. A. My full name is Eva Liselotte Jackson, known as Lotta
4. Jackson.

38

1. Q. Thank you. I just wanted to clarify that you
2. commenced your employment as the CEO of the NIRC on 30 June

41 2016?

42 A. Yes, that's correct.

43

1. Q. The following day you automatically became the general
2. manager of the Norfolk Island Regional Council?
3. A. Yes, that's correct.

47

1. Q. That was a feature of the transition legislation?
2. A. That's correct.

3

1. Q. We'll come back to some matters about your recruitment
2. in a minute, but I understand you wanted to make an opening
3. statement about your evidence?
4. A. Yes, thank you. Thank you for that. Yes:

8

1. *My name is Lotta Jackson and I would like*
2. *to acknowledge the Norfolk Island people*
3. *who have lived and cared for the Island*
4. *since 1856.*

13

1. *I also want to acknowledge and thank the*
2. *former council: Mayor Adams, Councillors*
3. *Buffett, Snell, McCoy and Porter for the*
4. *work we did together and extend that thank*
5. *you to Norfolk Island staff and friends who*

19 *may be watching these proceedings here*

20 *today from Norfolk Island.*

21

1. *I further want to thank the staff on the*
2. *mainland Australia too who worked*
3. *tirelessly when on Norfolk Island as*
4. *illustrated yesterday and the day before.*

26

1. *I'm Swedish by birth with a strong*
2. *connection to the natural environment and a*
3. *fair and just society where people at large*
4. *respect government and where government*
5. *trust the people.*

32

1. *When I first arrived in Australia the key*
2. *difference I noted was around private*
3. *property, keep out, and children being*
4. *separated at the age of 5 into private and*
5. *public boys and girls schools. I thought,*
6. *how can you get equity and access in gender*
7. *and social equity with that situation?*
8. *These two aspects of Australian culture*
9. *never sat easy with me. As part of this*
10. *context, that's when I applied for the*
11. *position on Norfolk Island.*

44

1. *To be on an island that was visited by*
2. *Solander who travelled with Banks and Cook*
3. *on the Endeavour in 1768 to 1770; Solander,*
4. *who was the formidable pupil of Linnaeus,*
5. *the expert in natural history, what a place*
6. *to visit and work.*

4

1. *To be able to share my knowledge and*
2. *respect for local government and the*
3. *Norfolk Island Local Government Act, to*
4. *assist with the formation of a new Norfolk*
5. *Island Regional Council, to assist with*
6. *that transition and work with the*
7. *community, that was something that really*
8. *appealed to me.*

13

1. *I was successful in my application as the*
2. *CEO and commenced on 30 June, although I*
3. *was the second preferred candidate, the*
4. *first one declined.*

18

1. *I have four degrees, although not in*
2. *accounting, which I understand the others*
3. *that provided evidence at this inquiry such*
4. *as Mr Roach, Taylor, Innes-Walker, Neilsen,*
5. *van Gaalen, Nankivell, Carlesso and Wilson.*
6. *I do hold a Masters of Business*
7. *Administration, a BA, an MA and a Graduate*
8. *Diploma in Psychology.*

27

1. *I visited the Island prior to my*
2. *application with my partner who was very*
3. *supportive of moving to Norfolk Island*
4. *should I be successful. He ended up*
5. *working full-time in the hospital in the*
6. *aged care section permanently.*

34

1. *I understood that the roads and other*
2. *assets were in need of an upgrade and*
3. *renewal and, coming from a large council in*
4. *rural New South Wales at the time where the*
5. *roads were the main asset, I thought it*
6. *would be possible to plan for and fully*
7. *reseal and renew the roads on Norfolk*
8. *Island over a 10-year period, seeing it was*
9. *only 80 kilometres, and with the support*
10. *from the Commonwealth as I understood was*
11. *continuing through the transition to*
12. *support the new government. That was*
13. *difficult, that wasn't easy.*

1

1. *Nevertheless, in looking at the 300-plus*
2. *documents collated as evidence, most of*
3. *them from the period that I was on the*
4. *Island as the GM, brought back all those*
5. *memories of the persistence, the*
6. *dedication, the determination to do what we*
7. *could with what we had for the work that we*
8. *undertook, with the Commonwealth that I*
9. *needed to work with and make them*
10. *understand, particularly after the first*
11. *six months when there was a lot of change*
12. *in the government, that we needed their*
13. *support in the change of Norfolk Island*
14. *laws, that we could set our own fees and*
15. *charges, and in the planning laws to enable*
16. *significant development such as the Cascade*
17. *Quarry, and in the facilitating of grant*
18. *funding in the absence of equivalent*
19. *state-type grant funding to ensure that we*
20. *fulfilled our obligations under the Act.*

22

1. I believe that I am now ready for my turn in this
2. Inquiry and I'm happy to share any other thoughts at the
3. end as well. Thank you.
4. Q. Thank you, Ms Jackson. The recruitment process that
5. lead to your appointment was run by McArthur Recruitment?
6. A. Yes.

29

1. Q. Were they engaged by the Commonwealth?
2. A. To my knowledge, yes.

32

1. Q. Was that a problem of perception, when you came to be
2. based on the Island, that you were seen as a Commonwealth
3. appointment?
4. A. Yes.

37

1. Q. How did you perceive that in your time on the Island?
2. What happened to lead you to that view?
3. A. It was often said to me that "you were recruited by
4. the Commonwealth". I then would say, "I was but now I
5. report to the Mayor and the council, they are my reporting
6. line, that's the government framework of local government."

44

1. Q. The people that said you were the Commonwealth's
2. appointee, were they people you met in the street, or
3. staff, or were they councillors or?

1 A. It was a mixture.

2

1. Q. Did the councillors ever suggest you were the
2. Commonwealth's appointee in a --
3. A. Yes.

6

1. Q. -- derogatory way?
2. A. Oh, not in a derogatory way; more as a statement.

9

1. Q. Your original term was for a period of three years?
2. A. That's correct.

12

1. Q. And so, that came to an end at the end of June 2019?
2. A. That's correct.

15

1. Q. Did you apply to be re-appointed?
2. A. Yes, the local government - or my contract, which is
3. in line with the Local Government Act, that stipulated that
4. nine months before the end of my contract I could apply for
5. an extension, and I did apply for an extension for two
6. years which then went to council where they deferred it to
7. the following meeting, and they have got three months to
8. actually determine, so they could defer it, and then they
9. accepted it, I think it was December that year, which then
10. gives time for the contract to be renewed for another -
11. like, during the next six months.

27

1. Q. And so, it was renewed?
2. A. Yes.

30

1. Q. But early on in that renewal period you made a
2. decision to take up another position?
3. A. No, not early on. The contract was actually not
4. signed until 28 June, I think, that's how long it took
5. for --

36

37 Q. 2019?

1. A. Yeah. So, it was probably closer to, I'd say, May
2. that I started thinking about, that I couldn't fulfil it.
3. The fact that it hadn't been signed yet either, and plus,
4. that it was a difficult time for me.

42

1. Q. So, I take it, you applied for where you are now,
2. which is Cessnock?
3. A. Yes.

46

47 Q. You got that job and then ultimately you - I think

1. Mr Taylor says he remembers the day well, it was Friday,
2. the 13th of September that they became aware that you were
3. going to leave?
4. A. That's the date, yeah. Yeah, I wanted to give enough
5. notice.

6

1. Q. When was your last day on the Island, do you recall,
2. or in the job on the Island?
3. A. That would have been Friday the 13th.

10

1. Q. Friday the 13th?
2. A. Yes.

13

1. Q. You've mentioned in some correspondence that you did
2. some training on the Island in late June; what did that
3. involve?
4. A. Yes, so I was asked to arrive early on the Island,
5. even if I started on the 30th. So, the week - I can't
6. remember what the 30th, the day, but I was asked to arrive
7. earlier to participate in training with the new
8. councillors, which I felt would be a good opportunity for
9. me to meet with them and work together as a team. That was
10. training that was arranged by - it might even have been by
11. Peter Gesling or Susan Law - through the Local Government
12. Association who provide specific training for councillors.
13. So, there was three or four days, and it encompassed the
14. integrated planning and reporting framework, the role of
15. the council and the general manager, governance, meeting
16. procedures, audit committee. It's in the annual report for
17. that first year as well, so I'm sorry if I might not tell
18. exactly the truth there because I can't recall all the
19. extent, yeah.

33

1. Q. Just for the record, 30 June 2016 was a Thursday.
2. A. Okay, so it would have been maybe the Monday, Tuesday,
3. Wednesday.

37

1. Q. What was your take away from your initial contact
2. discussions with the councillors? Were there any issues
3. that they raised with you that stick in your mind?
4. A. They wanted to learn, I think they wanted to learn
5. what was before them. I also remember clearly that they
6. still wanted to talk about how it was before.

44

1. Q. Is it fair to say this: that throughout your time on
2. the council the councillors that you had to work with
3. expressed the view to you that they did not like the system
4. of local government that had been imposed on the Island, as
5. they saw it?
6. A. Yes and no. Yes, in some context of what was imposed,
7. such as rates, for example. Having a governance structure
8. per se, I think they all in some shape or form felt
9. comfortable with; it was more what had been taken away from
10. them.

8

1. Q. Let's talk about the things that they had problems
2. with, what were they?
3. A. The rates in particular, because there had never been
4. rates on Norfolk Island, so the rates were the key.

13

1. Q. Was that something that they raised with you right
2. from that first meeting?
3. A. Oh, I can't recall if from the first meeting or not,
4. no, I can't recall, but early on I would say.

18

1. Q. What about by, say, December when the first long-term
2. financial plan came to be considered by council? You
3. remember that plan was prepared by Mr Nankivell and
4. Mr van Gaalen?
5. A. Yes.

24

1. Q. Was rates an issue that was discussed at that time
2. that you recall?
3. A. Not necessarily talking about - I mean, we would have
4. spoken about rates, but because the rates had already been
5. put into the legislation, that in the first year you could
6. raise to $500,000, so they knew about that, and that would
7. have been an operational plan. So, because the ordinances
8. in the Norfolk Island - sorry, in the Local Government Act
9. (NSW) (NI) had an integrated planning reporting framework a
10. bit back-to-front, so we got three months to do the
11. community strategic plan and the operational plan.
12. Normally you do the community strategic plan, the delivery
13. program, the resourcing strategy and then the operational
14. plan. So, because of the mismatch there, so when we did
15. the operational plan we had to put the budget together and
16. the $500,000 rates in there, and I think, you know,
17. reluctantly they agreed to that. We specified in the
18. report that went to council that it's one of the
19. obligations of the council to set rates, so they knew that
20. up-front. So, that would have been the first time when we
21. discussed it.

46

47 Q. The amount of the rates that they had to set were

1. fixed in the legislation for the first two years; correct?
2. A. That's correct.

3

1. Q. And the question of setting a rate only became an
2. issue with the budget for the third financial year;
3. correct?
4. A. Yes, when we had the base amount and ad valorem, yes.

8

1. Q. I wanted to ask you another question about the
2. relationship with the Island and the community. In a
3. conference that we had with you some weeks ago now you used
4. the words that "being the general manager of the council
5. was an intense position to hold." Do you recall using
6. those words?
7. A. I can't recall that; it's something that I could have
8. said, yes.

17

1. Q. What did you mean by that? Can you tell the
2. Commissioner what you meant by it being an intense
3. position?
4. A. It's trying to set up - again, because I'm obviously a
5. full believer in local government and the Local Government
6. Act, and that I was there to set up that framework, and
7. there were systems and procedures that were not maybe
8. wanted to follow, and that meant that I had to be quite
9. strong in ensuring that that framework had integrity and
10. that was questioned, and my role was to have that
11. framework; and equally it could be questioned from the
12. Commonwealth side as well, so I suppose the intensity was
13. that I was in between there, to try to keep the integrity
14. of what I was there to do with tension from councillors.

32

1. Q. I don't know whether you've been following the
2. evidence closely, but there have been some criticisms made
3. about you about ensuring councillors were kept separate
4. from operational matters.
5. A. Yeah.

38

1. Q. Are you familiar with some of those criticisms that
2. people have said about you in the course of this hearing?
3. A. Yes, I'm aware of that.

42

1. Q. What's your response to that criticism? How do you
2. explain why it was that you sought to maintain that
3. difference?
4. A. Yeah, again, it's in the Local Government Act and the
5. code of conduct. It also talks about, to have access to
6. information and interaction with staff policy, and that's
7. something that we developed very early on. So, councillors
8. had access to information, they just needed to use the
9. structure for it, so that was available to them.

5

1. Q. Just in terms of the early days on the Island, were
2. you given a brief about your role from the Commonwealth, or
3. did you regard your brief as your obligations as a general
4. manager that are set out quite clearly in the Local
5. Government Act?
6. A. I understood the local government quite clearly; I
7. also knew that there were a lot of transition left to be
8. done on the Island; so I understood that, but I understood
9. that to be more of a Commonwealth role, although I assisted
10. with that too to the best of my ability. But I also had
11. the comfort in having Mr Taylor having been part of the
12. previous government to assist me where there were still
13. Norfolk Island laws in place, that I knew that he could
14. assist with that moving forward as well.

20

1. Q. Can we turn then to the state of the accounts, the
2. financial accounts when you arrived on the Island. You've
3. heard what Mr van Gaalen and Mr Nankivell have said about
4. the difficulties that your Administration faced. Is there
5. anything you wanted to tell us about, about the problems
6. that you had to endure there?
7. A. Well, the financials, they obviously were pretty
8. rubbery at the time, and the fact that depreciation of
9. assets hadn't been transferred in a way that van Gaalen and
10. Nankivell would have anticipated was something that, for
11. them, was to unravel all of that. So, again, that's their
12. expertise area; I had full confidence in that they worked
13. to the best of their ability, and I know they worked
14. long hours and worked hard, and we worked very solidly
15. together in the way of, they kept me informed what they
16. were finding, et cetera.

37

1. But I had the role to work with the councillors and
2. with the Mayor in particular, so working with the Mayor
3. to - as we've just heard from Mr Gesling that, yes, an
4. operational plan, a draft operational plan and community
5. strategic plan was put forward by the interim government.
6. So, there was a plan there and I took that on board, but
7. the councillors wanted to have another round of
8. consultation with the community because it was done, in
9. their minds, by the Commonwealth, the previous plan, and
10. they wanted to do it with the community, so we did another

1 round of community engagement.

2

1. Q. When was that?
2. A. Probably would have been in August. There was a
3. public meeting, about 400 people or something like that and
4. there I had to present, and it was quite a confrontational
5. meeting.

8

1. Q. Were you personally confronted, in your time as
2. general manager, in the way that Mr Wilson described in his
3. evidence yesterday?
4. A. Sometimes in public meetings there might be, you know,
5. finger pointing and things like that.

14

1. Q. By members of the public?
2. A. Yes.

17

1. Q. Were any threats made to you in your time as general
2. manager?
3. A. Not to my face, no.

21

1. Q. What sort of pressure were you under? Did you feel
2. like you were under pressure all the time, or were there
3. particular transactions or decisions or issues that sort of
4. brought pressure to bear on you?
5. A. I think over time you - you know, when you're a
6. professional, you have integrity, this is your - you know,
7. you're there to do a job; you do it intellectually, you do
8. it the best you can with what you've got. Then there's
9. this underlying subliminal thing that's happening to you,
10. and it got to a point with the rock situation and the
11. airport where I had friends around me saying, "You have to
12. go." So, I applied for a job and I got it.

34

1. Q. We'll come to that episode a bit later. But you'd had
2. some considerable experience in local government before you
3. came to the Island; how many years had you been in the
4. sector?
5. A. I started in 1996 at former South Sydney Council.

40

1. Q. Nothing, I take it, that's comparable to the Norfolk
2. Island Regional Council in terms of responsibilities,
3. isolation, staffing problems. Can you talk us through a
4. bit of the difference that you had to deal with in that
5. respect, generally speaking?
6. A. I suppose the biggest surprise to me was after the
7. first six months when I had the support from the
8. Commonwealth team at the time who had been part of the
9. transition, then there was a total change of staff. So, I
10. didn't anticipate that it was going to be such a hard work
11. working with the Commonwealth. I suppose that was an
12. unknown to me, and there was so many different staff coming
13. and going. And, as any local government, you rely on your
14. State Government as much as you do your own community.
15. There I needed to rely on the community, but also the
16. Federal Government in this case, and there was a constant
17. battle.

11

1. Q. What were the most significant problems that you faced
2. from that perspective?
3. A. Well, in the Local Government Act we need to set our
4. own fees and charges, for example, and they were sitting in
5. the Norfolk Island laws, so I had to negotiate and talk to
6. the Commonwealth, "Look, we do need to be able to set our
7. own fees and charges so we can run our businesses"; it's a
8. basic thing that I had to negotiate and fight for really.

20

1. Q. The waste management charge was an example that was
2. discussed yesterday. That couldn't be changed.
3. A. Yeah, airport --

24

1. Q. Why? Why couldn't the council change those charges?
2. A. They were in the Waste Management Act, whatever Act
3. for Norfolk Island. There were certain charges that the
4. councillors could do; they were, like, the drop-off charges
5. for example, and there was a raft of charges that we did
6. recommend that were not taken up by the council. But
7. airport was probably the first one we got through because
8. we needed to get that moving. There was some other
9. restrictions in that Act too which precluded us. I was in
10. the negotiation with a New Zealand airline to come flying
11. and we identified that there were some obstacles in the
12. Norfolk Island Act itself that needed to be changed, so we
13. did a few things at that stage.

38

1. Q. These particular fees and charges that were tied up in
2. Commonwealth legislation, they had the ability to impact on
3. the budget?
4. A. Yes.

43

1. Q. It's fair to say that the waste management enterprise,
2. the business unit, call it what you will, was a constant
3. drain on the budget; correct?
4. A. That's correct, and we constantly tried to get grants
5. for it; the only grant we were pointed to was the Building
6. Better Regions Fund which is competitive across the whole
7. of Australia, and it's considered to be a local government
8. function, not necessarily something that would be funded
9. through the Building Better Regions Fund.

6

1. Q. Did you seek some dispensation from the Commonwealth
2. about the application of the Waste Management Act on
3. Norfolk Island to enable you to deal with the revenue
4. issues?
5. A. With all Acts, yes. So, in the end they gave - I
6. can't remember if that Act was - yeah, I think they all -
7. all had fees and charges in the end that we were
8. responsible for the operation of - eventually were
9. delegated to the general manager.

16

1. Q. Eventually?
2. A. Eventually, yeah.

19

1. Q. What about waste management?
2. A. When that happened, I can't recall.

22

1. Q. Let's turn to the issue of asset management. What was
2. the status of the asset management procedures on the Island
3. when you arrived?
4. A. Well, I wasn't aware of any.

27

1. Q. I assume, given your responsibilities as general
2. manager, you took steps to try and find out what was there?
3. A. Yeah.

31

1. Q. What did you find?
2. A. There was the Worley Parson report, I was aware of
3. that one, and that it was, you know, we needed to spend
4. quite a bit of money on, particularly the roads assets. I
5. very early on, as I said in my statement, I thought, well,
6. 80Ks of road, easy to plan over a period of time and to
7. fund that. But there was no rock, so there was no
8. material. So, the first engineer that we had, he
9. immediately had to work on the - there was a funded program
10. by the Commonwealth for, I think it was about $500,000, to
11. do Queen Elizabeth Drive into Taylors Road in town, close
12. to where you all would have been the other week. So, it
13. wasn't finalised, so the engineer was doing that, and he
14. found some - you know, there was holes under the road
15. et cetera, it took a bit longer, but that project was
16. something that he needed to do first up. Then I got him to
17. work on the asset management plans after that because they
18. were due by 1 January. So, that was the extent of what we
19. did there and then.

4

1. But you may also know that the pier was being extended
2. at the same time and --

7

1. Q. Which one, the Kingston or?
2. A. No, the Cascade Pier, and the Commonwealth needed rock
3. for that, so they were in the process of importing rock
4. from New Zealand and there was a lot of opposition on the
5. Island, so they ended up using the rock that was on the
6. Island.

14

1. Q. Can we just discuss that opposition to the importation
2. of rock because it comes up again in the context of the
3. airport. What was your understanding of the issue and the
4. concern of the Islanders about importation?
5. A. At that time, I was probably too busy with other
6. things at that stage when they were doing that. I knew
7. that it was important for us to look at re-establishing the
8. quarry so we did have enough rock for our roads, so I was
9. more thinking about the roads and how we can get our own
10. rock for the roads. And that's when at a rock source
11. meeting, I think it was in February 17 - or early on in 17
12. where Councillor McCoy moved a recommendation that would go
13. to council that we looked at what the barriers were and to
14. seek a planning reform to actually be able to have a
15. significant development planning instrument so that we
16. could do those big projects outside the Norfolk Island 2002
17. Planning Act.

32

33 Q. That came up again later in the context of the airport

34 a --

35 A. Yes, again.

36

1. Q. -- when council resolved on 20 February to explore
2. using the existing quarries for the aggregate for the
3. runway; do you recall that?
4. A. Yes, but rock had been talked about since I started in
5. 2016, so this was not new.

42

|  |  |  |
| --- | --- | --- |
| 43 | Q. | You had a rock source committee of council; that was |
| 44 | how | significant an issue it was? |
| 45 | A. | Yes. |
| 46 |  |  |
| 47 | Q. | It was a particular pet of Councillor McCoy's, wasn't |

1. it?
2. A. I wouldn't say - Councillor Porter was very involved
3. as well, yeah, yeah.

4

1. Q. Both of them were extremely interested in rock source
2. issues because it's essential for building anything on the
3. Island?
4. A. That's correct.

9

1. Q. What about allocating funds for asset repair and
2. maintenance? How did the budget limit your ability to do
3. that in the first one, two, three years?
4. A. We had budgeted for the depreciation, there was always
5. some money set aside for the maintenance, and capital
6. projects was not probably that much in the beginning for
7. the roads because we didn't have plans for the roads at
8. that stage, so it was more to do with the maintenance.
9. Potholing was five days a week across the Island.

19

1. Now, when the engineer left in January, I think it
2. was, we weren't able to engage another engineer. I took
3. the initiative to then engage local government engineers
4. from New South Wales because they specifically deal with
5. asset management plans. They came to Island and I talked
6. to them about that. I don't know if we can actually just
7. put Australian Standards, like transfer them straight
8. across, but what can you do in relation to provide us with
9. data and a massive management plan and give us a work plan
10. over the first few years as to what we should focus on -
11. the quick wins - before we have the rock to actually seal.
12. So, the plan came about that we needed to do drainage to
13. get the water off the roads, that was part of it, and then
14. the culverts, and indeed that was programmed in. So, the
15. asset management renewal or work that we did was actually
16. the preparation, so that was getting the water off the
17. roads, drainage, and culverts, and I think we had in there
18. that we needed 100 culverts or something like that.

38

1. Q. Risk management: what were the procedures in place
2. about risk management at the time you arrived?
3. A. When I first arrived, not much.

42

1. Q. What did you do to try and get council to deal with
2. that issue?
3. A. When I first started we also had a group manager of
4. governance who worked on the framework for risk management,
5. and that framework was - she came from Federal Government,
6. so she worked on the framework that would suit that type of
7. environment. That person didn't last very long and then we
8. had a gap. But there was a risk officer who had registers
9. of operational risks, so I was quite satisfied that the
10. day-to-day operational risks on the ground level and some
11. of the financial controls too with the finance stuff would
12. be looked at, but I very early on then wanted to set up the
13. audit committee to get that function up and running.

9

1. Bearing in mind that we didn't have processes and
2. systems to be audited in the first place or, you know, to
3. have an audit plan and to work out what an internal auditor
4. would actually audit in relation to where we're at, so I
5. would say that there was a struggle with that function of
6. risk, but it was something that obviously as a general
7. manager it's something I constantly have in whatever I do;
8. you look at it from different perspectives and make sure
9. you do that before you take action.

19

1. Q. Mr Taylor said last week on Norfolk Island that you
2. were very processed-focused. Is that --
3. A. Probably processed in the way that we need to have
4. systems in place and there needs to be some parameters and
5. rules around how we do things so that we can get to where
6. we want to go.

26

1. Q. In terms of financial risks, was anything done to
2. establish a regime to deal with the way in which council
3. should approach contracting and financial risks that might
4. arise from particular projects? And, I'm thinking about
5. the airport contract here in the longer term, but did that
6. sort of risk, that is, the sort of risk of the cost
7. ballooning because of the biosecurity issue that we'll come
8. to in some detail later, did risk management procedures
9. engage that sort of risk at any stage?
10. A. It was always talked about. Whenever we put up a
11. recommendation in relation to the budgets; let's say, for
12. example, the fees for the electricity: it was quite clear
13. to the councillors what effect that would have. In local
14. government when the councillors make a decision, council
15. staff have to implement that decision whether you agree
16. with it or not, so you don't actually have a choice.
17. Whether they make a decision that will be detrimental, then
18. it would be our role to see, okay, what other things can we
19. do to try to meet budgets? In this instance we then had to
20. have an additional increase really the following year,
21. which they did accept, because I think they had realised

1 that was something that we needed to do.

2

1. Q. Sorry, I just didn't quite follow what you were
2. talking about. Are you talking about the airport contract
3. here?
4. A. No, no, I was talking about the electricity then.

7

1. Q. The electricity?
2. A. Yeah, so that was just an example of where - so, in
3. financial management and risk, like I said, I constantly
4. think about risk when we set budgets, for example. So, the
5. risk for us was that we needed to get grant funding, we
6. needed to get fees and charges in place, we needed to have
7. the rates there. So, it was a multi-pronged approach which
8. is what you do in local government on the mainland too.

16

1. So, there was always that risk and, if you didn't get
2. the grant, at least you'd put 25% in the budget so you
3. could actually do something; if you didn't get the grant
4. you could still do something, and that meant that, again,
5. budgets would fluctuate from the set budget to the end
6. of year because of the variability of local government:
7. that's what happens. So, that's the financial risk that
8. you manage by then not doing maybe all the asset
9. maintenance that you were supposed to do, because you
10. couldn't afford it because you didn't get certain fees and
11. charges in place.

28

1. Q. That was the case with the position of the roads,
2. wasn't it? When Boral came to make their offer, there was
3. a discussion that there had been an historical underspend
4. on roads of around $1.9 million; do you remember that?
5. A. I can't recall that figure.

34

1. Q. I'm going to show you this document later, we might
2. bring it up now. NIRC.023.001.0002. If we go to page 3,
3. you see the conclusion there:

38

1. *The opportunity to resell 9 kilometres of*
2. *road using Boral's asphalt plan is an*
3. *opportunity that is unlikely to arise for*
4. *another 12 to 15 years. Cash is available*
5. *to commit to this project and funds*
6. *budgeted in future years can be brought*
7. *forward ...*

46

47 Et cetera. The line above though says this:

1

1. *It should be noted that during the first*
2. *three years of operation the Norfolk Island*
3. *Council total roads capital budget was*
4. *underspent by $1.9 million.*

6

1. Does that accord with your recollection?
2. A. I can't recollect the amount, but we would have
3. underspent on the roads because there was no rock to do
4. anything in the first year; it would have been the
5. patching, we would have just done patching.

12

1. Q. It's also been suggested that you didn't have the
2. equipment or the machinery there to give effect to that
3. sort of spend?
4. A. That's probably correct, if that was suggested, yeah.

17

1. Q. The underspend on roads meant that those funds were
2. effectively used for other purposes?
3. A. That's correct.

21

1. Q. Presumably, that means keeping the budget as close to
2. neutral as possible?
3. A. That's always the aim, not to have a deficit.

25

1. Q. It's not as though that $1.9 million had accrued
2. somewhere in some sort of designated account for road
3. funding?
4. A. No, although one could argue that part of the - oh,
5. what's the word, I've just lost my train of thought - our
6. cash reserves could be set aside for that. Unrestricted
7. funds could have been restricted for that purpose, one
8. could have said that.

34

1. Q. But you didn't?
2. A. No.

37

1. Q. Just on cash reserves: I mean, there was a monthly
2. investment report which indicated what the restricted and
3. unrestricted cash position was at any particular point in
4. time. Was that an indicator that you kept a close eye on?
5. A. Very much so, yeah.

43

1. Q. You started out, day one, $9 million-odd in the bank,
2. and I think by the time you left the figure was roughly of
3. the same magnitude; do you recall that?
4. A. No, it was probably about $17 million or $18 million.

|  |  |  |
| --- | --- | --- |
| 1 |  | |
| 2 | Q. | Unrestricted? |
| 3 | A. | Unrestricted. Again, I can't recall that, yeah. |
| 4 |  |  |
| 5 | Q. | It speaks for itself? |
| 6 | A. | Yep, yep. |
| 7 |  |  |
| 8 | Q. | You spoke about the audit committee and I wanted to |
| 9 | put | a couple of propositions to you and get your response. |
| 10 | A. | Yes. |
| 11 |  |  |
| 12 | Q. | Right from the beginning, may I suggest that the audit |

1. committee was making recommendations that something had to
2. be done about the budget and the performance against the
3. budget of the council?
4. A. Yes.

17

1. Q. And that was a message that they repeated over and
2. over again to council?
3. A. Yes.

21

1. Q. It certainly was whilst Ms McFadyen was the Chair of
2. the committee; do you agree with that?
3. A. Yes.

25

1. Q. To what extent did council, to your recollection, do
2. anything in response to that?
3. A. Well, having heard McFadyen's evidence the other day,
4. I can't recall in detail if that was systematic, but often
5. they would change the recommendation to be noted rather
6. than executed. That was obviously what happened at least
7. on some occasions, yeah.

33

1. Q. A couple of examples spring to mind, let's focus on
2. those. In the electricity space there was an occasion
3. where the budget remained, the electricity budget, remained
4. in a deficit of around $300,000 to $400,000 because
5. councillors rejected a proposal to increase the electricity
6. tariff. Do you recall that?
7. A. Yes.

41

1. Q. That was a recommendation that came from you as the
2. general manager on the advice of your staff?
3. A. Yes. Well, we looked at all of that together.

45

1. Q. On another occasion there was - let me find the date.
2. If were you were listening to the evidence yesterday you
3. might recall that we referred to a resolution that council
4. asked staff to review all of the income and expenditure for
5. the council's five business units - this was in December 17
6. - and to provide council options to remedy the situation.
7. Do you remember that resolution?
8. A. Not --

7

1. Q. Let's bring it up.
2. A. But I probably --

10

11 Q. It's NIRC.PUB.001.0128\_0009. It's resolution 212 of

12 2017.

13 A. Yeah.

14

1. Q. Mr Wilson, at that stage he was the finance manager
2. reporting to Mr Carlesso, who was your chief financial
3. officer. Did that go anywhere?
4. A. As a team we constantly looked at how we could balance
5. the budget; that was an ongoing effort by, particularly the
6. finance team and Mr Carlesso and Nankivell and Wilson and
7. van Gaalen, that was their sole - they put hard work into
8. trying to both save and find revenue; and then, when it
9. came to revenue in relation to the Commonwealth, that was
10. my role.

25

1. Q. And you had some success in dealing with the
2. Commonwealth. If you compare the operational grants in
3. Year 1 with the operational grants by the time you left
4. they'd almost doubled?
5. A. Yes.

31

1. Q. There was some problems in calculating those grants
2. based on the comparator council that was used.
3. A. Yes.

35

1. Q. Which was not really a fair comparison as all, was it?
2. A. No.

38

1. Q. They were comparing Norfolk Island to which council?
2. A. I think it was Brewarrina.

41

1. Q. Brewarrina. Can we turn to the issue of rates? What
2. was your approach to trying to balance the councillors'
3. understandable position when it came to rates with the need
4. for you to come up with ideas, come up with a draft budget,
5. come up with a draft operational plan to make the Island
6. work for the consideration of councillors? Explain to us
7. the difficulty of engaging with those two different
8. perspectives.
9. A. The rate base of an Island like Norfolk Island will
10. never be enough to be a substantial amount of your revenue,
11. and that's - I liken that with somewhere like, you know,
12. Central Dowling which is out very remote in New South
13. Wales, they probably have a rate base of 2% or something
14. like that, so the rate base would never be very big on
15. Norfolk Island.

10

1. Having said that, the difficulty was when we went into
2. the base rate and ad valorem, when it had to be, you know,
3. market component coming in which was creating a different
4. layer for the Islanders. Again, I respect that they had
5. never had rates before, they had never had land valued in
6. the way that they had, so you know, we had assistance by
7. experts coming out and also requests by the councillors to
8. have public meetings, et cetera.

19

1. With the $1 million minimum that we had to work with,
2. so there was a little bit more than that. In the long-term
3. financial plans we increased that by approximately 1.5 to
4. 2% a year over time.

24

1. Q. Just a standard peg?
2. A. Yeah, standard, yeah, peg, which is also what happens
3. in New South Wales under the Local Government Act, you have
4. a rate peg, and that sometimes is under 2% and sometimes
5. over. So, I suppose in line with that understanding of the
6. impact of communities, that that would be seen as fair and
7. reasonable to use that type of explanation as to our
8. increase. So, I didn't feel that I could impose a
9. recommendation to the community to increase it more than
10. that incremental, and what would I base that on, seeing
11. that there is a rate peg under the Local Government Act in
12. New South Wales, which indeed is the Act that we were
13. following.

38

1. Q. There was an occasion when the audit committee
2. suggested, or recommended, that council should adopt a 10%
3. target for rates. What was your view about that?
4. A. If I recall right, that was still over a number
5. of years, so I can't - I don't know if it was a breakdown
6. then that it would be 2 or 2.5% a year, I can't recall.

45

1. Q. It was by 2021; let me just find the resolution. Yes,
2. it was made on the third of - on 8 March, so early on in
3. the piece. Let me just place it in some context.
4. Mr Gallagher moved a recommendation at the audit committee
5. on 8 March --

4 A. 17th?

5

6 Q. 17th, yes. He said this:

7

1. *The audit committee notes the quarterly*
2. *budget review statement.*

10

11 So, this is the second quarter of 16/17:

12

1. *And accepted the projected financial*
2. *position to the end of June 2017 [which was*
3. *a deficit of about 5.3] this is*
4. *satisfactory based on the original budget*
5. *[which was for 4.2]. The audit committee*
6. *is still of the opinion that council should*
7. *undertake actions to reduce the projected*
8. *budget deficit of $5.27 million for the*
9. *16/17 financial year.*

22

23 At the same meeting he moved that:

24

1. *The committee notes the long-term financial*
2. *plan and recommends council adopt a target*
3. *of at least 10% rate revenue of total*
4. *revenue by 2021.*

29

1. Was that something you supported?
2. A. I really can't recall that.

32

1. Q. When it went to council, that sort of recommendation
2. was going to go nowhere, wasn't it?
3. A. Again, I can't recall which way it went.

36

1. Q. Can we turn to the airport. The airport was an issue
2. that was articulated to you when you joined in 2016?
3. A. Not verbally articulating, but it was something that
4. was in the - became something that was in the operational
5. plan and the community strategic plan, something we needed
6. to attend to, yes.

43

1. Q. So, was that something that was communicated to you in
2. the handover process by the Commonwealth officials that you
3. had to deal with? How did you find out that you're going
4. to have to spend a very large amount of money resurfacing
5. this airport in the not too distant future?
6. A. We knew it early on because in the first long-term
7. financial plan there's a narrative around that, so
8. obviously we were aware of it. I think in the first
9. long-term financial plan the narrative talks about
10. $20 million or something like that, and so, it was
11. something that was in the back of our minds, we needed to
12. plan for that.

9

1. Again, the rock issue, that was in the back of my
2. mind, that's why that hard work trying to get the
3. Commonwealth to change the law was just constant. So,
4. there was parallel things going on here, and then trying to
5. get engineers to look at what we needed to do to get the
6. project going and all of that. So, obviously resurfacing
7. the airport in the middle of the South Pacific is not
8. something you do overnight, so it had to be planned, so it
9. was thought through from the very beginning and planned
10. over time and to the point where the Mayor and myself, when
11. we were in Canberra for the Elder conference, we met with
12. then Minister Vey(?). And my brief at the time, I seem to
13. recollect that it was $30 million or $35 million that we
14. asked for at that point in time - that was 2018 - and I
15. recall him saying, "Well, this is something that has to
16. happen. It can't not happen."

26

1. Q. I think early on in the first long-term financial plan
2. the budget assumes that the Commonwealth would be lending
3. the Island or the council the money to do the work, or
4. funding it itself, so the budget that was prepared did not
5. embrace - that first budget - did not embrace the Island
6. having to pay for the project.
7. A. No, obviously that could never happen, no. And then I
8. think that, because we had had a loan before, and we had a
9. loan, that was anticipated that that probably would be what
10. the Commonwealth would suggest.

37

|  |  |  |
| --- | --- | --- |
| 38 | Q. | And that loan was still outstanding? |
| 39 | A. | That's correct. |
| 40 |  |  |
| 41 | Q. | There was still 10.5, $11 million still owing -- |
| 42 | A. | That's correct, we inherited that. |
| 43 |  |  |
| 44 | Q. | -- in 2016. That ultimately is waived? |
| 45 | A. | That's correct. |
| 46 |  |  |
| 47 | Q. | In the year before a decision is made to go to tender |

1. for the contract?
2. A. No, it was the same year.

3

1. Q. Same year.
2. A. So, the grant funding was granted and the loan was
3. waived, so there was then the underlying thought that then
4. we could borrow for anything that was above.

8

1. Q. Yes, because that 10.5 that was sitting on your
2. balance sheet was obviously a problem for your net
3. position?
4. A. No, not necessarily.

13

1. Q. Until it was waived?
2. A. Yeah, I mean, we had a very good deal - we managed to
3. actually broker a very good deal where we were only needing
4. to pay $200,000 a year instead of the $1.2 million.

18

1. Q. And no interest?
2. A. And no interest, so it wasn't an impost. Now, it's
3. actually responsible financial management to borrow money
4. for intergenerational assets, it's enshrined in the Local
5. Government Act too, so borrowing is not detrimental to your
6. bottom line at all if it's done in a way that it is
7. intergenerational.

26

1. Q. So, in the first long-term financial plan the budget
2. timeframe for the airport is around 2020/2021?
3. A. Or 19/20, yeah, I can't recall.

30

1. Q. 2020/2021, and then CASA came out and inspect the
2. airport in 2017 and do a report; do you remember that?
3. A. Their report is based on the commissioned report by an
4. expert who goes and does the total assessment of the
5. airport itself, and that's an annual assessment, and that
6. report is then sent to CASA; CASA puts their observations
7. to you, they don't actually do the inspection and that,
8. yeah.

39

1. Q. No.
2. A. Yeah.

42

1. Q. But the end result of that 2017 review by whoever was,
2. CASA indicated that it was essential that the airport be
3. resurfaced sooner rather than later?
4. A. The 2017 report by the consultant who does the report,
5. in there it says that the condition assessment says that it
6. needed to be done that time. And then you have to report
7. back the observations; you have to report back to how
8. you're going to mitigate that risk or those observations,
9. and one of the mitigations was that we will appoint a
10. pavement engineer, we will do certain immediate work that
11. needed to be done. There was almost like a sunk area in
12. front of the terminal where the aircraft stopped and that
13. had to be rectified as an immediate, for example, so there
14. were certain things that we had to rectify immediately.
15. So, we had to show a plan that we would do that, and that
16. included the reseal as well. So, then they were satisfied
17. that we had a plan to do it in the timeframe that they
18. recommended.

14

1. Q. And your expert was someone who was nominated by the
2. Commonwealth?
3. A. Yes, OTC and the CASA as well, yeah.

18

1. Q. Tenders were called? Firstly, the specifications were
2. set by the independent engineer?
3. A. I wasn't part of the drafting of the specifications
4. but --

23

1. Q. But they were fixed by someone?
2. A. Yeah. Again, we used the procurement agency to do it
3. for us, or to assist us with probity and all of that to
4. make sure that it was done appropriately. It was such a
5. big contract, I even asked if the Commonwealth could do it
6. for us but that was not appropriate.

30

1. Q. So, come the second half of 2018, a tender process has
2. taken place, you have three tenders, one of whom is Boral,
3. and the evidence we've heard this week is that there were
4. councillors who wanted to see the tenders. Do you recall
5. that?
6. A. Yes.

37

1. Q. Their evidence is that you allowed them to see the
2. tenders on a confidential basis; is that right?
3. A. Yes, under pressure I agreed to let them look at the
4. tenders.

42

1. Q. Councillor McCoy says he got half an hour to go
2. through the - firstly, I'll just go back a step.
3. Councillor McCoy says he got half an hour in 2018 to have a
4. look at the CASA report. Is he right about that?
5. A. I can't recall, but the CASA report itself was only a
6. few pages. And, can I just say with the CASA report, I had
7. to ask for permission through CASA to actually show them
8. that report.

4

1. Q. Sure. No criticism is being made of you about this at
2. all. Councillor Snell said that:

7

1. *The general manager sent out an invitation*
2. *to councillors that we could view the*
3. *contracts in her office for a period of one*
4. *and a half hours, without legal*
5. *representation and not taking notes, just*
6. *to have a look at the basis of those*
7. *contracts.*

15

1. I think, when he says "contracts" I think he means
2. tenders.
3. A. Yep.

19

1. Q. So, that's what happened?
2. A. I didn't set - put timeframes for any of that. Under
3. pressure again, I said, "I will allow you to come to my
4. office and look at them, you can't take them away, and it's
5. not appropriate to take notes." That might have been
6. something that I said. And, while they were in my office I
7. was doing my work.

27

1. Q. Did you yourself review the tenders?
2. A. Yes.

30

1. Q. There was a biosecurity risk in this project if the
2. rock was to come from the mainland; you understood that
3. from the tenders, I take it?
4. A. Yes, there was an unknown risk because there was no
5. requirement from biosecurity to do any treatment of the
6. rock.

37

1. Q. So, you weren't sure - you tell me if I'm wrong
2. because I don't want to put words in your mouth here: you
3. were unsure as to whether or not there would be a
4. biosecurity requirement for rock brought to the Island; is
5. that right?
6. A. That's correct.

44

1. Q. The tender indicated that Boral estimated that there
2. would be such a risk and that the risk might cost around
3. $4.2 million; you recall reading that?

1 A. Yes.

2

1. Q. At the time you considered the tenders, had you
2. considered the likelihood of council getting approval to
3. use the rock that was on the Island?
4. A. It was my wish that we would have had the quarry and
5. rock on the Island since 2017; that's what I worked on so
6. hard but I couldn't get there. And it was understood - I
7. wasn't part of the specifications, but I was under the
8. understanding already then that there was never going to be
9. the rock on the Island to do the airport.

12

1. Q. The existing quarry had an approval for about 15,000
2. tonnes; do you recall that?
3. A. I don't know if there was an existing approval or --

16

1. Q. We'll come to that in a minute when I show you the
2. briefing note that you prepared; I just want to deal with
3. the tenders at this stage. Did all of the councillors come
4. to your office or was it just Councillor Snell and the
5. Mayor?
6. A. I can't recall.

23

1. Q. If we could bring up the briefing document. Perhaps
2. if I could hand you a hard copy of that. I should say in
3. fairness to you, Ms Jackson, we have had the metadata for
4. this document checked, given some of the things that
5. Mr Wilson said. I'm going to show you a document here and
6. a copy should be provided to the Commissioner and to my
7. learned friends. In short, it shows that the document was
8. created and last modified - sorry: that's the upload date
9. is the 25th. You will see that the file name is 2019,
10. 19 February, and that the author was yourself. So, if you
11. can just have a look at that document and re-familiarise
12. yourself with it. Do you see that?
13. A. Yes, I have no problem with that, no.

37

1. Q. Page 3, you will have heard me ask Mr Wilson some
2. questions about that second paragraph which says, "Boral
3. has indicated"?
4. A. Yep.

42

1. Q. And I think the second-last sentence in that
2. paragraph indicates your position, your evidence of a few
3. minutes ago, that in lieu of knowing the accurate cost at
4. this stage, which you didn't know, what you had from Boral
5. was an estimate of $4.2 million. That accords with your
6. recollection?
7. A. Yes.

3

1. Q. Did you speak to this paper when the matter was before
2. council on 20 February 2019?
3. A. I believe Dr Greg White was actually in that meeting
4. and spoke to the report; that's my recollection.

8

1. Q. Do you recall who else was present, other than
2. Dr White, councillors and yourself?
3. A. The senior staff would have been there.

12

1. Q. It's the sort of matter that would suggest that
2. Mr Taylor and Mr Innes-Walker would be there because they
3. were the officers who had carriage of the technical side of
4. the matter; correct?
5. A. Certainly, Mr Taylor would have been there. I can't
6. say yes or no for Mr Innes-Walker.

19

1. Q. What about your, at that time, chief financial
2. officer, Mr Wilson?
3. A. He would have more than likely been there, seeing that
4. he was a senior officer.

24

1. Q. You would have heard me speak to Mr Wilson about this:
2. three councillors say they came away from this meeting
3. thinking that the project could cost between $48 million
4. and $49 million; they're Councillors McCoy, Porter and
5. Buffett. Councillors Adams and Snell say they came away
6. from this meeting having already reviewed the tender and
7. thought that Boral was going to assume responsibility for
8. the biosecurity risk and they always understood that the
9. extent of the council's liability was the $44.898 million;
10. that is, roughly $45 million. What was your understanding?
11. A. Well, if I can just - seeing we've just heard
12. Mr Wilson, my listening to him is that he's taking it from
13. a pure financial position. My take of this is that the
14. tender was what it was, the price; anything above the
15. $43 million that was granted by the Commonwealth would come
16. out of a loan. And what we knew was the $2 million; what
17. we didn't know was this 4.2, and that would be in addition
18. to anything else.

43

1. Q. Is another way of putting that, that there was a
2. chance or a risk or a possibility that the cost of the
3. project would be, to council, would be the $2 million, plus
4. the $4.5 million, if that was the cost of the biosecurity,
5. if the biosecurity was necessary?
6. A. That was a risk, but there was some mitigation
7. illustrated in this report to that risk as well.

4

1. Q. So, that mitigation involved variations to the
2. technical work that was to be done?
3. A. That's correct.

8

1. Q. And council made a decision that it didn't want to do
2. that?
3. A. I don't have a resolution to that effect.

12

1. Q. The evidence of a number of councillors was to the
2. effect that they did not want to compromise the design
3. features; you can't recall that?
4. A. I can't comment on that.

17

1. Q. If there was a risk that it was going to cost more
2. than $45 million, can you explain why the budget that we
3. took Mr Wilson to only referred to an expenditure of
4. $45 million?
5. A. Because that was what was known at that point in time.

23

1. Q. Didn't you all know that there was a risk that it
2. could be significantly more?
3. A. It wasn't known to the extent that we had confidence
4. in what to put in the budget.

28

1. Q. Responsibility for drafting the budget was
2. Mr Wilson's, wasn't it?
3. A. The various managers in various areas, they assisted
4. with that; they would draft their own budget, he would look
5. at it, make sure that it was within the allocated revenue,
6. et cetera.

35

1. Q. Would you ordinarily expect your chief financial
2. officer, when reporting in a budgetary or planning in a
3. budgetary context for a 45, 46, 47, $48 million contract,
4. not to look at the base documents, the source documents,
5. the tenders, the correspondence?
6. A. No, the chief financial officer wouldn't look at
7. tenders, that's not part of the process.

43

1. Q. Wouldn't he look at the winning tender, because that
2. would be the - wouldn't that be, absent the final contract
3. which had not been signed by the end of June, wouldn't he
4. look at what the likely cost of this project was, at least
5. from Boral's perspective?
6. A. He would more than likely be expected to look at the
7. resolutions of council to what expenditure has been adopted
8. and approved, but finance officers don't go in to look at
9. tenders or matters like that, that's not --

6

1. Q. No, they don't look at tenders in the sense that a
2. tender is being compared to other tenders, but by
3. 20 February a resolution had been - or on 20 February a
4. resolution had been passed that involved council agreeing
5. to go ahead with the project; it didn't specify a price.
6. Do you recall that? Perhaps if I show you the resolution?
7. A. The resolution. If that's the case, that's the case.

14

1. Q. Let's bring up the resolution because I want to raise
2. that with you. Do we have that, the minutes of 20 February
3. 2019. Sorry, I should know this off the top of my head, I
4. apologise, I've been over and over it.
5. NIRC.PUB.001.0192\_0021. This was my point to Mr Wilson.
6. when you look at paragraph 3 of the resolution:

21

1. *Council contributes any shortfall of*
2. *funding for the project, over and above the*
3. *funding provided by the Commonwealth ...*

25

1. Now, I'm not an accountant and I've never prepared a
2. budget for local government but, if I was tasked with doing
3. so, I might ask myself, what is the likely shortfall of
4. funding for this project? And, if he'd have asked you that
5. question, you'd have said what? Would you have said you
6. didn't know? But, if the biosecurity risk is realised,
7. it's going to be a lot more than $45 million.
8. A. Yes, but not necessarily, depends on the mitigation as
9. well and what other measures that we can take to alleviate
10. that.

36

1. Q. But again - but when you say mitigation, you've said
2. mitigation about the biosecurity risk?
3. A. Both that and also the other scenarios within the
4. report where --

41

1. Q. But none of those scenarios were ever adopted, and
2. this resolution says council accepts Boral resource be
3. awarded the contract, and there was no suggestion that
4. there be a negotiation in respect of the McVeigh
5. variations.
6. A. I will probably say that, we budgeted what we knew;
7. what we didn't know we would have to deal with when we
8. knew, and we would have to deal with that in line with
9. whatever resolution we had or we would have to go back to
10. council and ask for another resolution. At this point in
11. time any overruns would have to be a loan, so we had that
12. resolution, so that was an avenue that we had as Plan B, so
13. to speak.

8

1. Q. When council come to pass the budget which says
2. $45 million at the end of June, was that questioned at all
3. by councillors? Did any of the councillors say, "Hang on a
4. minute, you told us back in February this might cost
5. somewhat more than $45 million"?
6. A. I can't recall them questioning it, and at that point
7. in time we still didn't know whether that was going to be
8. the cost or not.

17

1. Q. Didn't you think it was important to tell them that,
2. okay, this is what we know it's going to cost, but it could
3. be more?
4. A. I think that was very clear; we had workshops --

22

1. Q. You think that was clear to councillors?
2. A. We had workshops, we had that council meeting, Dr Greg
3. White had spoken to them; that was also mentioned in the
4. public meeting, I believe, which I didn't attend, but that
5. was word-for-word in the paper later on.

28

1. Q. Do you think it was clear to you?
2. A. Yes.

31

1. Q. You think it was clear to the community, do you think
2. it was clear to councillors?
3. A. The amount of information about it, I can't see why it
4. wasn't.

36

1. Q. Do you think it was clear to Mr Wilson?
2. A. Yes, but he looked at it from a budget perspective in
3. what he needed to put into the budget, but I believe he
4. would have understood that it was in addition.

41

1. Q. What do you say to his assertion, or his evidence,
2. that he didn't find out about the biosecurity risk until
3. after the budget and close to the period - close to the
4. time at which he left council?
5. A. I find that that would be difficult not to know being
6. on the Island.

1

1. Q. If the risk came home to roost - sorry to use that
2. metaphor, perhaps I'll put it a different way. If that
3. risk came to be realised, the call on the cash reserves of
4. the council would have been significant?
5. A. Not necessarily if you take out a loan.

7

1. Q. But no loan was taken out?
2. A. Well, I wasn't there at that time. I would have
3. fulfilled the resolution of council which I always do.

11

12 THE COMMISSIONER: Can I ask a question, Mr Bolster?

13

14 MR BOLSTER: Yes.

15

1. THE COMMISSIONER: Q. It says, Ms Jackson, in
2. these minutes that the loan was to come from the Norfolk
3. Island International Airport Government Business
4. Enterprise, which implies to me that the loan was to come
5. from an internal source because that funding from the
6. enterprise went into the council. So, is that correct?
7. A. No, it meant that council would take a loan, hopefully
8. from the Commonwealth, and if the Commonwealth wouldn't
9. lend the money, go to a commercial bank, but it would be
10. funded by the airport as an entity; that's what that is
11. saying.

27

1. Q. It says "by way of a loan from the Norfolk Island".
2. When we questioned the councillors, they all indicated that
3. they understood it to be coming from the funds that would
4. be raised from the airport, but they then went on to say
5. that COVID actually impacted on that funding.

33

1. So, there seems to be a lack of - a whole lot of
2. confusion around where this loan was to come from, because
3. there's no documents that I've read so far, there's
4. absolutely nil reference to any possible loan from the
5. Commonwealth; in fact, the councillors went as far to say
6. that they were very, very clear from day one that the
7. Commonwealth put a cap - or used the word "cap" during the
8. hearings last week on the amount of $43 million, so they
9. felt that the liability, wherever the money was to come
10. from internally, was definitely not coming from the
11. Commonwealth.

45

1. So, I'm a bit surprised that today, on the last day of
2. the hearing, we've got two people from the council talking
3. about a loan from the Commonwealth when there's not a
4. single document that references that, and none of the
5. councillors had any view of that and none of the other
6. council staff had a view of that.
7. A. Okay, so, in the budget you would have seen that it
8. actually specifies a loan of $2 million for the airport
9. project; that's the $2 million on top of the 43.

8

1. Q. Yes.
2. A. So, yes, there was a cap, that was the grant money
3. that we would get. We were given the grant money
4. conditional on, that council would pay for anything above
5. the $43 million. So, I can see that this can be confusing,
6. number 3 here, so it was a loan serviced by the airport, if
7. that clarifies it to you, Commissioner.

16

1. Q. But the loan would come --
2. A. No, would come from - wherever we could find the loan
3. but because the Commonwealth had written off our previous
4. loan it was assumed or inferred that we could probably
5. borrow from them again.

22

1. Q. Okay.
2. A. And, if that wasn't possible, we'll go to the bank.

25

1. Q. So that was obviously an internal discussion that
2. happened amongst the council staff, because it certainly
3. wasn't a discussion that any of the councillors raised?
4. A. Well, I can't comment on that, I'm sorry.

30

1. Q. Or was it a discussion around raising the money from
2. the Commonwealth had occurred amongst the senior council
3. staff? Because, I mean, that was put together and there
4. was an understanding that you're explaining to me that the
5. loan would come from the Commonwealth and be serviced by
6. the airport --
7. A. Airport.

38

1. Q. There must have been a discussion at a senior level
2. that that was the idea and the intention?
3. A. Yeah, more than likely; you know, how do we pay for
4. any overruns, what's the best way for an asset like that
5. who has a life-span of 15 years or so; that is reasonable
6. then and financially responsible to take out a loan for
7. such a thing rather than use the cash reserves.

46

47 Q. So, there was a discussion - I've just got to get it

1. clear in my mind.
2. A. Yes, sure.

3

1. Q. Because I want to make sure I represent the issues
2. correctly.
3. A. Yeah.

7

1. Q. So, there was a discussion at a senior level in
2. council, I presume involving the CFO, that the money - that
3. you were both of the same view that the money was
4. presumably going to come from the Commonwealth, that you
5. were aware there could be a cost overrun but you were
6. pre-approaching the Commonwealth to get a loan, if there
7. was such an overrun?
8. A. Yes. I mean, look, that's the way local government
9. works; you have to get loans, you have to take --

17

1. Q. I'm aware how a local government works, I used to be
2. responsible for a local government in New South Wales, so
3. what I'm trying to understand is, not how councils work,
4. I'm trying to understand exactly what happened within the
5. council to get to point number 3, that a loan was coming
6. from somewhere, and you've just explained to me that the
7. way this is written is confusing, it was actually in the
8. minds of senior people in council that it was coming from
9. the Commonwealth; then it would be serviced by the airport?
10. A. Yes, more than likely that - the first - when you're
11. government, you try to borrow from government, number one,
12. so that's why I'm saying Commonwealth because we didn't
13. have a state government, so we go to the Commonwealth.
14. That's the first port of call when you say you're going to
15. borrow money.

33

1. Q. So, was it ever discussed?
2. A. It must have been discussed. We had workshops with
3. the councillors, we as a senior team we met weekly and we
4. discussed all matters at hand.

38

1. Q. So, at the senior management level you discussed all
2. these kind of matters, that there potentially could be a
3. cost overrun but there wasn't a whole lot of worry about it
4. because you could approach the Commonwealth to get a loan
5. similar to the way loans have been got before, but you were
6. generally of the view that there was going to be an amount
7. of overrun, which is why you've got the recommendation
8. there?
9. A. We knew that there was an overrun when council adopted
10. this resolution, because there was $43 million from the
11. Commonwealth and the contract was almost 45, so we knew
12. straight up we needed to fund $2 million. Should we say no
13. to a grant for $43 million? I could not take that risk. I
14. was responsible for the airport.

6

1. Q. So, your view is that the $4 million potential overrun
2. for the biosecurity, even though this whole decision here
3. talks about exploring other options and going to the
4. Ministers and so on, only relating to the rock, only
5. related to the $2 million but not the rock? Because I find
6. that hard to understand.

13

1. You've got a whole lot of series of recommendations
2. relating to rock. You said earlier in your evidence that
3. rock was a big issue and you spent a lot of your time on
4. the Island trying to actually source Island rock but you
5. were unable to do that. Then Boral comes along and says,
6. "You need rock", and you know that it's hard to achieve on
7. the Island. So, then the option is to bring it in, and
8. then there's community opposition to the idea of bringing
9. in outside rock because it has to be cleaned, so there's a
10. biosecurity cost, so Boral flags that in their tender.

24

1. Then the tender is accepted with everyone knowing that
2. that still needed to be explored, even though there was a
3. view that you hadn't been successful in getting rock so
4. far, so you put in a provision, which seemed sensible to me
5. at the time, that if you did have a cost overrun - which I
6. presume relates to the rock because that's what this is
7. about - it would come from a loan from the Commonwealth.

32

1. All I'm trying to establish is whether the senior
2. executive of your council discussed the Commonwealth as an
3. option for funding the rock transfer from the mainland?
4. A. Not the transfer but any overrun.

37

1. Q. The biosecurity costs?
2. A. And if that be biosecurity costs or whatever the
3. overrun would be; look, any big project would potentially
4. have an overrun.

42

1. Q. So, you were all aware there could be - I know why it
2. wasn't in the budget, I understand that you didn't put it
3. in the budget because you didn't have a firm figure - but
4. you were all aware, in February, that there could have been
5. a $4.2 million overrun if the quote around biosecurity that
6. Boral put forward was realised because you could not source
7. the rock on the Island?
8. A. Yes. Well, I certainly was aware of it, yeah.

4

1. Q. Okay, that's what I was trying to establish. And your
2. executive would have been discussing those matters with you
3. at that time, because it's a fairly significant issue?
4. A. Yeah, more than likely. I mean, this was something
5. that was discussed Island-wide.

10

1. Q. So, Mr Wilson would have been part of those
2. discussions?
3. A. He would have, yes.

14

15 THE COMMISSIONER: Okay, thank you.

16

1. MR BOLSTER: Q. It may assist you, Ms Jackson, if we
2. could go back to NIRC.001.0002\_0005, it's the document you
3. have in front of you at tab 14. So, page 5 of that. You
4. see on page 5 there is a box, "Financial Implications"?
5. A. Sorry, it doesn't have a page number.

22

1. Q. The page is right up the top.
2. A. Oh, right, yes.

25

26 Q. You see, \_0005?

27 A. Yes.

28

1. Q. It says, "Financial Implications". Underneath the
2. quote, the italicised quote there's this wording:

31

1. *Therefore council and the elected members*
2. *is required to be supportive of the project*
3. *and be prepared to pay for any funding*
4. *shortfall. Boral's costing is close to the*
5. *available grant funding and it is*
6. *anticipated that negotiations will be*
7. *possible to find savings.*

39

1. I think your evidence would be that those savings were
2. the savings that had been listed.
3. A. Yeah.

43

1. Q.
2. *This will minimise the cost to council and*
3. *it is recommended that any such outlay by*
4. *council would be in the form of a loan held*

|  |  |  |
| --- | --- | --- |
| 1 |  | *by the airport.* |
| 2 |  |  |
| 3 | A. | Yes. |
| 4 |  |  |
| 5 | Q. | "The loan held by the airport." So, the option |

* 1. there - that would seem, on one view, to suggest that the
  2. airport was going to take out a loan.
  3. A. The airport, there were no separate funds, so again --

9

1. Q. No, council is the airport, the airport is council.
2. A. That's correct.

12

1. Q. There's no separate entity.
2. A. That's right, there's no separate entity; but the way
3. the business enterprises, as they used to be called - we
4. continued using that word because that was what the
5. community was familiar with.

18

1. Q. It doesn't suggest there that it would be a loan from
2. the Commonwealth, that's what I'm suggesting to you?
3. A. Okay, yeah, no --

22

1. Q. At the time it would not appear that the source of
2. funds was to be the Commonwealth?
3. A. No, but it was supposed to be a loan that was serviced
4. by the airport.

27

1. Q. By the airport. So, wherever the loan came from, it
2. wasn't going to be from the Commonwealth, I want to suggest
3. to you?
4. A. No, that's not correct.

32

1. Q. Wherever the loan came from, it would be paid for out
2. of airport revenue?
3. A. That was the aim. At that point in time the airport
4. was doing really well.

37

38 Q. Okay.

39

1. THE COMMISSIONER: I just want to ask another question,
2. Mr Bolster. Sorry.

42

1. Q. On the issue around the loan from the Commonwealth,
2. was there any approach to the Commonwealth, at
3. about February 2017 --
4. A. No.

47

1 Q. -- to actually --

2

3 MR BOLSTER: 19.

4

1. THE COMMISSIONER: Q. Sorry, 19: to actually ask them
2. about whether they would actually consider a loan?
3. A. No.

8

1. Q. So, there was no consideration that a loan was even
2. something that they would agree to?
3. A. No.

12

1. Q. So, it was a hypothetical that it would come from the
2. Commonwealth?
3. A. Yeah, my risk assessment on this was based on the risk
4. of doing the reseal or not doing the reseal.
5. Q. So on one hand you've got the risk of not having the
6. rock, and you've got the risk of the biosecurity costs, and
7. then you've got another risk because you may not even get
8. the loan?
9. A. The risk for me was, if a plane lands and it's unsafe
10. and there is an accident or incident, that I'm the one
11. who's liable for that and all those people that potentially
12. could be --

25

|  |  |  |
| --- | --- | --- |
| 26 | Q. | Impacted. |
| 27 | A. | -- impacted. |
| 28 |  |  |
| 29 | Q. | I accept that. |
| 30 | A. | That risk is -- |
| 31 |  |  |
| 32 | Q. | That's a logical risk to be very worried about. |
| 33 | A. | That was my main consideration and this is what was |

1. constantly pressured on me to defer this project because we
2. didn't have the funds, we didn't have the rock, so let's
3. just leave it for another two to three years. I could not
4. live with that, and I was alone on that, and I would take
5. the risk and say that, yes, let's take out a loan for any
6. overruns rather than not doing this project.

40

41 MR BOLSTER: Who --

42

1. THE COMMISSIONER: I just want to ask you another
2. question. Sorry, Paul.

45

1. Q. In respect of the money that might have to come from
2. the biosecurity: given that there was a chance, you know,
3. of some degree, of which you would think would be a high
4. chance given your understanding of the rock issues, you
5. never thought that you should even raise it with the
6. Commonwealth about whether they would even service such a
7. loan?
8. A. I constantly spoke with the Commonwealth about a raft
9. of matters. The Commonwealth wanted me to defer this for
10. two to three years.

9

1. THE COMMISSIONER: Okay, so they weren't prepared to
2. provide the loan. Thank you.

12

1. MR BOLSTER: Q. Did the pressure to defer come from the
2. Commonwealth, did it?
3. A. As well --

16

1. Q. Who else?
2. A. -- as the community, as the councillors.

19

1. Q. Come July, Boral present a $5 million contract to
2. resurface 9 kilometres of the roads. That was outside the
3. budget, the budget did not have cash to fund that, and the
4. resolution that deals with that refers to council using its
5. cash reserves.
6. A. Yes, we had cash at the time.

26

1. Q. You see, at the end of January the cash position was
2. about $10 million in unrestricted funds. If you accept the
3. risk that the airport would cost an extra six, seven,
4. $8 million, and on top of the $5 million that was in the
5. Boral roads contract, the only way, absent a loan, that
6. those two contracts could be paid for was out of council's
7. cash reserves?
8. A. The aim was to get a loan, and that was what the
9. resolution said, so as officers we implement the resolution
10. of council. If it says a loan, you endeavour to get a
11. loan. And in this instance with the roadworks, there was
12. cash in unrestricted. Internally restricted can also be
13. modified by council resolution.

40

1. Q. Do you agree with the proposition that it was
2. imprudent to proceed with the $5 million road contract at
3. the time, given the risk of the total cost of the airport
4. contract and the amount of unrestricted funds that were
5. then available?
6. A. I was not there when they actually did that, so I
7. can't comment on that.

1

1. Q. You were there in July when they accepted Boral's
2. tender.
3. A. That's when we also had accepted a resolution to take
4. the loan out of any overruns, and that was also a situation
5. whereby we would then have to look at our restricted funds
6. for that year, what was in there, is there anything in
7. there that we can actually change if we need to.

9

1. Q. Restricted funds at that time were the superannuation,
2. leave entitlements of employees?
3. A. No, there would have been capital works for that year
4. too.

14

1. Q. But only capital works that had been contracted?
2. A. I don't have those figures in front of me.

17

1. Q. The Grassroots and Nexia reports, have you had an
2. opportunity to read them?
3. A. I have skimmed through them, yeah.

21

1. Q. Is there anything that you want to say in answer to
2. them that the Commissioner needs to know about?
3. A. I think there's a lot of good analysis in there. I
4. think this constant that you have to go and seek funding
5. from the Commonwealth, it's a constant battle, and trying
6. to run an organisation with those constraints, which you
7. also have constraints in local government on the mainland,
8. but at least there's an avenue to have a state that is
9. responsive to that; I think that's something that needs to
10. be worked out, to look at a structure.

32

1. And, it's not really clear in the Grassroots and Nexia
2. report, but I firmly believe you need to have a legal
3. framework to work within for the Island as a whole that
4. suits the Island. You can't just take legislation from
5. somewhere else and say, "Look, this is what we're going to
6. plonk over here." A legal framework is fundamental in my
7. mind and that's why I took on the role to work under a
8. legal framework such as the Local Government Act.

41

1. Q. In closing, is there anything further that you wish to
2. say to the Commission before we finish?
3. A. I think there are great opportunities and I thank you
4. for me providing evidence here, and I do apologise for
5. being emotive, it's just some anxiety that's rising up in
6. me in relation to the responsibility that I had for the
7. airport with those pressures around me, because the safety
8. was the number one for me and I apologise for raising my
9. voice, that wasn't my intent. It was the pressure that I
10. was under at the time, so I do apologise for that.

5

6 THE COMMISSIONER: Thanks, Ms Jackson.

7

1. MR BOLSTER: Thank you, no further questions from me,
2. Commissioner.

10

11 THE COMMISSIONER: Mr Simone?

12

1. MR SIMONE: Yes, just a couple of discrete questions,
2. Commissioner.

15

# 16 <EXAMINATION BY MR SIMONE: [1.37pm]

17

1. MR SIMONE: Q. Ms Jackson, I understood your evidence
2. about the availability of a loan from the Commonwealth
3. Government in relation to the airport contract. You also
4. suggested that, if a loan wasn't available from the
5. Commonwealth, that you could obtain a loan elsewhere.
6. Could you speak a little bit to that and explain what you
7. had in mind?
8. A. What one would usually do is, if you don't ask
9. government, if you don't get a loan from another government
10. entity, you go to the commercial banks.

28

1. Q. And, how confident were you about whether the council
2. could have obtained a loan from the commercial banks at
3. that time?
4. A. Seeing that the council of Norfolk Island hadn't had a
5. commercial loan before, I didn't have an experience of
6. that; I certainly have had experience of commercial loans
7. in other councils.

36

1. Q. In relation to your experience in those other
2. councils, what factors did you find were persuasive to
3. commercial banks in their rendering available to councils
4. funds of this nature?
5. A. They would look at your working funds and your
6. cashflow, which for us was very good.

43

1. Q. So, taking that answer, in your view do you think
2. there were any factors within Norfolk Island Regional
3. Council which would have suggested that it would have been
4. a good borrower for a commercial bank?
5. A. They would have looked at our financial reports, for
6. example, they would have looked at, that they were
7. unqualified, they provided two surpluses in a row, we had
8. cashflow that was strong. I can't speak for the banks, I
9. can just speak for the data that we would provide.

6

7 MR SIMONE: No further questions, Madam Commissioner.

8

1. THE COMMISSIONER: Okay. Well, thank you, Ms Jackson,
2. you're excused from your summons, and thank you for
3. travelling here today to actually give evidence.

12

# 13 <THE WITNESS WITHDREW

14

1. MR BOLSTER: Commissioner, can I please tender the
2. metadata report for the document that we were looking at.
3. For the record, it should be the metadata for the tender
4. evaluation airport pavement repair and resurfacing project
5. report, and that will be Exhibit 10.

20

# #EXHIBIT 10 - METADATA FOR THE BRIEFING PAPER FOR THE

1. **AIRPORT PAVEMENT REPAIR AND RESURFACING PROJECT**.

23

1. THE COMMISSIONER: Thank you, Mr Bolster. This brings us
2. to the end of the public hearings for the Public Inquiry
3. into the Norfolk Island Regional Council.

27

1. Thank you everyone who has assisted the inquiry team
2. so far. In particular, I would like to thank the people
3. who have appeared as witnesses both on Norfolk Island and
4. here this week in Sydney.

32

1. I'd also like to thank those people that put in
2. summons - responded to our summons in a timely way, and
3. also for all those people that put in submissions. There
4. have been a number of people that have corresponded with
5. the Inquiry in the last couple of weeks and I'm aware of
6. the issues that they have raised.

39

1. Over the next few weeks counsel assisting will draft a
2. detailed written submission outlining the facts and the
3. findings they think I should make. That will be based on
4. the evidence we have heard and the documentary evidence, so
5. not just the witnesses' statements but also the documents
6. that we have received.

46

47 These submissions will be provided to any person with

1. a relevant interest, and by relevant interest I mean a
2. person or entity who may be named or referred to in the
3. submission, and also the people who have attended the
4. hearings as witnesses as well as their legal
5. representatives. They can then review the submissions and
6. will be given time to provide a reply. This will help
7. those people who have an interest to consider what's been
8. said and respond in a considered way.

9

1. Counsel assisting will then provide me with
2. submissions in reply taking into account any responses I
3. receive, and I then will provide a report within six to
4. eight weeks to the Minister for Regional Development and
5. Territories, The Honourable Nola Marino MP.

15

1. So, thank you again for your time and willingness to
2. support the work of this Inquiry. The hearing is now
3. closed.

19

# 20 AT 1.40PM THE PUBLIC INQUIRY WAS CONCLUDED

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