

**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  
3 MR BOLSTER: Good morning, Commissioner. There is a  
4 matter of housekeeping that we need to attend to before we  
5 get back to the evidence. A conflict has arisen on the  
6 other side of the Bar table and I think there's a couple of  
7 matters that need to be articulated by my learned friend  
8 and an application to be made by a Mr Ahmed Rizk.  
9  
10 MR SIMONE: Madam Commissioner, I appear for the staff and  
11 councillors of Norfolk Island Regional Council, both  
12 formerly employed and currently employed, with the  
13 exception of Mr Roach. I now withdraw my appearance in  
14 respect of Mr Phillip Wilson due to a conflict that arose  
15 yesterday with his evidence, and I understand that my  
16 learned colleague, Mr Rizk, attends here today and he has  
17 an application in respect of appearing for Mr Wilson.  
18  
19 THE COMMISSIONER: Okay.  
20  
21 MR RIZK: Thank you, Madam Commissioner. My name is Rizk,  
22 R-i-z-k, instructor, I also seek leave to appear on behalf  
23 of Mr Wilson.  
24  
25 THE COMMISSIONER: Okay, thank you, Mr Rizk, you have  
26 leave to attend on behalf of Mr Wilson.  
27  
28 Are we clear there are not going to be any other  
29 conflicts?  
30  
31 MR BOLSTER: I should say that, for the record,  
32 Commissioner, we raised the issue of conflict very early on  
33 in the piece when it became clear that my learned friend  
34 was appearing for all former staff. We thought there was a  
35 reasonable prospect, until now, that conflict has not  
36 arisen.  
37  
38 I apprehend, given the way I expect the evidence to go  
39 today, that there's going to be a further conflict in  
40 relation to the evidence of Ms Jackson. I just want to  
41 flag that so that my learned friend can consider his  
42 position.  
43  
44 It's the last day of the hearing and I don't want  
45 anything to obviously get in the way of the mechanics, but  
46 obviously we're very keen to ensure that the process is  
47 procedurally fair from Ms Jackson's point of view, she's a

1 significant and material witness in the matter.

2

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

6

7 MR SIMONE: Yes.

8

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

11

12 MR SIMONE: May it please.

13

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

16

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

18

19 <EXAMINATION BY MR BOLSTER, continued:

20

21 MR BOLSTER: Q. Mr Wilson, can you hear me?  
22 Unfortunately, we can't hear you, you may have muted  
23 yourself; if you can just check that.

24

25 A. My --

26

27 Q. That's better.

28

29 A. -- mute is off now, yep.

30

31 Q. Well, done, thank you.

32

33 A. Morning.

34

35 Q. When we were interrupted yesterday by technology, you  
36 were describing the extent of your knowledge of the total  
37 cost of the airport runway project; you recall that?

38

39 A. Yes, I recall talking about the airport.

40

41 Q. If I understand your evidence correctly, you recall  
42 being told that the project would cost \$45 million, or a  
43 slight amount less than that, about \$48-49 million;  
44 correct?

45

46 A. That's correct.

47

48 Q. And you understood that would be funded by a grant  
49 from the Commonwealth of \$43 million?

50

51 A. Yes.

52

53 Q. And that council would be taking out a loan of

1 \$2 million?

2 A. That's right.

3

4 Q. And I think, correct me if I'm wrong, you said that  
5 the loan would be a loan from the Commonwealth?

6 A. That's what I understood.

7

8 Q. And you prepared the budget for 2019/20 on that basis?

9 A. Yes, that was the information that we put in there and  
10 it was based on the supporting documentation.

11

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

16

17 If we just go back to the top page before we come down  
18 to page 54, just so that you recognise the document. Go to  
19 page 1, sorry about that. You see, that's the draft  
20 operational plan?

21 A. Yes.

22

23 Q. And that included the budget?

24 A. I just read that.

25

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

28

29 *Council has included a \$2 million provision*  
30 *in 2019-2020 for borrowings to cover any*  
31 *shortfall in funding for the airport*  
32 *resurface project. Where grants are*  
33 *available which may allow construction of*  
34 *an asset sooner, then loans are used to*  
35 *attract or match that grant.*

36

37 Pausing there, did you understand that the project  
38 would extend beyond 2019/20, and that is --

39 A. That's that stage. At that stage in writing the  
40 budget, that was what information we had, so that was the  
41 costing.

42

43 Q. Please, just listen to my question and answer my  
44 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  
8 hadn't have been finalised, it would carry forward into the  
9 following year.

10

11 Q. So, just to be perfectly clear: the total cost of the  
12 entire project, whether it was spent in 2019/20 or 2020/21,  
13 you understood to be \$45 million?

14 A. Yes, at that time.

15

16 Q. If we could go down to page 62. You will see, in the  
17 third grouping under, "Airport", airport runway reseal  
18 \$45 million funded by a grant of \$43 million and  
19 \$2 million; do you see that?

20 A. Yes, I can read that.

21

22 Q. When you came to include those figures in the budget,  
23 did you review any of the primary documents that council  
24 had in its files which demonstrated the full extent of the  
25 airport runway reseal project?

26 A. The files that I were given for that budget were  
27 provided to me from the commercial manager and the group  
28 manager section, so the costings were done in their area,  
29 so that information was built up from that, from their  
30 commercial section.

31

32 Q. Were you given a copy of the Boral tender?

33 A. No, I wasn't.

34

35 Q. What was the extent of the documentation that was  
36 provided to you?

37 A. The extent was the budget package that we sent out to  
38 all managers; they completed their requirements in the  
39 budget, it was discussed with one of our financial  
40 accountants with them, they would go through all their  
41 budgets and the information would then come into our budget  
42 package.

43

44 Q. Did you look at the resolution passed by council that  
45 dealt with the project?

46 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

8 Q. I'll show it to you in a minute, but don't you agree  
9 with me that, in budgeting for a \$45 million project, you  
10 would have at least gone back and checked council's  
11 resolution that accepted the tender for that project?

12 A. I based my information on the commercial manager's  
13 input into the budget, that's the section that did that --  
14

15 Q. You're not answering my question, Mr Wilson. Do you  
16 think it would have been proper for you to have gone back  
17 and looked at the council resolution whereby Boral's tender  
18 was accepted?

19 A. I'm not sure what you mean by the question, can you  
20 ask me that again?  
21

22 Q. All right. Council had committed to accept a tender  
23 for a project that you understood to be \$45 million;  
24 correct?

25 A. That's the budget figure, yes.  
26

27 Q. Clearly, the biggest single contract in the council's  
28 then short history; correct?

29 A. You're asking me a question about a resolution; I  
30 don't even know the date, so I don't know how to answer  
31 that.  
32

33 Q. Well, you wouldn't need to know the date, would you?  
34 Wouldn't you just go back and see what council had resolved  
35 to do in the first place?

36 A. You know, you're asking me a question about three  
37 years ago and it's about a resolution, and you haven't got  
38 it in front of me, so I don't remember, the day before.  
39

40 Q. Bring up, please, NIRC.PUB.001.0192\_0021. See that  
41 resolution?

42 A. Yeah, what date's on that there?  
43

44 Q. 20 February 2019.

45 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

5 Q. You see, I want to suggest to you that a council  
6 resolution of that magnitude, of that significance, is a  
7 resolution that you would have reviewed as the chief  
8 financial officer and the responsible accounting officer  
9 before you prepared the budget for the 2019/2020  
10 financial year; do you agree with that or not?

11 A. The budget would have been formulated, the draft one  
12 you're talking about there, around a similar time, so I  
13 can't recall which was first. The budget was based on the  
14 person who wrote the input to the budget, which was the  
15 commercial section.  
16

17 THE COMMISSIONER: Q. Yesterday, Mr Wilson, you said  
18 that the budget from a preliminary purpose was prepared in  
19 the first three months of the year and it was finalised in  
20 the last three months of the financial year; so I would  
21 suggest, if it was finalised in April, May, June, and that  
22 was February, that would need to be taken into account.  
23 Particularly point (d).  
24

25 Can you also tell me: you said that you were focused  
26 on the budget information provided by the commercial  
27 manager; can you please explain to me how that information  
28 came to you, in what form? What kind of document did that  
29 information come in?

30 A. Oh, yes. The budget template was split up into cost  
31 centres and sent to each manager that had previous budget,  
32 actual, and they had areas where they put in there new  
33 sections. The financial accountant responsible for that  
34 would sit down with them, work through it; a number of  
35 categories, it would be salary, wages, costs and operating  
36 costs, so they would come back into the main package and  
37 then it would be reviewed, checked.  
38

39 Q. So, you sat down with the various managers, including  
40 the commercial manager, to go through their budget which is  
41 to be before; I would expect that's what would happen.

42 A. No look, the person responsible for that area was,  
43 yes.  
44

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

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

2

3 Q. He was completely aware at that point, according to  
4 his evidence, so if he sat down with you and went through  
5 the budget, do you not recall that ever being raised?

6 A. Well, there's an opportunity to update the budgets  
7 through the quarterly review process, and so, each manager  
8 gets a copy of the budget with the actuals of each quarter  
9 prior to the quarterly review being finalised and they have  
10 an opportunity to update their budgets in that situation,  
11 there's three times a year that happens and we distribute  
12 it out and we base the next adjustments on their  
13 information. We're relying on their information.

14

15 MR BOLSTER: Q. Let me get this clear. You obviously  
16 attended a meeting on 20 February because your quarterly  
17 budget review was placed before the council that day; do  
18 you agree with that proposition?

19 A. I'd have to look at the attendance at the top of the  
20 report, so if I was there, I was there; I don't recall that  
21 particular meeting.

22

23 Q. If we could go, please, to page 1 of the minutes. See  
24 there, "In attendance: Mr Wilson"?

25 A. Yes, that's right.

26

27 Q. You didn't walk out of the room, did you, when council  
28 came to consider the airport reseal project, did you?

29 A. Was it in the confidential section?

30

31 Q. Yes, it was. Did you walk out of the meeting when  
32 council came to consider whether to award a tender worth  
33 \$44.8 million to Boral?

34 A. I don't see any reason why I would.

35

36 Q. Why you would walk out?

37 A. M'mm.

38

39 Q. No. And, you were there for the discussion when  
40 Mr Taylor briefed councillors?

41 A. I imagine so, I don't recall the specifics of that  
42 meeting. I was in attendance, and there are my reports,  
43 and so, it would have been discussed.

44

45 Q. I want to suggest to you that Mr Taylor made it clear  
46 to councillors at that meeting that there was a potential  
47 that the project would cost a lot more than \$45 million



1 because of the risk associated with obtaining biosecurity  
2 clearance to bring rock onto the Island from the mainland?  
3 A. I appreciate your question, Mr Bolster; can you show  
4 me the minutes where that was said, because I don't recall  
5 the cost of biosecurity being addressed until later, and I  
6 never got a costing for it.

7  
8 Q. Let's go back to the briefing note for that meeting  
9 that you were shown yesterday. If we could have that up,  
10 please, let me find the reference. Briefing report, No.15.  
11 And, that should not be shown publicly, thank you. If we  
12 could go down to page 3 of the document.

13 A. I haven't got that document on the screen.

14  
15 Q. We'll arrange for it to be displayed for you.

16 A. Yep, here we go. What date's this one?

17  
18 Q. This was the briefing prepared for that meeting on  
19 20 February, which you were at, when the Boral tender was  
20 selected over the other two tenders. You will see there  
21 that, in the first paragraph at the top of the page, "Boral  
22 scored the highest", et cetera. Then the second paragraph:

23  
24 *Boral has indicated in their submission*  
25 *that their price does not include treatment*  
26 *of bulk aggregate and sand for transport to*  
27 *Norfolk Island. This is because*  
28 *biosecurity is assessed according to how*  
29 *clean the material is at the source and how*  
30 *the importer will mitigate any risks ...*

31  
32 Et cetera, you can read the rest. You can see there  
33 that Boral had estimated that amount - please don't mention  
34 that amount - no, I can mention that amount, thank you.  
35 I'll withdraw that and put that again.

36  
37 You will see there that Boral has mentioned --

38  
39 (Technical difficulty.)

40  
41 Commissioner, the only thing we can do, may I suggest  
42 we have a short recess.

43  
44 THE COMMISSIONER: I'm just wondering whether the issue is  
45 that, if it keeps dropping out at his end, the room's only  
46 booked for a certain amount of time.

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

8  
9 THE COMMISSIONER: Okay, we'll take five minutes and see  
10 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  
20 MR BOLSTER: Q. Can you hear us now?  
21 A. Yes, I can hear you.

22  
23 Q. Do you still have that document displayed?  
24 A. Yeah, I can see the document, I can't see the day or  
25 when it was put into the --

26  
27 Q. You can assume from us, assume that this was the  
28 briefing provided to council for the 20th.  
29 A. I wouldn't assume; I'm not good at assuming things.

30  
31 Q. I want to suggest to you then that you were present  
32 when this briefing was discussed with councillors, and that  
33 it was made clear to councillors by Mr Taylor that Boral  
34 had indicated that there was a chance that up to  
35 \$4.2 million was going to be required to cover the cost of  
36 bringing clean aggregate to Norfolk Island; what do you say  
37 about that?

38 A. I can't actually see the date of that, and I wouldn't  
39 assume anything.

40  
41 Q. I'm not asking you to assume anything, I'm not asking  
42 you about the date: I'm asking you whether on 20 February,  
43 when you were at a meeting where the Boral contract was  
44 discussed, Mr Taylor made clear to councillors that Boral  
45 had estimated a cost of about \$4.2 million to cover the  
46 biosecurity risk of bringing aggregate to the Island. Do  
47 you recall that being said or not?

1 A. I don't recall that being said, and I'm not sure I've  
2 seen that document. I can't recall seeing that document.  
3 Where did that document come from?  
4

5 Q. It was produced by the council.

6 A. Yeah, what's the date, what was the forum?  
7

8 Q. The evidence that we've heard to date is that this was  
9 the briefing provided to councillors at the confidential  
10 session on 20 February. Councillors agree that this was  
11 provided to them. Three councillors say that they  
12 understood, when they walked away from that meeting, that  
13 the cost of the project could have been 47, 48,  
14 \$49 million. Three councillors say that. Two councillors,  
15 to be fair to you, say that they understood when they  
16 walked away from that meeting that the project costs would  
17 be \$45 million: they're Councillor Adams and Councillor  
18 Snell. I want to know what you recall?

19 A. I recall the costs of that project was \$45 million and  
20 that's what we put in the budget.  
21

22 Q. Can I suggest that you ought to have reviewed Boral's  
23 tender for this project before you made any entry in the  
24 budget for 2019/20. What do you say about that?

25 A. No, I don't agree, I think that information wasn't  
26 available until the budget was set sometime after. That  
27 document there doesn't indicate to me that that was part of  
28 the budget process in the operating plan.  
29

30 Q. Could we go back to the minutes of that meeting.  
31 NIRC.PUB.001.0192\_0021. If that can now go on the public  
32 stream. The Commissioner's already pointed out to you  
33 subparagraph 2(d) which indicates that:  
34

35 *The scope of the work was to be negotiated*  
36 *to minimise any grant funding shortfall.*  
37

38 I want to add to the Commissioner's query,  
39 paragraph 3, which says:  
40

41 *Council contributes any shortfall of*  
42 *funding for the project, over and above the*  
43 *funding provided by the Commonwealth of*  
44 *Australia, by way of a loan from the*  
45 *Norfolk Island International Airport*  
46 *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  
10 Q. What do you think it actually meant there when they  
11 said they wanted to minimise any grant funding shortfall?

12 A. Well, I think that's an area that you would do on any  
13 contract, you would try and minimise your costs.

14  
15 Q. So, what you're saying is that in any contract there's  
16 the potential for costs to increase?

17 A. In this situation, it's saying:

18  
19 *The scope of the work be negotiated to*  
20 *minimise any grant-funding shortfall.*

21  
22 And then they're talking about the loan, and in the  
23 budget we had a \$2 million provision, so that was the  
24 budget at that point in time.

25  
26 MR BOLSTER: Q. Mr Wilson, why didn't you question the  
27 group services representatives about what the extent of the  
28 shortfall might be?

29 A. I was told that the shortfall was a \$2 million loan  
30 component.

31  
32 Q. That was the extent of the shortfall as you understood  
33 it?

34 A. At that point in time, yes.

35  
36 Q. To be fair to you, I want to suggest to you that you  
37 were on notice that there was a risk that this project  
38 would cost well in excess of \$45 million after 20 February  
39 2019 and before you came to finalise the budget, whether  
40 that be in April, May or June 2019; what do you say about  
41 that?

42 A. I think it's ridiculous. The budget was set by the  
43 people that were answering your questions and, if they  
44 wanted it higher, we would have taken that into account;  
45 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  
6 Q. But you --  
7 A. Hang on, this light's gone off. Sorry.  
8  
9 Q. The biosecurity risk was something that was discussed  
10 at the meeting on 20 February, wasn't it?  
11 A. I don't recall discussing it then; it came up later  
12 and it was something that would be addressed in  
13 future years' budgets, the quarterly budget reviews would  
14 pick up that type of information. That particular budget  
15 that we put to council is the information that I was given  
16 from the commercial section.  
17  
18 Q. When do you say you were made aware of the cost  
19 associated with the biosecurity risk for the airport  
20 contract?  
21 A. It was starting to be discussed later in the year, I  
22 think it was - I can't recall the exact date - it was  
23 probably the first quarter of the next year at the time, so  
24 would have been later in the year, I don't recall the exact  
25 date, I'm sorry.  
26  
27 Q. Did you make any provision in the budget, that is,  
28 amending the existing budget, to reflect that risk?  
29 A. There wasn't in that budget at the time the need to.  
30 There was in the future budgets in the information that  
31 came back from those areas and put it in their papers, so  
32 at the time, no.  
33  
34 Q. Could we please bring up document, and if this could  
35 not be shown publicly, NIRC.012.001.0016. Just familiarise  
36 yourself with that document. These are minutes --  
37 A. I can't see that.  
38  
39 Q. It can be shown publicly, okay, thank you. Scroll  
40 down the page, you will see that you were present at this  
41 meeting on 10 October 2019.  
42 A. That's right, I was sitting in for the general  
43 manager.  
44  
45 Q. How long were you sitting in as the acting general  
46 manager?  
47 A. One week. It was one week Bruce Taylor and one week

1 myself; she had to go on a holiday.

2

3 Q. And this was shortly before you finished up with the  
4 council?

5 A. That's correct.

6

7 Q. If we go down to page 0002, at the foot of that page,  
8 second-last dot point, the second-last dot point in that  
9 paragraph; do you see there?

10 A. Mmm-hmm.

11

12 Q. Who requested the release of the biosecurity  
13 requirements on behalf of the council?

14 A. I'm not sure who said that at that meeting.

15

16 Q. You see there:

17

18 *The biosecurity process was explained*  
19 *including the thorough cleaning of all*  
20 *equipment ...*

21

22 Et cetera. You knew all about the biosecurity process  
23 before that, didn't you?

24 A. No. That's something that would have been talked  
25 about, but I didn't know about the process, that wasn't my  
26 area.

27

28 Q. I want to take you to a new different document,  
29 NIRC.023.001.0002. This can be shown publicly because the  
30 relevant commercial in-confidence material has been  
31 redacted. You will see here, there was a discussion at a  
32 council meeting on 17 July in a confidential session about  
33 additional road maintenance works that were to be carried  
34 out on the Island by Boral. Do you remember that?

35 A. I can read that, yes.

36

37 Q. Were you present at that meeting when this issue was  
38 discussed?

39 A. I believe so, but you'll have to just check that form  
40 at the top again if I was.

41

42 Q. Yes, if we go to page 1, it's actually page 0002.  
43 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

9 Q. If we could go down to page 3 of the document, and you  
10 will see there the financial implications. Did you have  
11 any input into that paragraph headed, "Cashflow" and the  
12 subsequent paragraph headed, "Conclusion"?

13 A. I don't remember the specifics, but the figures look  
14 like they are in line with what we would have in those  
15 budget areas, cashflow, yes.

16

17 Q. This was a significant deviation from the budget,  
18 wasn't it?

19 A. It would be in that year coming up.

20

21 Q. The only way in which it could be funded was through  
22 council using or deploying its cash reserves; correct?

23 A. It was funded through the next year's budget. At the  
24 time when he spoke to me about it, he said, "Would it be  
25 possible to do this next year at the end of the Boral  
26 contract?" So, I had a look at the figures and I said, "It  
27 was, it was going to be fairly tight, you'd have to drop  
28 out other items in the budget, in next year's budget."

29

30 Q. Do you know whether that occurred or not?

31 A. No, well, I had left six months before the next year's  
32 budget was implemented, so I don't have any - you know, I  
33 was gone six months before.

34

35 Q. Were you not concerned by the fact that this was a  
36 substantial deviation from the budget?

37 A. It wasn't away from the budget because it was in  
38 next year's budget, so it was a requirement to, you know,  
39 make sure that you take that into account when you're  
40 setting the next year's budget; like, you can't put it on  
41 top of things. I think, as I explained, it was in the  
42 limits, that you couldn't continue adding on to things, so  
43 it was one of those areas where, if you underspent in one  
44 area you could carry forward that amount and, if you were  
45 also looking at a future budget, you would take that into  
46 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  
11 Q. Do I take it, in giving that advice, you were  
12 proceeding on the basis that the total cost of the airport  
13 runway resealing was only \$45 million?

14 A. Let's have a look at what you've got, the date on  
15 there?

16  
17 Q. This is 17 July 2019.

18 A. Yes, it would have been at the time, it's just before  
19 or it was just as the new budget had started, so July was  
20 the first month of that airport budget.

21  
22 Q. If you had been aware that the total cost of the  
23 airport runway project could have been as much as  
24 \$48 million or \$49 million, would you have told Mr Taylor  
25 that cash was available to commit to the project?

26 A. Well, in that situation the overrun of the airport was  
27 being looked at with a loan provision, so in that situation  
28 in another year's time, if there was a shortfall there, you  
29 would be looking at extending your budget for borrowings;  
30 at the time we had \$2 million, so you would have to  
31 increase that to more: that was the logic --

32  
33 Q. That wasn't really --

34 A. -- of council.

35  
36 Q. That wasn't really responsive to my question,  
37 Mr Wilson. What I want to suggest to you --

38 A. I'm sorry.

39  
40 Q. -- is that, if Mr Taylor had come and asked you, "Do  
41 you have cash available to commit to this project?", before  
42 17 July 2019, if he had come and asked you then, and you  
43 knew that there was a risk that the airport project might  
44 be as high as \$48 million or \$49 million, that is, another  
45 \$4 million over what you had budgeted, don't you think  
46 you --

47 A. No, I don't accept.



1  
2 Q. -- would have asked him to think twice about  
3 proceeding with this particular project?

4 A. No, I think at that time future cashflow would support  
5 that project as long as they kept it within the parameters  
6 of the next year's capital budget.  
7

8 Q. I want to suggest to you that it would have been  
9 prudent for you to have told Mr Taylor in those  
10 circumstances, "We have around \$10 million or \$11 million  
11 in cash reserves".

12 A. You see, you're looking at reserves one and a  
13 half years prior, so you have to look at your forecasted  
14 cash reserves, and in the next budget coming up you take  
15 that into consideration. I know that, by looking at the  
16 next budget, that they looked through when I had since  
17 moved away, that they put items in there that had been not  
18 funded and it was up to the budget in the following year to  
19 make sure that was correct. The cashflow in there was  
20 looking at the forecast at the time, so one and a  
21 half years later when the actual project is in place it  
22 should have been locked in by the future budget.  
23

24 Q. The performance of the council, since its  
25 incorporation and up to 30 June 2019, did not suggest that  
26 there were going to be any surpluses available to meet the  
27 sort of expenditure that was required for both the airport  
28 runway project and the roads project taken together, may I  
29 suggest to you; do you agree with that or not?

30 A. No, I don't.  
31

32 Q. So, assuming council was required to fund \$2 million  
33 for the airport and another \$5 million for the roads, where  
34 was that money going to come from other than, as you say, a  
35 \$2 million loan from the Commonwealth?

36 A. You're talking about the airport overrun?  
37

38 Q. Yes.

39 A. Yes, it overruns - after the budget was set at that  
40 amount, the overrun was to be a loan with the Commonwealth.  
41

42 Q. What about the 5, where was that \$5 million going to  
43 be paid from?

44 A. Well, there was - unspent roads in the budget that we  
45 were in would be re-voted, carried forward into next year;  
46 the next year's component which would be in the budget  
47 because it's a standard amount, would be applied to it, so

it's just part of your normal budget process.

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

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

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

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

MR SIMONE: I have no questions, Madam Commissioner.

MR RIZK: No questions.

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

<THE WITNESS WITHDREW

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

1 <BRUCE GLOSTER TAYLOR, affirmed:

[10.22am]

2  
3 <EXAMINATION BY MR BOLSTER:

4  
5 MR BOLSTER: Q. Thank you, Mr Taylor. Some evidence has  
6 arisen in the course of the Inquiry that means that we have  
7 to ask you some more questions and take up your time. Can  
8 I ask, firstly, about the in-confidential meeting on  
9 20 February 2019 at which councillors were given a briefing  
10 about the tender process and the preferred tenderer, namely  
11 Boral; you recall that meeting, I take it?

12 A. Yes.

13  
14 Q. It's been suggested by two councillors and by  
15 Mr Wilson that they left that meeting with an understanding  
16 that the total cost of the Boral contract to reseal the  
17 airport was \$45 million, that is, the tender price of  
18 \$48,900,000-odd; no significant difference from  
19 \$45 million. You recall that figure, don't you?

20 A. Yes.

21  
22 Q. What do you say to the suggestion that the cost of the  
23 biosecurity risk was something that Boral was going to pick  
24 up and was not something that could be a risk that was  
25 taken up by the Norfolk Island Regional Council?

26 A. That was never my understanding. The Boral tender  
27 submission stated, and it's in the business paper, that  
28 Boral in lieu of knowing the accurate costs at this stage  
29 had estimated an amount of \$4.2 million to cover such  
30 biosecurity cost should it be required. There was no  
31 understanding that the 4.2 was included in the 48 or Boral  
32 would be nice guys and pay \$4.2 million if we needed it.

33  
34 Q. Tell us about the discussion that occurred around that  
35 particular issue. What do you recall being said by either  
36 yourself or the general manager at the time?

37 A. Again, it's a couple of years ago; my recollection was  
38 that it was discussed, yes, and it's in black and white in  
39 the business paper that the \$4.2 million was exclusive from  
40 the \$48 million that Boral had tendered.

41  
42 Q. I don't know whether you were listening to Mr Wilson's  
43 evidence this morning: were you?

44 A. I listened to some of it, yes; not all, but some, yes.

45  
46 Q. He gave some evidence about how the budget for 2019/20  
47 was prepared and he said that the services group provided a

1 budget template to him which indicated that the cost of the  
2 airport project was \$45 million, that the Commonwealth was  
3 making a grant of \$43 million, and that the balance would  
4 be funded by an a loan from the Commonwealth of \$2 million.  
5 Do you recall being provided with any documentation to that  
6 effect?

7 A. No, none that I recall; no, nothing.  
8

9 Q. Did you review the draft budget that went to council  
10 and then subsequently went on public display?

11 A. Yes, I would have, yep.  
12

13 Q. Have you had a chance to have a look at that budget  
14 recently?

15 A. Yes. Yeah, I revisited it where it has \$43 million  
16 plus in a column that says "loan for \$2 million", yep.  
17

18 Q. Do you have any explanation as to why the budget says  
19 that when, according to your evidence, it was understood  
20 that the cost could be well in excess of that?

21 A. No, I can't recall at the time the reasoning for the  
22 budget being set at 45, not at the possible high figure.  
23

24 Q. Did you question it with Mr Wilson when you saw the  
25 budget?

26 A. I don't recall questioning of Mr Wilson was not all  
27 that productive in cases and, as I've said before, it was a  
28 little bit of a closed shop with the GM and Mr Wilson.  
29

30 Q. What do you mean by that?

31 A. As I said in my previous evidence, as an example, the  
32 first set of financial statements indicated that the fuel  
33 operation which we exited from in May/June of the  
34 first year, in June 17, the financial statements indicated  
35 the fuel business that we exited lost \$1.3 million, I think  
36 it was; which, when I queried that - because, quite simply,  
37 the fuel business, port fuel had sold at a higher price -  
38 when I queried that it was just before the financial  
39 statements were put out and the explanation as far as I'm  
40 concerned was that the fuel business sold to the  
41 electricity business but the final shipment of fuel hadn't  
42 been charged to the electricity area, thus the electricity  
43 area made a book profit of \$1.3 million and the fuel  
44 business made a loss of \$1.3 million. When I brought that  
45 up I was told that was how it was, and even now Pitcher  
46 Partners auditors supported that thinking, so I was told  
47 that was the way it was and that sort of thing happened on

1 other occasions.

2

3 Q. But you must have known, in this instance, that  
4 council's exposure under the airport contract was  
5 significantly more than \$45 million; correct?

6 A. Yes, and as in - sorry.

7

8 Q. Please go on.

9 A. From memory, it was discussed that at the first  
10 quarter review, second quarter review, when we had a more  
11 accurate figure of the biosecurity costs, then the capital  
12 budget could be amended at that stage.

13

14 Q. Was that discussed with Mr Wilson?

15 A. I recall it being discussed in the general manager's  
16 office generally, so I would imagine Mr Wilson was there  
17 too.

18

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

20

21 MR BOLSTER: Yes, Commissioner.

22

23 THE COMMISSIONER: Q. Hi, Mr Taylor, how are you?

24 A. I'm well, thank you, how are you?

25

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

31

32 I guess what I'm trying to get to is, if information  
33 is being provided to the CFO and there's a likelihood of a  
34 \$4 million-plus cost for a particular project, how is that  
35 flagged formally in the preparation of a budget process?

36 A. I think most of our capital budget wouldn't fall into  
37 that sort of category, it's more known costs with a lot  
38 less risk of a variation. As far as filling out  
39 documentation, I can't recall that a great deal was done,  
40 but yeah, the risk was certainly known. Even back in  
41 that February meeting there was a list of possible savings  
42 that could be made that were provided by Greg White with  
43 the general knowledge that a big project like that would  
44 have variations.

45

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

1 A. I don't recall.

2

3 Q. So, with the GM and the --

4 A. Sorry. Sorry, there's a time lag, there's a delay in  
5 our timing. Yes, it would have been discussed but I cannot  
6 recall in how much detail, no.

7

8 THE COMMISSIONER: Okay, thanks, Mr Taylor.

9

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

12

13 THE COMMISSIONER: Okay, thank you for being available,  
14 Mr Taylor, and you are released from this particular  
15 summons. Thank you.

16

17 THE WITNESS: Thank you.

18

19 <THE WITNESS WITHDREW

20

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

23

24 THE COMMISSIONER: Okay, Ms Morris?

25

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

28

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

30

31 <EXAMINATION BY MS MORRIS:

32

33 MS MORRIS: Q. Thank you, Mr Gesling. Could you give  
34 your full name for the record?

35 A. Peter Gregory Gesling.

36

37 Q. You held the position as executive director during the  
38 transition period in 2015 to 2016 at Norfolk Island and  
39 then three months on into the Norfolk Island Regional  
40 Council's operation?

41 A. Yeah, for the last three months I wasn't the executive  
42 director, it was a contract position.

43

44 Q. What was the title with that position?

45 A. I can't remember the title, it would be on the  
46 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  
7 Q. What interested you to apply for that position?  
8 A. I was invited to apply for it. I was at that stage  
9 developing my consulting career, having left the local  
10 government sector in 2014, and initially I wasn't  
11 interested. I was requested to apply. I, a number of  
12 times, indicated that I was probably not interested, but  
13 eventually I did apply for the position and was successful.  
14  
15 Q. Was that due to the nature of the position itself or  
16 was it personal reasons?  
17 A. No, the nature of the position, it was an interesting  
18 position, it's something quite unique in certainly my  
19 working career.  
20  
21 Q. Prior to that role, you'd been at Port Stephens  
22 Council for 25 years or so?  
23 A. Yeah, about that time; 16 and a half as general  
24 manager.  
25  
26 Q. What sort of responsibilities did you have in that  
27 role?  
28 A. In that role I managed an organisation of around 500  
29 staff, about 1,000 volunteers. The budget was around  
30 \$100 million it had got to at that particular stage, and  
31 had major capital works in both private sector and public  
32 sector activity.  
33  
34 Q. And that council operated under the Local Government  
35 Act?  
36 A. That's right, Local Government Act of New South Wales.  
37  
38 Q. And you're aware, that's the same Act that then the  
39 Norfolk Island Regional Council, with some slight  
40 modifications, came under?  
41 A. Yes, within applied legislation, correct.  
42  
43 Q. And so, was part of the reason you were recruited or  
44 asked to apply was that experience with the legislative  
45 framework?  
46 A. Yes, that was certainly a criteria in the job  
47 application.

1  
2 Q. When did you arrive on the Island itself?  
3 A. I arrived on the Island I think about the end of June,  
4 just before - I think about 30 June it was, from memory.  
5  
6 Q. What was the situation when you arrived? Were you  
7 given a briefing, were you taken to a meeting with the  
8 former Administration; how did you start off?  
9 A. No, the induction was cursory, I think; I think I was  
10 introduced to the existing executive and staff members of  
11 the Norfolk Island Administration, I was provided  
12 accommodation in their building, and I was basically  
13 embedded in the Norfolk Island Administration operations.  
14  
15 Q. Do you recall any persons in particular that you were  
16 embedded in the room with?  
17 A. The current CEO at the time was Mr John Gibbons, the  
18 deputy CEO was Mr Bruce Taylor; they were the key people in  
19 the organisation that I worked with at that time initially.  
20  
21 Q. Did you have any meetings or work with any of the  
22 members of the Legislative Assembly that had existed before  
23 that time?  
24 A. No, not at that particular time. I was introduced to  
25 the Norfolk Island Advisory Board and obviously worked with  
26 the Commonwealth Administrator on the Island at that time.  
27  
28 Q. When you arrived and were given information, what was  
29 your understanding as to the reason for the change in  
30 governance structure that was being considered at that  
31 time?  
32 A. It was a decision of the Commonwealth Parliament and  
33 essentially I was appointed by the Minister of the day  
34 responsible for Norfolk Island. I had attended a day of  
35 induction in Canberra prior to going to the Island and met  
36 with the Deputy Secretary of the Department of  
37 Infrastructure and Regional Development and was provided  
38 documentation of reports and information that had been  
39 collated by that department over time which had been part  
40 of the decision-making to transition the Island to a local  
41 government authority.  
42  
43 Q. What did you understand the purpose of making the  
44 transition to local government authority was meant to be?  
45 A. The purpose as I understood it is that the Parliament  
46 of Australia had determined that the current form of  
47 government wasn't sustainable and that it would be better



1 served by becoming a local government authority and  
2 subsuming a lesser role than it had previously.

3  
4 Q. Did you understand in particular any reasons why it  
5 was thought not to be sustainable, the former model?

6 A. Financially was the primary reason as I understood it.

7  
8 Q. Was that due to any particular issues financially,  
9 revenue sources, expenditure for example?

10 A. I think there's a whole lot of issues there. I mean,  
11 in terms of a small operation, trying to manage some of the  
12 services which were provided by the Commonwealth such as  
13 social security, health, education were thought to be  
14 outside the scope of a small community and there were  
15 better ways of organising that.

16  
17 Q. I understand part of the task of yourself and the  
18 advisory council was building that new structure that was  
19 going to assist with the transition to the local government  
20 model?

21 A. That's right. It was to first of all make a  
22 recommendation about a structure for that and to take into  
23 account how other services could be provided if there was a  
24 possibility of them being done in other ways; I was to  
25 review that, provide a structure, and then when that was  
26 approved by the Minister, that would then transition and be  
27 implemented, and it was within that 12-month period.

28  
29 Q. What was the level of staffing maintained? Were there  
30 a large number of the council staff that were there pre  
31 1 July 2015 that then remained on post 1 July 2016, for  
32 example, or were there large changes in numbers?

33 A. No, there were changes and people had the option to  
34 apply for those positions or to take a redundancy. There  
35 was various options that people had at that time, so there  
36 was a transition and there was a new structure in place,  
37 certainly a different executive structure, and new roles  
38 that people were appointed to.

39  
40 Q. With the roles that were then appointed was there a  
41 level of corporate knowledge, of collective knowledge of  
42 the state of finances and assets and the situation at  
43 Norfolk Island with those people?

44 A. There was, there was certainly key people that did  
45 transfer across to the new organisation; some people chose  
46 not to, and others elected to leave the organisation.

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  
16 Q. Just to unpack that a little bit. So, there was a  
17 draft of the community strategic plan and there was a draft  
18 of the operational plan?

19 A. That's correct.

20  
21 Q. Where did the information come from that was used as  
22 the basis for those drafts?

23 A. The community strategic plan, a consultant was engaged  
24 to undertake community consultation, so there was a whole -  
25 there was the normal process that happens around that  
26 occurred in consultation with the community, and that was  
27 taken into account in preparing a draft document which was  
28 provided to the organisation to accept or not or vary; that  
29 was a decision that was in their authority and that was why  
30 they were being established.

31  
32 The budget position had to take into account that  
33 there were a number of services which the council was going  
34 to be providing for the Commonwealth, what was called  
35 state-based services, and a service delivery agreement was  
36 developed on that with a framework for reporting against  
37 which, again, was a draft form which had to be formally  
38 signed off between the Commonwealth and the new  
39 organisation.

40  
41 Q. Do you recall any names in particular of persons who  
42 were contributing for the budget that was prepared and the  
43 operational plan that was prepared?

44 A. Mr Taylor was certainly a key person at that time, he  
45 was acting CEO at the transition, and then was successful  
46 in becoming one of the group managers in the new  
47 organisation, so he was key in that sort of space.

1  
2 We engaged consultants to assist in that sort of  
3 transition process to make sure that we had a system  
4 available that was validated, and the Commonwealth  
5 financial officer was involved in that because there was  
6 obviously an amount that was going to be contributed by the  
7 Commonwealth to get to a financially operable position.  
8

9 Q. Were you, and the team as a whole, satisfied that you  
10 had sufficient information available to you to be able to  
11 prepare that budget and the operational plan?

12 A. We had the information we had; you could always, you  
13 know, get more information. I mean, some of the  
14 information around assets, for instance, wasn't clear, it  
15 was interim, it was draft, and the asset management plans  
16 were draft, but they were in a form that was able to  
17 provide background documents for the financial plan that  
18 was there.  
19

20 Again, in a situation like Norfolk when you're dealing  
21 with assets there and a lack of data - the water assurance  
22 scheme, for instance, there was no real clear knowledge of  
23 the condition of that at the time that we were doing that  
24 report and you were having to make judgments about  
25 allowance for that which had to be firmed up over time.  
26

27 Q. You mentioned that the idea was to give the drafts to  
28 then the council that could then finalise it: was that  
29 always the intended plan, that they would be in draft form  
30 but it would be left to the elected councillors?

31 A. The elected council needed to adopt that and that was  
32 the agreed document, the transition from the Commonwealth  
33 to the new council, and then it was up to a negotiation  
34 between the new council to work through that and their  
35 relationship with the Commonwealth as it would be with a  
36 normal local government authority; in this case it was with  
37 the Federal Minister rather than a state organisation,  
38 state system.  
39

40 Q. Those plans then eventually were adopted and finalised  
41 by the council in late 2016. Were you called upon or asked  
42 to assist in your consulting role for those three months in  
43 that process?

44 A. No, I wasn't.  
45

46 Q. To what extent were you asked, if at all, to  
47 contribute during that three-month period to the council

1 dealing with those documents that you were presented with?  
2 A. Cursory, I would say.

3  
4 Q. Was that your understanding of how it was intended to  
5 operate?

6 A. Well, no, there's no intention, it was a matter for -  
7 you know, there was a legitimate local government  
8 authority, they needed to determine how they took up the  
9 availability of services or support; that was not a  
10 decision I could enforce or the Commonwealth.

11  
12 Q. Did you form an impression as to the council's view on  
13 using those resources?

14 A. No, there was no - I didn't have a view about that, it  
15 was a matter that they were, you know, paddling like ducks,  
16 I suppose, to use the analogy. It was a new organisation,  
17 it was a new budget, there was a whole lot of things that  
18 needed to be confirmed; there was new people that hadn't  
19 been working in a local government system, so there was a  
20 whole lot of stressors involved in that, and that was  
21 acknowledged.

22  
23 My original appointment with the Commonwealth, the  
24 understanding was that it would be a two-year appointment,  
25 but there was no way as we worked through that first year  
26 of saying, well, you can force the council to use my  
27 services or I could have a role in the new organisation in  
28 any formal sense; that was something that just wasn't  
29 possible to do in a formal sense respecting the entity of a  
30 new organisation established to make those decisions.

31  
32 So, the option then moved to being a consultative role  
33 which was available if needed and, as I wasn't being called  
34 on, I advised the department that I thought that my  
35 services - I could use my time better elsewhere, so I left  
36 the Island in late 2016.

37  
38 Q. Did you have an understanding as to why you weren't  
39 being called upon?

40 A. I didn't have a view, no; I mean, that's not a -  
41 that's not something for me to dwell on, that's a decision  
42 that other people had to make; they had statutory roles and  
43 they had responsibilities about how they collected and used  
44 the information. It's certainly very difficult in any new  
45 council in my experience: you get a council election,  
46 there's always some changeover, normally a changeover to  
47 the new council; there may be a new Mayor.

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

10  
11 Q. I'm not sure whether you listened to or reviewed any  
12 of the evidence from last week, but Mayor Adams was called  
13 last week and in the course of her evidence she described  
14 your role, amongst others, as being part of the experts in  
15 the Local Government Act framework and the experts in  
16 setting up. Given that was her description of you and your  
17 team, is it surprising then to you that she and the other  
18 councillors didn't seek to engage with you?

19 A. I mean, it was, you know, at the time I thought that  
20 there were things I could offer but, you know, it wasn't  
21 really my place to sort of demand that or to expect that.  
22

23 Q. I understand there was some training done with Susan  
24 Law and yourself with the councillors about the Local  
25 Government Act.

26 A. Yes, we engaged a consultant to come in and there was  
27 candidate sessions run with candidates before the election,  
28 and the new council then provided back-up support over time  
29 to follow that through. I can't remember now, I really  
30 can't recall whether we provided any formal training to the  
31 five people who were elected, I can't - I don't know that I  
32 had authority to offer that.  
33

34 Q. Yes, I'm not sure whether it was a formal training,  
35 I believe both Councillor McCoy and Mayor Adams had  
36 mentioned going through the Local Government Act with  
37 yourself and Susan Law. Do you recall in general terms  
38 what may have been told to the councillors or to the  
39 intended councillors about their role compared to, for  
40 example, the general manager's role or operational roles  
41 and how that was to work under the Act?

42 A. We certainly had consultation with a number of the new  
43 elected councillors about that responsibility and  
44 requirement. Certainly, the briefing that was given to  
45 them as candidates were made very clear what their roles  
46 were; that was provided by the Local Government Association  
47 of New South Wales, their training system, and those were

1 the same information that's given to every candidate who  
2 runs for local government in New South Wales. So, that  
3 information about their responsibilities would have been  
4 covered in that space.

5  
6 Q. From your experience and knowledge of that, what would  
7 your understanding then be of what was told to them about  
8 the responsibilities of councillors?

9 A. The responsibilities is for the strategic direction of  
10 the council. There's certainly key decisions that they  
11 make, a lot of the information is delegated to the general  
12 manager and that comes through - the Act requires that as  
13 delegated to the general manager for all operational  
14 matters and it's up to individual general managers and  
15 their council about how that flows out.

16  
17 I worked in situations where I had prohibited staff  
18 from, you know, engaging with councillors, and at other  
19 times where I've had a more open approach where they're  
20 able to talk to them as long as I was aware of the  
21 conversations and anything that was of particular  
22 importance. So, again, that depends on the relationships  
23 and your understanding of the people you're dealing with  
24 and, and if councillors, you know, go beyond their remit in  
25 terms of dealing with operational matters, that changes  
26 your view about how you deal with that within an  
27 organisation.

28  
29 Q. Just returning back then to the budget. So, the new  
30 council was given a budget that had been prepared by  
31 yourself and your team for the 2016/2017 year?

32 A. Yep.

33  
34 Q. And that was going to be a deficit budget?

35 A. No, I'm not sure that it was then; I can't recall, I  
36 don't know. My recollection was that it wasn't a deficit  
37 budget.

38  
39 Q. I might, just to assist, this is a copy of your final  
40 report. PGS.001.001.0001. That top figure, and just to  
41 page 9. If we scroll down under the section that says,  
42 "The results of the transition plan delivered". Do you see  
43 there, this is an outline of that, talking about the  
44 deficit budgets are trending to a balanced.

45 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  
12 Q. I take it from that though, when it says "trend to a  
13 balanced position over three to five years", it was  
14 envisaged that the council would be able to quite quickly  
15 at least balance its budget?

16 A. Yeah, unless other things came up. We didn't  
17 envisage - you know, we knew about a whole lot of the  
18 issues around assets, and roads, and airport, and that was  
19 certainly canvassed; the water assurance scheme, the waste,  
20 wherever you looked there were areas you could spend a lot  
21 of money, electricity et cetera, there are areas you could  
22 spend a lot of money, but within a framework of continuing  
23 business as usual, that expectation could have been met,  
24 but again, it depends on what occurs during operations.

25  
26 Q. Of course, of course. So, you just touched on roads  
27 as one of the examples. What was your understanding as to  
28 how roads were managed before the Norfolk Island Regional  
29 Council was formed?

30 A. It was reactive and there was very little, if any,  
31 capital works being undertaken unless there was a failure  
32 somewhere.

33  
34 Q. Who had responsibility for funding the capital works  
35 and for performing maintenance on those roads?

36 A. It was the Norfolk Island Administration.

37  
38 Q. Did you see records of the extent to which that was  
39 funded or the extent to which works of that kind were done?

40 A. Yes, and there'd been a consultant's report done in  
41 2015.

42  
43 Q. The Worley Parsons report?

44 A. That's right, the Worley Parsons report, which quite  
45 clearly did an analysis of the condition of the road  
46 infrastructure, including bridges and culverts et cetera,  
47 and had a recommendation about where to apply funds in the

1 future, but it always required external input to that work  
2 because there wasn't money available within the resources  
3 of the community to do that.  
4  
5 Q. No, but your understanding was that it was the Norfolk  
6 Island Administration that had responsibility for paying or  
7 sourcing those funds to do maintenance renewal?  
8 A. That's correct.  
9  
10 Q. Was it also your understanding, though, that those  
11 roads were at the time owned by the Commonwealth?  
12 A. Absolutely, and that was all part of the transition  
13 process in terms of those assets.  
14  
15 Q. So, part of the transition process was that the  
16 ownership then went to council?  
17 A. Yeah.  
18  
19 Q. Part of the evidence that was coming out again last  
20 week, particularly from Mayor Adams, was around that asset  
21 transfer, and her evidence was that, as I understood, there  
22 wouldn't be any detriment in effect to the council from  
23 that transfer.  
24 A. Nothing more than there was, you know, at the present  
25 time; you know, the situation was - stayed the same, in  
26 effect, other than the ownership transferred, and that was  
27 to do with the situation which was usual within the  
28 Australian context.  
29  
30 Q. So, was there discussions around whether the transfer  
31 of ownership and the accounting consequences of that, as  
32 ownership around depreciation, for example, whether that  
33 had to affect funding that went to the council for roads?  
34 A. There was discussion around that but the Commonwealth  
35 was clear that the money they had available was what was  
36 available through the Federal approval system and that  
37 anything outside that would have to be justified.  
38  
39 Q. To your recollection, was that made evident in the  
40 material that was then provided to council upon its  
41 formation?  
42 A. I have no recollection.  
43  
44 Q. Do you have any recollection of it being within  
45 briefing photos or any handovers or?  
46 A. Not that I'm aware of, no. I mean, certainly, you  
47 know, quite clearly the condition of the asset which was



1 contained in the 2015 report, it was obvious to everyone  
2 that it wasn't in a sustainable condition long-term and was  
3 going to require some input. Even the Federal assistance  
4 grant calculation was at the understanding of the - I can't  
5 think of it - the factors that go into determining that  
6 weren't analysed in detail, and I understand that  
7 subsequently it was significantly changed when that  
8 understanding of the limitations of that community, and  
9 that applies in every local government area when they're  
10 doing the Federal assistance grant calculation.

11  
12 Q. Was there a reason that the later discussions that  
13 happened in 2017 and 2018 around financial assistance  
14 grants, that there wasn't that same discussion to that same  
15 extent in 2015 to 2016?

16 A. There wasn't time.

17  
18 Q. There wasn't time?

19 A. I mean, the fact of just getting the legislation to a  
20 point where you could run elections, and the other  
21 legislation that applied there, you know, that legislative  
22 framework is always fraught with time constraints when  
23 you're going through Parliamentary council and you have to  
24 get that level of detail into the law, and the law system  
25 on Norfolk Island was a combination of things drawn from  
26 all over different parts of the world which, you know, had  
27 be allowed to continue.

28  
29 Q. Were there other things such as those discussions  
30 around the FAG grants that, in your view, if there had been  
31 more time, should have been looked at during that  
32 transition period?

33 A. Oh, there were a whole lot of things; I mean, the most  
34 important thing I view is about the cultural and dealing  
35 with the cultural impacts of change and, you know, I wasn't  
36 alone in suggesting that it should have been given more  
37 time, but we had the time the Parliament gave us and that  
38 was what we had to work to. So, within that timeframe you  
39 had to limit your activities to what you could achieve  
40 there to get to the end of that time with a council in  
41 position.

42  
43 They had the elections, for instance, which required  
44 the consultant to engage to rewrite all the forms for  
45 Norfolk Island because they couldn't use the forms that  
46 applied in New South Wales, so that was an example of the  
47 extra time we had to go through.

1  
2 Q. Do you have, say, one to two of the key issues that  
3 you thought at the end of that transition period were  
4 pressing and needed to be done at that point?

5 A. I think, in re-reading my report, my reflections at  
6 the end there, I wasn't entitled to give recommendations,  
7 so I could give reflections, but I think at the time there  
8 I said that the two things that were most important were  
9 resources and rock and water were the two critical factors.  
10 Apart from that the social impact, in my mind, was the  
11 cultural: the people in the organisation understanding that  
12 the changes weren't there to change the culture of the  
13 Island or understanding practices.

14  
15 One of those reflections I recall making was that  
16 there should be a communication to that effect to the  
17 community and a conversation that that wasn't the purpose.  
18 That then followed on to the cultural: people working in  
19 the system understanding how they could best contribute to  
20 it and how they work with their community in making sure  
21 that that happened. They're probably the key factors that  
22 came to mind when I re-read my report.

23  
24 Q. So, as you say, within the report that was in November  
25 2016 sort of timing?

26 A. M'mm.

27  
28 Q. So, when you left the Island, were those your main  
29 concerns around that cultural communication and assets or?

30 A. I still say that they - you know, I wrote that report  
31 post - in early that financial year, up to September, I  
32 think I delivered the report in October, so they were still  
33 my concerns at that particular time, yes.

34  
35 Q. If we just go to page 4 of this report, one of the  
36 things that you've highlighted, and this may be what you  
37 were already touching upon, is that:

38  
39 *Failure to progress the reform agenda will*  
40 *limit the future sustainability of Norfolk*  
41 *Island.*

42  
43 Could you expand on what you meant by that?

44 A. Yeah, well, the reform agenda included the legislative  
45 framework and whether it be courts, whether it be  
46 registering births, deaths and marriages, whether it's to  
47 do with asset management, all of those things are part of

1 the reform agenda and, unless particular effort was put to  
2 those, it would affect the sustainability of the Island.  
3 You know, you can't continue to put waste into the ocean in  
4 a World Heritage area, so those things are going to take  
5 resources and time and effort and, if the Commonwealth  
6 weren't able to address those issues, well, it was going to  
7 affect the sustainability of the Island.

8  
9 Q. You go on in that paragraph to say:

10  
11 *There appears scant interest from the*  
12 *Regional Council in continuing an ongoing*  
13 *reform program.*

14  
15 A. Yeah.

16  
17 Q. Can you expand on that?

18 A. Well, I think that, again, is a time issue. I could  
19 see the focus on needing to do that, but you've got a new  
20 council with people who haven't been in the system coming  
21 up to speed, you've got new staff coming on board, so it's  
22 not surprising that to continue the form of program that I  
23 was working on with Commonwealth resources was something  
24 that was going to be very difficult for a new council, new  
25 organisation to do, but without that it was going to affect  
26 the sustainability of the Island.

27  
28 Q. So, do I take it, the "scant interest" comment is more  
29 that they had other pressing issues to deal with, not that  
30 they didn't see the value or didn't see the priority?

31 A. No, I'm not saying that they didn't see the value;  
32 they had a choice about where they spent their time and  
33 effort, and it may not be it was where I would have put my  
34 time and effort but that was a decision that they had to  
35 make.

36  
37 Q. Does that go hand-in-hand with the observations we  
38 discussed earlier about them not making use of you within  
39 your consultancy role?

40 A. Potentially, yes.

41  
42 Q. If we go to page 7 of the report, this is an outline  
43 of some of the things that were discussed in the transition  
44 period. Could we stay up the top, please. You talk about  
45 meetings and key principles being isolating business  
46 activities and state-type services from direct influence of  
47 the future Regional Council. Could you expand on that?

1 A. One of our considerations, there was a committee of  
2 the - on Island, the Commonwealth Administrator, the deputy  
3 secretary from the department and myself that used to meet  
4 monthly and monitor progress, and we talked about the issue  
5 about how things could be structured and how could we take  
6 away responsibilities or - not take away - how could  
7 responsibilities be delivered in another form which would  
8 allow the council to focus on local government issues.  
9 That was the whole focus of the transition.

10  
11 But at the end of the day we couldn't find ways to  
12 take away business activities, like workers' compensation,  
13 you know, education and health was sort of transitioned  
14 with the agreement with New South Wales Government, but  
15 things like workers' compensation, things like registration  
16 of courts even, they're not the normal purview of a local  
17 authority and they obviously take time to make sure that  
18 they're still doing things.

19  
20 So, any of those government services - electricity is  
21 not normally a local government authority these days - it  
22 used to be - but, you know, certainly waste is and those  
23 things, but all those other elements outside of that -  
24 telecommunications was a big one; still operating on 2G  
25 when I was there and not long since it's changed: those are  
26 things that take up time and effort when you should be able  
27 to focus on local government services.

28  
29 Q. You mentioned telecommunications, you mentioned  
30 electricity, which were both still in the control of the  
31 council going forward. Did you have a view as to whether  
32 that should have been different or structured differently?

33 A. We looked at whether we could structure it  
34 differently, but the mechanisms to do that in a logical  
35 fashion required change in legislation, required different  
36 structures to be formed in terms of government - there  
37 wasn't time to do it.

38  
39 Q. So, was that something that was, to your view, left  
40 open for future consideration?

41 A. Absolutely, there were a number of reports there that  
42 had been done prior to me going there on a number of those  
43 government business entities and they'd made  
44 recommendations which we'd sought to activate, but there  
45 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  
16 Q. Was that an issue that was being discussed, as to how  
17 to overcome that?

18 A. Well, it was a bit like the issue of GST, you know.  
19 Norfolk Island isn't subject to GST because, as I  
20 understand it as advised to me, that the Commonwealth  
21 didn't want to renegotiate that agreement with the states;  
22 to do that would have opened up all sorts of other issues  
23 which are beyond the purview of certainly the Minister for  
24 Territories, and would have gone right to the heart of the  
25 Federal Government, Federal/state relationships, and so  
26 therefore Norfolk Island was excluded from GST as I  
27 understand for that purpose, so that payment's not  
28 available to them either in that sense.

29  
30 Q. If we go to page 22 of the report, this is part of  
31 your "reflections" section. You see, at number 3 you  
32 refer, and we discussed this briefly, so your "access to  
33 ANI resources, these were limited and not equipped to  
34 support a major social and cultural change." Could you  
35 expand on that?

36 A. I was placed in the organisation. There was two  
37 executive officers and an organisation CEO and a deputy  
38 CEO; they shared an executive assistant resource. I was  
39 then added to that resource so that that person who was  
40 then having to split their time more than three ways on top  
41 of other responsibilities - there was no specific  
42 allocation of resources to do my project outside what I  
43 could glean from, you know, within the organisation there.

44  
45 I did get Commonwealth agreement to appoint two other  
46 executive positions to assist me: that was Susan Law and  
47 Peter - I can't remember their names, they're in the report

1 there somewhere. They came along to assist in that process  
2 to give me some scope to deal with the higher level  
3 strategy issues, because I was still responsible for  
4 operating those services, be they Customs decisions and  
5 disputes, et cetera. I was promised, you know, dedicated  
6 legal services to deal with those complex situations and  
7 that wasn't available either during that time, I was  
8 sharing resources.

9  
10 Q. If we could go to the next page, we see in (7) the  
11 discussion there of the asset management plans and  
12 long-term maintenance investment, so I take it that's what  
13 we were discussing earlier, your reflections?

14 A. Yeah, we provided an overview there which is basically  
15 a schedule of what we understood from the records available  
16 at the time. We hadn't had the ability to go and do  
17 evaluations of those as you'd do in condition assessments.  
18 Where that was available from existing reports it was  
19 included, and so, those asset management plans as they were  
20 at the time needed ongoing and dedicated work.

21  
22 Q. Was Mr Taylor used in the process of preparing those  
23 original asset management plans?

24 A. No, his role at that particular time was acting CEO  
25 and he was responsible for developing the budget, the draft  
26 budget, and of keeping the current organisation going. The  
27 asset management plans were done by the operations manager  
28 that I brought in from outside the organisation. So, Peter  
29 came in as the operations manager and he also took on the  
30 responsibility of that initial preparation of those draft  
31 plans as well as contract works that were running at the  
32 time.

33  
34 Q. But Mr Taylor assisted with the budget?

35 A. Yeah.

36  
37 Q. Did he also assist with the operational plan where you  
38 had financial --

39 A. He would have been involved in the operational plan,  
40 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.

1 THE COMMISSIONER: Mr Rizk?

2

3 MR RIZK: No questions.

4

5 THE COMMISSIONER: One question from me.

6

7 Q. Just in respect, Mr Gesling, of your asset management  
8 plan, you said there should be a common system between the  
9 Commonwealth and Norfolk Island Regional Council; do you  
10 think that was achieved?

11 A. No.

12

13 Q. What would you think the barriers were to the asset  
14 management plan being a shared approach?

15 A. Well, I don't know the Commonwealth in my  
16 understanding, quite frankly, had a standard asset  
17 management plan across their own resources within this  
18 department or others. So, if I was involved, I would have  
19 had the system on other external territories the same as it  
20 would be for Norfolk Island and that information available  
21 and collected, but that information wasn't information at  
22 the Commonwealth level before transfer, let alone a common  
23 system that could be used afterwards. If that had  
24 happened, that would have provided a basis to work from  
25 rather than starting from scratch.

26

27 Q. Do you think that that's been achieved now?

28 A. I don't know. I'd be surprised if it had.

29

30 Q. So, you think that would make all the difference going  
31 forward?

32 A. It would make some difference, but it would mean that  
33 the council would have a system that they were working to  
34 in a structured basis. In the local government in New  
35 South Wales that's become standardised across organisations  
36 and you can go between organisations and know what you're  
37 looking at, but you're not coming up with spreadsheets that  
38 you're trying to put together.

39

40 Q. Do you think that it would have also helped the  
41 Commonwealth understand the condition of the assets earlier  
42 or more clearly?

43 A. Yes, it would have.

44

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

1 think?

2

3 THE WITNESS: Thank you, yeah.

4

5 THE COMMISSIONER: Thank you so much for coming and giving  
6 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

16 THE COMMISSIONER: And then we'll commence in about half  
17 an hour.

18

19 MR BOLSTER: Thank you.

20

21 **SHORT ADJOURNMENT**

22

23 THE COMMISSIONER: Mr Bolster.

24

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

29

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

31

32 <EXAMINATION BY MR BOLSTER:

33

34 MR BOLSTER: Q. Ms Jackson, for the record, could you  
35 indicate your full name, please?

36

37 A. My full name is Eva Liselotte Jackson, known as Lotta  
38 Jackson.

38

39 Q. Thank you. I just wanted to clarify that you  
40 commenced your employment as the CEO of the NIRC on 30 June  
41 2016?

42

43 A. Yes, that's correct.

44

45 Q. The following day you automatically became the general  
46 manager of the Norfolk Island Regional Council?

47

47



1 Q. That was a feature of the transition legislation?

2 A. That's correct.

3

4 Q. We'll come back to some matters about your recruitment  
5 in a minute, but I understand you wanted to make an opening  
6 statement about your evidence?

7 A. Yes, thank you. Thank you for that. Yes:

8

9 *My name is Lotta Jackson and I would like*  
10 *to acknowledge the Norfolk Island people*  
11 *who have lived and cared for the Island*  
12 *since 1856.*

13

14 *I also want to acknowledge and thank the*  
15 *former council: Mayor Adams, Councillors*  
16 *Buffett, Snell, McCoy and Porter for the*  
17 *work we did together and extend that thank*  
18 *you to Norfolk Island staff and friends who*  
19 *may be watching these proceedings here*  
20 *today from Norfolk Island.*

21

22 *I further want to thank the staff on the*  
23 *mainland Australia too who worked*  
24 *tirelessly when on Norfolk Island as*  
25 *illustrated yesterday and the day before.*

26

27 *I'm Swedish by birth with a strong*  
28 *connection to the natural environment and a*  
29 *fair and just society where people at large*  
30 *respect government and where government*  
31 *trust the people.*

32

33 *When I first arrived in Australia the key*  
34 *difference I noted was around private*  
35 *property, keep out, and children being*  
36 *separated at the age of 5 into private and*  
37 *public boys and girls schools. I thought,*  
38 *how can you get equity and access in gender*  
39 *and social equity with that situation?*  
40 *These two aspects of Australian culture*  
41 *never sat easy with me. As part of this*  
42 *context, that's when I applied for the*  
43 *position on Norfolk Island.*

44

45 *To be on an island that was visited by*  
46 *Solander who travelled with Banks and Cook*  
47 *on the Endeavour in 1768 to 1770; Solander,*

1           *who was the formidable pupil of Linnaeus,*  
2           *the expert in natural history, what a place*  
3           *to visit and work.*

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

13  
14          *I was successful in my application as the*  
15          *CEO and commenced on 30 June, although I*  
16          *was the second preferred candidate, the*  
17          *first one declined.*

18  
19          *I have four degrees, although not in*  
20          *accounting, which I understand the others*  
21          *that provided evidence at this inquiry such*  
22          *as Mr Roach, Taylor, Innes-Walker, Nielsen,*  
23          *van Gaalen, Nankivell, Carlesso and Wilson.*  
24          *I do hold a Masters of Business*  
25          *Administration, a BA, an MA and a Graduate*  
26          *Diploma in Psychology.*

27  
28          *I visited the Island prior to my*  
29          *application with my partner who was very*  
30          *supportive of moving to Norfolk Island*  
31          *should I be successful. He ended up*  
32          *working full-time in the hospital in the*  
33          *aged care section permanently.*

34  
35          *I understood that the roads and other*  
36          *assets were in need of an upgrade and*  
37          *renewal and, coming from a large council in*  
38          *rural New South Wales at the time where the*  
39          *roads were the main asset, I thought it*  
40          *would be possible to plan for and fully*  
41          *reseal and renew the roads on Norfolk*  
42          *Island over a 10-year period, seeing it was*  
43          *only 80 kilometres, and with the support*  
44          *from the Commonwealth as I understood was*  
45          *continuing through the transition to*  
46          *support the new government. That was*  
47          *difficult, that wasn't easy.*

1  
2 *Nevertheless, in looking at the 300-plus*  
3 *documents collated as evidence, most of*  
4 *them from the period that I was on the*  
5 *Island as the GM, brought back all those*  
6 *memories of the persistence, the*  
7 *dedication, the determination to do what we*  
8 *could with what we had for the work that we*  
9 *undertook, with the Commonwealth that I*  
10 *needed to work with and make them*  
11 *understand, particularly after the first*  
12 *six months when there was a lot of change*  
13 *in the government, that we needed their*  
14 *support in the change of Norfolk Island*  
15 *laws, that we could set our own fees and*  
16 *charges, and in the planning laws to enable*  
17 *significant development such as the Cascade*  
18 *Quarry, and in the facilitating of grant*  
19 *funding in the absence of equivalent*  
20 *state-type grant funding to ensure that we*  
21 *fulfilled our obligations under the Act.*  
22

23 I believe that I am now ready for my turn in this  
24 Inquiry and I'm happy to share any other thoughts at the  
25 end as well. Thank you.

26 Q. Thank you, Ms Jackson. The recruitment process that  
27 lead to your appointment was run by McArthur Recruitment?

28 A. Yes.  
29

30 Q. Were they engaged by the Commonwealth?

31 A. To my knowledge, yes.  
32

33 Q. Was that a problem of perception, when you came to be  
34 based on the Island, that you were seen as a Commonwealth  
35 appointment?

36 A. Yes.  
37

38 Q. How did you perceive that in your time on the Island?  
39 What happened to lead you to that view?

40 A. It was often said to me that "you were recruited by  
41 the Commonwealth". I then would say, "I was but now I  
42 report to the Mayor and the council, they are my reporting  
43 line, that's the government framework of local government."  
44

45 Q. The people that said you were the Commonwealth's  
46 appointee, were they people you met in the street, or  
47 staff, or were they councillors or?

1 A. It was a mixture.  
2  
3 Q. Did the councillors ever suggest you were the  
4 Commonwealth's appointee in a --  
5 A. Yes.  
6  
7 Q. -- derogatory way?  
8 A. Oh, not in a derogatory way; more as a statement.  
9  
10 Q. Your original term was for a period of three years?  
11 A. That's correct.  
12  
13 Q. And so, that came to an end at the end of June 2019?  
14 A. That's correct.  
15  
16 Q. Did you apply to be re-appointed?  
17 A. Yes, the local government - or my contract, which is  
18 in line with the Local Government Act, that stipulated that  
19 nine months before the end of my contract I could apply for  
20 an extension, and I did apply for an extension for two  
21 years which then went to council where they deferred it to  
22 the following meeting, and they have got three months to  
23 actually determine, so they could defer it, and then they  
24 accepted it, I think it was December that year, which then  
25 gives time for the contract to be renewed for another -  
26 like, during the next six months.  
27  
28 Q. And so, it was renewed?  
29 A. Yes.  
30  
31 Q. But early on in that renewal period you made a  
32 decision to take up another position?  
33 A. No, not early on. The contract was actually not  
34 signed until 28 June, I think, that's how long it took  
35 for --  
36  
37 Q. 2019?  
38 A. Yeah. So, it was probably closer to, I'd say, May  
39 that I started thinking about, that I couldn't fulfil it.  
40 The fact that it hadn't been signed yet either, and plus,  
41 that it was a difficult time for me.  
42  
43 Q. So, I take it, you applied for where you are now,  
44 which is Cessnock?  
45 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  
7 Q. When was your last day on the Island, do you recall,  
8 or in the job on the Island?

9 A. That would have been Friday the 13th.

10  
11 Q. Friday the 13th?

12 A. Yes.

13  
14 Q. You've mentioned in some correspondence that you did  
15 some training on the Island in late June; what did that  
16 involve?

17 A. Yes, so I was asked to arrive early on the Island,  
18 even if I started on the 30th. So, the week - I can't  
19 remember what the 30th, the day, but I was asked to arrive  
20 earlier to participate in training with the new  
21 councillors, which I felt would be a good opportunity for  
22 me to meet with them and work together as a team. That was  
23 training that was arranged by - it might even have been by  
24 Peter Gesling or Susan Law - through the Local Government  
25 Association who provide specific training for councillors.  
26 So, there was three or four days, and it encompassed the  
27 integrated planning and reporting framework, the role of  
28 the council and the general manager, governance, meeting  
29 procedures, audit committee. It's in the annual report for  
30 that first year as well, so I'm sorry if I might not tell  
31 exactly the truth there because I can't recall all the  
32 extent, yeah.

33  
34 Q. Just for the record, 30 June 2016 was a Thursday.

35 A. Okay, so it would have been maybe the Monday, Tuesday,  
36 Wednesday.

37  
38 Q. What was your take away from your initial contact  
39 discussions with the councillors? Were there any issues  
40 that they raised with you that stick in your mind?

41 A. They wanted to learn, I think they wanted to learn  
42 what was before them. I also remember clearly that they  
43 still wanted to talk about how it was before.

44  
45 Q. Is it fair to say this: that throughout your time on  
46 the council the councillors that you had to work with  
47 expressed the view to you that they did not like the system

1 of local government that had been imposed on the Island, as  
2 they saw it?

3 A. Yes and no. Yes, in some context of what was imposed,  
4 such as rates, for example. Having a governance structure  
5 per se, I think they all in some shape or form felt  
6 comfortable with; it was more what had been taken away from  
7 them.

8

9 Q. Let's talk about the things that they had problems  
10 with, what were they?

11 A. The rates in particular, because there had never been  
12 rates on Norfolk Island, so the rates were the key.

13

14 Q. Was that something that they raised with you right  
15 from that first meeting?

16 A. Oh, I can't recall if from the first meeting or not,  
17 no, I can't recall, but early on I would say.

18

19 Q. What about by, say, December when the first long-term  
20 financial plan came to be considered by council? You  
21 remember that plan was prepared by Mr Nankivell and  
22 Mr van Gaalen?

23 A. Yes.

24

25 Q. Was rates an issue that was discussed at that time  
26 that you recall?

27 A. Not necessarily talking about - I mean, we would have  
28 spoken about rates, but because the rates had already been  
29 put into the legislation, that in the first year you could  
30 raise to \$500,000, so they knew about that, and that would  
31 have been an operational plan. So, because the ordinances  
32 in the Norfolk Island - sorry, in the Local Government Act  
33 (NSW) (NI) had an integrated planning reporting framework a  
34 bit back-to-front, so we got three months to do the  
35 community strategic plan and the operational plan.  
36 Normally you do the community strategic plan, the delivery  
37 program, the resourcing strategy and then the operational  
38 plan. So, because of the mismatch there, so when we did  
39 the operational plan we had to put the budget together and  
40 the \$500,000 rates in there, and I think, you know,  
41 reluctantly they agreed to that. We specified in the  
42 report that went to council that it's one of the  
43 obligations of the council to set rates, so they knew that  
44 up-front. So, that would have been the first time when we  
45 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  
4 Q. And the question of setting a rate only became an  
5 issue with the budget for the third financial year;  
6 correct?  
7 A. Yes, when we had the base amount and ad valorem, yes.  
8  
9 Q. I wanted to ask you another question about the  
10 relationship with the Island and the community. In a  
11 conference that we had with you some weeks ago now you used  
12 the words that "being the general manager of the council  
13 was an intense position to hold." Do you recall using  
14 those words?  
15 A. I can't recall that; it's something that I could have  
16 said, yes.  
17  
18 Q. What did you mean by that? Can you tell the  
19 Commissioner what you meant by it being an intense  
20 position?  
21 A. It's trying to set up - again, because I'm obviously a  
22 full believer in local government and the Local Government  
23 Act, and that I was there to set up that framework, and  
24 there were systems and procedures that were not maybe  
25 wanted to follow, and that meant that I had to be quite  
26 strong in ensuring that that framework had integrity and  
27 that was questioned, and my role was to have that  
28 framework; and equally it could be questioned from the  
29 Commonwealth side as well, so I suppose the intensity was  
30 that I was in between there, to try to keep the integrity  
31 of what I was there to do with tension from councillors.  
32  
33 Q. I don't know whether you've been following the  
34 evidence closely, but there have been some criticisms made  
35 about you about ensuring councillors were kept separate  
36 from operational matters.  
37 A. Yeah.  
38  
39 Q. Are you familiar with some of those criticisms that  
40 people have said about you in the course of this hearing?  
41 A. Yes, I'm aware of that.  
42  
43 Q. What's your response to that criticism? How do you  
44 explain why it was that you sought to maintain that  
45 difference?  
46 A. Yeah, again, it's in the Local Government Act and the  
47 code of conduct. It also talks about, to have access to

1 information and interaction with staff policy, and that's  
2 something that we developed very early on. So, councillors  
3 had access to information, they just needed to use the  
4 structure for it, so that was available to them.

5  
6 Q. Just in terms of the early days on the Island, were  
7 you given a brief about your role from the Commonwealth, or  
8 did you regard your brief as your obligations as a general  
9 manager that are set out quite clearly in the Local  
10 Government Act?

11 A. I understood the local government quite clearly; I  
12 also knew that there were a lot of transition left to be  
13 done on the Island; so I understood that, but I understood  
14 that to be more of a Commonwealth role, although I assisted  
15 with that too to the best of my ability. But I also had  
16 the comfort in having Mr Taylor having been part of the  
17 previous government to assist me where there were still  
18 Norfolk Island laws in place, that I knew that he could  
19 assist with that moving forward as well.

20  
21 Q. Can we turn then to the state of the accounts, the  
22 financial accounts when you arrived on the Island. You've  
23 heard what Mr van Gaalen and Mr Nankivell have said about  
24 the difficulties that your Administration faced. Is there  
25 anything you wanted to tell us about, about the problems  
26 that you had to endure there?

27 A. Well, the financials, they obviously were pretty  
28 rubbery at the time, and the fact that depreciation of  
29 assets hadn't been transferred in a way that van Gaalen and  
30 Nankivell would have anticipated was something that, for  
31 them, was to unravel all of that. So, again, that's their  
32 expertise area; I had full confidence in that they worked  
33 to the best of their ability, and I know they worked  
34 long hours and worked hard, and we worked very solidly  
35 together in the way of, they kept me informed what they  
36 were finding, et cetera.

37  
38 But I had the role to work with the councillors and  
39 with the Mayor in particular, so working with the Mayor  
40 to - as we've just heard from Mr Gesling that, yes, an  
41 operational plan, a draft operational plan and community  
42 strategic plan was put forward by the interim government.  
43 So, there was a plan there and I took that on board, but  
44 the councillors wanted to have another round of  
45 consultation with the community because it was done, in  
46 their minds, by the Commonwealth, the previous plan, and  
47 they wanted to do it with the community, so we did another



1 round of community engagement.

2  
3 Q. When was that?

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

8  
9 Q. Were you personally confronted, in your time as  
10 general manager, in the way that Mr Wilson described in his  
11 evidence yesterday?

12 A. Sometimes in public meetings there might be, you know,  
13 finger pointing and things like that.

14  
15 Q. By members of the public?

16 A. Yes.

17  
18 Q. Were any threats made to you in your time as general  
19 manager?

20 A. Not to my face, no.

21  
22 Q. What sort of pressure were you under? Did you feel  
23 like you were under pressure all the time, or were there  
24 particular transactions or decisions or issues that sort of  
25 brought pressure to bear on you?

26 A. I think over time you - you know, when you're a  
27 professional, you have integrity, this is your - you know,  
28 you're there to do a job; you do it intellectually, you do  
29 it the best you can with what you've got. Then there's  
30 this underlying subliminal thing that's happening to you,  
31 and it got to a point with the rock situation and the  
32 airport where I had friends around me saying, "You have to  
33 go." So, I applied for a job and I got it.

34  
35 Q. We'll come to that episode a bit later. But you'd had  
36 some considerable experience in local government before you  
37 came to the Island; how many years had you been in the  
38 sector?

39 A. I started in 1996 at former South Sydney Council.

40  
41 Q. Nothing, I take it, that's comparable to the Norfolk  
42 Island Regional Council in terms of responsibilities,  
43 isolation, staffing problems. Can you talk us through a  
44 bit of the difference that you had to deal with in that  
45 respect, generally speaking?

46 A. I suppose the biggest surprise to me was after the  
47 first six months when I had the support from the

1 Commonwealth team at the time who had been part of the  
2 transition, then there was a total change of staff. So, I  
3 didn't anticipate that it was going to be such a hard work  
4 working with the Commonwealth. I suppose that was an  
5 unknown to me, and there was so many different staff coming  
6 and going. And, as any local government, you rely on your  
7 State Government as much as you do your own community.  
8 There I needed to rely on the community, but also the  
9 Federal Government in this case, and there was a constant  
10 battle.

11  
12 Q. What were the most significant problems that you faced  
13 from that perspective?

14 A. Well, in the Local Government Act we need to set our  
15 own fees and charges, for example, and they were sitting in  
16 the Norfolk Island laws, so I had to negotiate and talk to  
17 the Commonwealth, "Look, we do need to be able to set our  
18 own fees and charges so we can run our businesses"; it's a  
19 basic thing that I had to negotiate and fight for really.

20  
21 Q. The waste management charge was an example that was  
22 discussed yesterday. That couldn't be changed.

23 A. Yeah, airport --

24  
25 Q. Why? Why couldn't the council change those charges?

26 A. They were in the Waste Management Act, whatever Act  
27 for Norfolk Island. There were certain charges that the  
28 councillors could do; they were, like, the drop-off charges  
29 for example, and there was a raft of charges that we did  
30 recommend that were not taken up by the council. But  
31 airport was probably the first one we got through because  
32 we needed to get that moving. There was some other  
33 restrictions in that Act too which precluded us. I was in  
34 the negotiation with a New Zealand airline to come flying  
35 and we identified that there were some obstacles in the  
36 Norfolk Island Act itself that needed to be changed, so we  
37 did a few things at that stage.

38  
39 Q. These particular fees and charges that were tied up in  
40 Commonwealth legislation, they had the ability to impact on  
41 the budget?

42 A. Yes.

43  
44 Q. It's fair to say that the waste management enterprise,  
45 the business unit, call it what you will, was a constant  
46 drain on the budget; correct?

47 A. That's correct, and we constantly tried to get grants

1 for it; the only grant we were pointed to was the Building  
2 Better Regions Fund which is competitive across the whole  
3 of Australia, and it's considered to be a local government  
4 function, not necessarily something that would be funded  
5 through the Building Better Regions Fund.  
6

7 Q. Did you seek some dispensation from the Commonwealth  
8 about the application of the Waste Management Act on  
9 Norfolk Island to enable you to deal with the revenue  
10 issues?

11 A. With all Acts, yes. So, in the end they gave - I  
12 can't remember if that Act was - yeah, I think they all -  
13 all had fees and charges in the end that we were  
14 responsible for the operation of - eventually were  
15 delegated to the general manager.  
16

17 Q. Eventually?

18 A. Eventually, yeah.  
19

20 Q. What about waste management?

21 A. When that happened, I can't recall.  
22

23 Q. Let's turn to the issue of asset management. What was  
24 the status of the asset management procedures on the Island  
25 when you arrived?

26 A. Well, I wasn't aware of any.  
27

28 Q. I assume, given your responsibilities as general  
29 manager, you took steps to try and find out what was there?

30 A. Yeah.  
31

32 Q. What did you find?

33 A. There was the Worley Parson report, I was aware of  
34 that one, and that it was, you know, we needed to spend  
35 quite a bit of money on, particularly the roads assets. I  
36 very early on, as I said in my statement, I thought, well,  
37 80Ks of road, easy to plan over a period of time and to  
38 fund that. But there was no rock, so there was no  
39 material. So, the first engineer that we had, he  
40 immediately had to work on the - there was a funded program  
41 by the Commonwealth for, I think it was about \$500,000, to  
42 do Queen Elizabeth Drive into Taylors Road in town, close  
43 to where you all would have been the other week. So, it  
44 wasn't finalised, so the engineer was doing that, and he  
45 found some - you know, there was holes under the road  
46 et cetera, it took a bit longer, but that project was  
47 something that he needed to do first up. Then I got him to

1 work on the asset management plans after that because they  
2 were due by 1 January. So, that was the extent of what we  
3 did there and then.  
4

5 But you may also know that the pier was being extended  
6 at the same time and --  
7

8 Q. Which one, the Kingston or?

9 A. No, the Cascade Pier, and the Commonwealth needed rock  
10 for that, so they were in the process of importing rock  
11 from New Zealand and there was a lot of opposition on the  
12 Island, so they ended up using the rock that was on the  
13 Island.  
14

15 Q. Can we just discuss that opposition to the importation  
16 of rock because it comes up again in the context of the  
17 airport. What was your understanding of the issue and the  
18 concern of the Islanders about importation?

19 A. At that time, I was probably too busy with other  
20 things at that stage when they were doing that. I knew  
21 that it was important for us to look at re-establishing the  
22 quarry so we did have enough rock for our roads, so I was  
23 more thinking about the roads and how we can get our own  
24 rock for the roads. And that's when at a rock source  
25 meeting, I think it was in February 17 - or early on in 17  
26 where Councillor McCoy moved a recommendation that would go  
27 to council that we looked at what the barriers were and to  
28 seek a planning reform to actually be able to have a  
29 significant development planning instrument so that we  
30 could do those big projects outside the Norfolk Island 2002  
31 Planning Act.  
32

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

35 A. Yes, again.  
36

37 Q. -- when council resolved on 20 February to explore  
38 using the existing quarries for the aggregate for the  
39 runway; do you recall that?

40 A. Yes, but rock had been talked about since I started in  
41 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

5 Q. Both of them were extremely interested in rock source  
6 issues because it's essential for building anything on the  
7 Island?

8 A. That's correct.

9

10 Q. What about allocating funds for asset repair and  
11 maintenance? How did the budget limit your ability to do  
12 that in the first one, two, three years?

13 A. We had budgeted for the depreciation, there was always  
14 some money set aside for the maintenance, and capital  
15 projects was not probably that much in the beginning for  
16 the roads because we didn't have plans for the roads at  
17 that stage, so it was more to do with the maintenance.  
18 Potholing was five days a week across the Island.

19

20 Now, when the engineer left in January, I think it  
21 was, we weren't able to engage another engineer. I took  
22 the initiative to then engage local government engineers  
23 from New South Wales because they specifically deal with  
24 asset management plans. They came to Island and I talked  
25 to them about that. I don't know if we can actually just  
26 put Australian Standards, like transfer them straight  
27 across, but what can you do in relation to provide us with  
28 data and a massive management plan and give us a work plan  
29 over the first few years as to what we should focus on -  
30 the quick wins - before we have the rock to actually seal.  
31 So, the plan came about that we needed to do drainage to  
32 get the water off the roads, that was part of it, and then  
33 the culverts, and indeed that was programmed in. So, the  
34 asset management renewal or work that we did was actually  
35 the preparation, so that was getting the water off the  
36 roads, drainage, and culverts, and I think we had in there  
37 that we needed 100 culverts or something like that.

38

39 Q. Risk management: what were the procedures in place  
40 about risk management at the time you arrived?

41 A. When I first arrived, not much.

42

43 Q. What did you do to try and get council to deal with  
44 that issue?

45 A. When I first started we also had a group manager of  
46 governance who worked on the framework for risk management,  
47 and that framework was - she came from Federal Government,

1 so she worked on the framework that would suit that type of  
2 environment. That person didn't last very long and then we  
3 had a gap. But there was a risk officer who had registers  
4 of operational risks, so I was quite satisfied that the  
5 day-to-day operational risks on the ground level and some  
6 of the financial controls too with the finance stuff would  
7 be looked at, but I very early on then wanted to set up the  
8 audit committee to get that function up and running.

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

19  
20 Q. Mr Taylor said last week on Norfolk Island that you  
21 were very processed-focused. Is that --

22 A. Probably processed in the way that we need to have  
23 systems in place and there needs to be some parameters and  
24 rules around how we do things so that we can get to where  
25 we want to go.

26  
27 Q. In terms of financial risks, was anything done to  
28 establish a regime to deal with the way in which council  
29 should approach contracting and financial risks that might  
30 arise from particular projects? And, I'm thinking about  
31 the airport contract here in the longer term, but did that  
32 sort of risk, that is, the sort of risk of the cost  
33 ballooning because of the biosecurity issue that we'll come  
34 to in some detail later, did risk management procedures  
35 engage that sort of risk at any stage?

36 A. It was always talked about. Whenever we put up a  
37 recommendation in relation to the budgets; let's say, for  
38 example, the fees for the electricity: it was quite clear  
39 to the councillors what effect that would have. In local  
40 government when the councillors make a decision, council  
41 staff have to implement that decision whether you agree  
42 with it or not, so you don't actually have a choice.  
43 Whether they make a decision that will be detrimental, then  
44 it would be our role to see, okay, what other things can we  
45 do to try to meet budgets? In this instance we then had to  
46 have an additional increase really the following year,  
47 which they did accept, because I think they had realised

1 that was something that we needed to do.

2

3 Q. Sorry, I just didn't quite follow what you were  
4 talking about. Are you talking about the airport contract  
5 here?

6 A. No, no, I was talking about the electricity then.

7

8 Q. The electricity?

9 A. Yeah, so that was just an example of where - so, in  
10 financial management and risk, like I said, I constantly  
11 think about risk when we set budgets, for example. So, the  
12 risk for us was that we needed to get grant funding, we  
13 needed to get fees and charges in place, we needed to have  
14 the rates there. So, it was a multi-pronged approach which  
15 is what you do in local government on the mainland too.

16

17 So, there was always that risk and, if you didn't get  
18 the grant, at least you'd put 25% in the budget so you  
19 could actually do something; if you didn't get the grant  
20 you could still do something, and that meant that, again,  
21 budgets would fluctuate from the set budget to the end  
22 of year because of the variability of local government:  
23 that's what happens. So, that's the financial risk that  
24 you manage by then not doing maybe all the asset  
25 maintenance that you were supposed to do, because you  
26 couldn't afford it because you didn't get certain fees and  
27 charges in place.

28

29 Q. That was the case with the position of the roads,  
30 wasn't it? When Boral came to make their offer, there was  
31 a discussion that there had been an historical underspend  
32 on roads of around \$1.9 million; do you remember that?

33 A. I can't recall that figure.

34

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

38

39 *The opportunity to resell 9 kilometres of*  
40 *road using Boral's asphalt plan is an*  
41 *opportunity that is unlikely to arise for*  
42 *another 12 to 15 years. Cash is available*  
43 *to commit to this project and funds*  
44 *budgeted in future years can be brought*  
45 *forward ...*

46

47 Et cetera. The line above though says this:

1  
2 *It should be noted that during the first*  
3 *three years of operation the Norfolk Island*  
4 *Council total roads capital budget was*  
5 *underspent by \$1.9 million.*  
6

7 Does that accord with your recollection?

8 A. I can't recollect the amount, but we would have  
9 underspent on the roads because there was no rock to do  
10 anything in the first year; it would have been the  
11 patching, we would have just done patching.  
12

13 Q. It's also been suggested that you didn't have the  
14 equipment or the machinery there to give effect to that  
15 sort of spend?

16 A. That's probably correct, if that was suggested, yeah.  
17

18 Q. The underspend on roads meant that those funds were  
19 effectively used for other purposes?

20 A. That's correct.  
21

22 Q. Presumably, that means keeping the budget as close to  
23 neutral as possible?

24 A. That's always the aim, not to have a deficit.  
25

26 Q. It's not as though that \$1.9 million had accrued  
27 somewhere in some sort of designated account for road  
28 funding?

29 A. No, although one could argue that part of the - oh,  
30 what's the word, I've just lost my train of thought - our  
31 cash reserves could be set aside for that. Unrestricted  
32 funds could have been restricted for that purpose, one  
33 could have said that.  
34

35 Q. But you didn't?

36 A. No.  
37

38 Q. Just on cash reserves: I mean, there was a monthly  
39 investment report which indicated what the restricted and  
40 unrestricted cash position was at any particular point in  
41 time. Was that an indicator that you kept a close eye on?

42 A. Very much so, yeah.  
43

44 Q. You started out, day one, \$9 million-odd in the bank,  
45 and I think by the time you left the figure was roughly of  
46 the same magnitude; do you recall that?

47 A. No, it was probably about \$17 million or \$18 million.



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Q. Unrestricted?

A. Unrestricted. Again, I can't recall that, yeah.

Q. It speaks for itself?

A. Yep, yep.

Q. You spoke about the audit committee and I wanted to put a couple of propositions to you and get your response.

A. Yes.

Q. Right from the beginning, may I suggest that the audit committee was making recommendations that something had to be done about the budget and the performance against the budget of the council?

A. Yes.

Q. And that was a message that they repeated over and over again to council?

A. Yes.

Q. It certainly was whilst Ms McFadyen was the Chair of the committee; do you agree with that?

A. Yes.

Q. To what extent did council, to your recollection, do anything in response to that?

A. Well, having heard McFadyen's evidence the other day, I can't recall in detail if that was systematic, but often they would change the recommendation to be noted rather than executed. That was obviously what happened at least on some occasions, yeah.

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

A. Yes.

Q. That was a recommendation that came from you as the general manager on the advice of your staff?

A. Yes. Well, we looked at all of that together.

Q. On another occasion there was - let me find the date. If were you were listening to the evidence yesterday you

1 might recall that we referred to a resolution that council  
2 asked staff to review all of the income and expenditure for  
3 the council's five business units - this was in December 17  
4 - and to provide council options to remedy the situation.  
5 Do you remember that resolution?

6 A. Not --

7  
8 Q. Let's bring it up.

9 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  
15 Q. Mr Wilson, at that stage he was the finance manager  
16 reporting to Mr Carlesso, who was your chief financial  
17 officer. Did that go anywhere?

18 A. As a team we constantly looked at how we could balance  
19 the budget; that was an ongoing effort by, particularly the  
20 finance team and Mr Carlesso and Nankivell and Wilson and  
21 van Gaalen, that was their sole - they put hard work into  
22 trying to both save and find revenue; and then, when it  
23 came to revenue in relation to the Commonwealth, that was  
24 my role.

25  
26 Q. And you had some success in dealing with the  
27 Commonwealth. If you compare the operational grants in  
28 Year 1 with the operational grants by the time you left  
29 they'd almost doubled?

30 A. Yes.

31  
32 Q. There was some problems in calculating those grants  
33 based on the comparator council that was used.

34 A. Yes.

35  
36 Q. Which was not really a fair comparison as all, was it?

37 A. No.

38  
39 Q. They were comparing Norfolk Island to which council?

40 A. I think it was Brewarrina.

41  
42 Q. Brewarrina. Can we turn to the issue of rates? What  
43 was your approach to trying to balance the councillors'  
44 understandable position when it came to rates with the need  
45 for you to come up with ideas, come up with a draft budget,  
46 come up with a draft operational plan to make the Island  
47 work for the consideration of councillors? Explain to us

1 the difficulty of engaging with those two different  
2 perspectives.

3 A. The rate base of an Island like Norfolk Island will  
4 never be enough to be a substantial amount of your revenue,  
5 and that's - I liken that with somewhere like, you know,  
6 Central Dowling which is out very remote in New South  
7 Wales, they probably have a rate base of 2% or something  
8 like that, so the rate base would never be very big on  
9 Norfolk Island.

10  
11 Having said that, the difficulty was when we went into  
12 the base rate and ad valorem, when it had to be, you know,  
13 market component coming in which was creating a different  
14 layer for the Islanders. Again, I respect that they had  
15 never had rates before, they had never had land valued in  
16 the way that they had, so you know, we had assistance by  
17 experts coming out and also requests by the councillors to  
18 have public meetings, et cetera.

19  
20 With the \$1 million minimum that we had to work with,  
21 so there was a little bit more than that. In the long-term  
22 financial plans we increased that by approximately 1.5 to  
23 2% a year over time.

24  
25 Q. Just a standard peg?

26 A. Yeah, standard, yeah, peg, which is also what happens  
27 in New South Wales under the Local Government Act, you have  
28 a rate peg, and that sometimes is under 2% and sometimes  
29 over. So, I suppose in line with that understanding of the  
30 impact of communities, that that would be seen as fair and  
31 reasonable to use that type of explanation as to our  
32 increase. So, I didn't feel that I could impose a  
33 recommendation to the community to increase it more than  
34 that incremental, and what would I base that on, seeing  
35 that there is a rate peg under the Local Government Act in  
36 New South Wales, which indeed is the Act that we were  
37 following.

38  
39 Q. There was an occasion when the audit committee  
40 suggested, or recommended, that council should adopt a 10%  
41 target for rates. What was your view about that?

42 A. If I recall right, that was still over a number  
43 of years, so I can't - I don't know if it was a breakdown  
44 then that it would be 2 or 2.5% a year, I can't recall.

45  
46 Q. It was by 2021; let me just find the resolution. Yes,  
47 it was made on the third of - on 8 March, so early on in

1 the piece. Let me just place it in some context.  
2 Mr Gallagher moved a recommendation at the audit committee  
3 on 8 March --  
4 A. 17th?

5  
6 Q. 17th, yes. He said this:

7  
8 *The audit committee notes the quarterly*  
9 *budget review statement.*

10  
11 So, this is the second quarter of 16/17:

12  
13 *And accepted the projected financial*  
14 *position to the end of June 2017 [which was*  
15 *a deficit of about 5.3] this is*  
16 *satisfactory based on the original budget*  
17 *[which was for 4.2]. The audit committee*  
18 *is still of the opinion that council should*  
19 *undertake actions to reduce the projected*  
20 *budget deficit of \$5.27 million for the*  
21 *16/17 financial year.*

22  
23 At the same meeting he moved that:

24  
25 *The committee notes the long-term financial*  
26 *plan and recommends council adopt a target*  
27 *of at least 10% rate revenue of total*  
28 *revenue by 2021.*

29  
30 Was that something you supported?

31 A. I really can't recall that.

32  
33 Q. When it went to council, that sort of recommendation  
34 was going to go nowhere, wasn't it?

35 A. Again, I can't recall which way it went.

36  
37 Q. Can we turn to the airport. The airport was an issue  
38 that was articulated to you when you joined in 2016?

39 A. Not verbally articulating, but it was something that  
40 was in the - became something that was in the operational  
41 plan and the community strategic plan, something we needed  
42 to attend to, yes.

43  
44 Q. So, was that something that was communicated to you in  
45 the handover process by the Commonwealth officials that you  
46 had to deal with? How did you find out that you're going  
47 to have to spend a very large amount of money resurfacing

1 this airport in the not too distant future?  
2 A. We knew it early on because in the first long-term  
3 financial plan there's a narrative around that, so  
4 obviously we were aware of it. I think in the first  
5 long-term financial plan the narrative talks about  
6 \$20 million or something like that, and so, it was  
7 something that was in the back of our minds, we needed to  
8 plan for that.

9

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

26

27 Q. I think early on in the first long-term financial plan  
28 the budget assumes that the Commonwealth would be lending  
29 the Island or the council the money to do the work, or  
30 funding it itself, so the budget that was prepared did not  
31 embrace - that first budget - did not embrace the Island  
32 having to pay for the project.

33 A. No, obviously that could never happen, no. And then I  
34 think that, because we had had a loan before, and we had a  
35 loan, that was anticipated that that probably would be what  
36 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

4 Q. Same year.

5 A. So, the grant funding was granted and the loan was  
6 waived, so there was then the underlying thought that then  
7 we could borrow for anything that was above.

8

9 Q. Yes, because that 10.5 that was sitting on your  
10 balance sheet was obviously a problem for your net  
11 position?

12 A. No, not necessarily.

13

14 Q. Until it was waived?

15 A. Yeah, I mean, we had a very good deal - we managed to  
16 actually broker a very good deal where we were only needing  
17 to pay \$200,000 a year instead of the \$1.2 million.

18

19 Q. And no interest?

20 A. And no interest, so it wasn't an impost. Now, it's  
21 actually responsible financial management to borrow money  
22 for intergenerational assets, it's enshrined in the Local  
23 Government Act too, so borrowing is not detrimental to your  
24 bottom line at all if it's done in a way that it is  
25 intergenerational.

26

27 Q. So, in the first long-term financial plan the budget  
28 timeframe for the airport is around 2020/2021?

29 A. Or 19/20, yeah, I can't recall.

30

31 Q. 2020/2021, and then CASA came out and inspect the  
32 airport in 2017 and do a report; do you remember that?

33 A. Their report is based on the commissioned report by an  
34 expert who goes and does the total assessment of the  
35 airport itself, and that's an annual assessment, and that  
36 report is then sent to CASA; CASA puts their observations  
37 to you, they don't actually do the inspection and that,  
38 yeah.

39

40 Q. No.

41 A. Yeah.

42

43 Q. But the end result of that 2017 review by whoever was,  
44 CASA indicated that it was essential that the airport be  
45 resurfaced sooner rather than later?

46 A. The 2017 report by the consultant who does the report,  
47 in there it says that the condition assessment says that it

1 needed to be done that time. And then you have to report  
2 back the observations; you have to report back to how  
3 you're going to mitigate that risk or those observations,  
4 and one of the mitigations was that we will appoint a  
5 pavement engineer, we will do certain immediate work that  
6 needed to be done. There was almost like a sunk area in  
7 front of the terminal where the aircraft stopped and that  
8 had to be rectified as an immediate, for example, so there  
9 were certain things that we had to rectify immediately.  
10 So, we had to show a plan that we would do that, and that  
11 included the reseal as well. So, then they were satisfied  
12 that we had a plan to do it in the timeframe that they  
13 recommended.

14  
15 Q. And your expert was someone who was nominated by the  
16 Commonwealth?

17 A. Yes, OTC and the CASA as well, yeah.

18  
19 Q. Tenders were called? Firstly, the specifications were  
20 set by the independent engineer?

21 A. I wasn't part of the drafting of the specifications  
22 but --

23  
24 Q. But they were fixed by someone?

25 A. Yeah. Again, we used the procurement agency to do it  
26 for us, or to assist us with probity and all of that to  
27 make sure that it was done appropriately. It was such a  
28 big contract, I even asked if the Commonwealth could do it  
29 for us but that was not appropriate.

30  
31 Q. So, come the second half of 2018, a tender process has  
32 taken place, you have three tenders, one of whom is Boral,  
33 and the evidence we've heard this week is that there were  
34 councillors who wanted to see the tenders. Do you recall  
35 that?

36 A. Yes.

37  
38 Q. Their evidence is that you allowed them to see the  
39 tenders on a confidential basis; is that right?

40 A. Yes, under pressure I agreed to let them look at the  
41 tenders.

42  
43 Q. Councillor McCoy says he got half an hour to go  
44 through the - firstly, I'll just go back a step.  
45 Councillor McCoy says he got half an hour in 2018 to have a  
46 look at the CASA report. Is he right about that?

47 A. I can't recall, but the CASA report itself was only a

1 few pages. And, can I just say with the CASA report, I had  
2 to ask for permission through CASA to actually show them  
3 that report.  
4

5 Q. Sure. No criticism is being made of you about this at  
6 all. Councillor Snell said that:  
7

8 *The general manager sent out an invitation*  
9 *to councillors that we could view the*  
10 *contracts in her office for a period of one*  
11 *and a half hours, without legal*  
12 *representation and not taking notes, just*  
13 *to have a look at the basis of those*  
14 *contracts.*  
15

16 I think, when he says "contracts" I think he means  
17 tenders.

18 A. Yep.  
19

20 Q. So, that's what happened?

21 A. I didn't set - put timeframes for any of that. Under  
22 pressure again, I said, "I will allow you to come to my  
23 office and look at them, you can't take them away, and it's  
24 not appropriate to take notes." That might have been  
25 something that I said. And, while they were in my office I  
26 was doing my work.  
27

28 Q. Did you yourself review the tenders?

29 A. Yes.  
30

31 Q. There was a biosecurity risk in this project if the  
32 rock was to come from the mainland; you understood that  
33 from the tenders, I take it?

34 A. Yes, there was an unknown risk because there was no  
35 requirement from biosecurity to do any treatment of the  
36 rock.  
37

38 Q. So, you weren't sure - you tell me if I'm wrong  
39 because I don't want to put words in your mouth here: you  
40 were unsure as to whether or not there would be a  
41 biosecurity requirement for rock brought to the Island; is  
42 that right?

43 A. That's correct.  
44

45 Q. The tender indicated that Boral estimated that there  
46 would be such a risk and that the risk might cost around  
47 \$4.2 million; you recall reading that?



1 A. Yes.

2

3 Q. At the time you considered the tenders, had you  
4 considered the likelihood of council getting approval to  
5 use the rock that was on the Island?

6 A. It was my wish that we would have had the quarry and  
7 rock on the Island since 2017; that's what I worked on so  
8 hard but I couldn't get there. And it was understood - I  
9 wasn't part of the specifications, but I was under the  
10 understanding already then that there was never going to be  
11 the rock on the Island to do the airport.

12

13 Q. The existing quarry had an approval for about 15,000  
14 tonnes; do you recall that?

15 A. I don't know if there was an existing approval or --

16

17 Q. We'll come to that in a minute when I show you the  
18 briefing note that you prepared; I just want to deal with  
19 the tenders at this stage. Did all of the councillors come  
20 to your office or was it just Councillor Snell and the  
21 Mayor?

22 A. I can't recall.

23

24 Q. If we could bring up the briefing document. Perhaps  
25 if I could hand you a hard copy of that. I should say in  
26 fairness to you, Ms Jackson, we have had the metadata for  
27 this document checked, given some of the things that  
28 Mr Wilson said. I'm going to show you a document here and  
29 a copy should be provided to the Commissioner and to my  
30 learned friends. In short, it shows that the document was  
31 created and last modified - sorry: that's the upload date  
32 is the 25th. You will see that the file name is 2019,  
33 19 February, and that the author was yourself. So, if you  
34 can just have a look at that document and re-familiarise  
35 yourself with it. Do you see that?

36 A. Yes, I have no problem with that, no.

37

38 Q. Page 3, you will have heard me ask Mr Wilson some  
39 questions about that second paragraph which says, "Boral  
40 has indicated"?

41 A. Yep.

42

43 Q. And I think the second-last sentence in that  
44 paragraph indicates your position, your evidence of a few  
45 minutes ago, that in lieu of knowing the accurate cost at  
46 this stage, which you didn't know, what you had from Boral  
47 was an estimate of \$4.2 million. That accords with your

1 recollection?

2 A. Yes.

3

4 Q. Did you speak to this paper when the matter was before  
5 council on 20 February 2019?

6 A. I believe Dr Greg White was actually in that meeting  
7 and spoke to the report; that's my recollection.

8

9 Q. Do you recall who else was present, other than  
10 Dr White, councillors and yourself?

11 A. The senior staff would have been there.

12

13 Q. It's the sort of matter that would suggest that  
14 Mr Taylor and Mr Innes-Walker would be there because they  
15 were the officers who had carriage of the technical side of  
16 the matter; correct?

17 A. Certainly, Mr Taylor would have been there. I can't  
18 say yes or no for Mr Innes-Walker.

19

20 Q. What about your, at that time, chief financial  
21 officer, Mr Wilson?

22 A. He would have more than likely been there, seeing that  
23 he was a senior officer.

24

25 Q. You would have heard me speak to Mr Wilson about this:  
26 three councillors say they came away from this meeting  
27 thinking that the project could cost between \$48 million  
28 and \$49 million; they're Councillors McCoy, Porter and  
29 Buffett. Councillors Adams and Snell say they came away  
30 from this meeting having already reviewed the tender and  
31 thought that Boral was going to assume responsibility for  
32 the biosecurity risk and they always understood that the  
33 extent of the council's liability was the \$44.898 million;  
34 that is, roughly \$45 million. What was your understanding?

35 A. Well, if I can just - seeing we've just heard  
36 Mr Wilson, my listening to him is that he's taking it from  
37 a pure financial position. My take of this is that the  
38 tender was what it was, the price; anything above the  
39 \$43 million that was granted by the Commonwealth would come  
40 out of a loan. And what we knew was the \$2 million; what  
41 we didn't know was this 4.2, and that would be in addition  
42 to anything else.

43

44 Q. Is another way of putting that, that there was a  
45 chance or a risk or a possibility that the cost of the  
46 project would be, to council, would be the \$2 million, plus  
47 the \$4.5 million, if that was the cost of the biosecurity,

1 if the biosecurity was necessary?  
2 A. That was a risk, but there was some mitigation  
3 illustrated in this report to that risk as well.  
4

5 Q. So, that mitigation involved variations to the  
6 technical work that was to be done?

7 A. That's correct.  
8

9 Q. And council made a decision that it didn't want to do  
10 that?

11 A. I don't have a resolution to that effect.  
12

13 Q. The evidence of a number of councillors was to the  
14 effect that they did not want to compromise the design  
15 features; you can't recall that?

16 A. I can't comment on that.  
17

18 Q. If there was a risk that it was going to cost more  
19 than \$45 million, can you explain why the budget that we  
20 took Mr Wilson to only referred to an expenditure of  
21 \$45 million?

22 A. Because that was what was known at that point in time.  
23

24 Q. Didn't you all know that there was a risk that it  
25 could be significantly more?

26 A. It wasn't known to the extent that we had confidence  
27 in what to put in the budget.  
28

29 Q. Responsibility for drafting the budget was  
30 Mr Wilson's, wasn't it?

31 A. The various managers in various areas, they assisted  
32 with that; they would draft their own budget, he would look  
33 at it, make sure that it was within the allocated revenue,  
34 et cetera.  
35

36 Q. Would you ordinarily expect your chief financial  
37 officer, when reporting in a budgetary or planning in a  
38 budgetary context for a 45, 46, 47, \$48 million contract,  
39 not to look at the base documents, the source documents,  
40 the tenders, the correspondence?

41 A. No, the chief financial officer wouldn't look at  
42 tenders, that's not part of the process.  
43

44 Q. Wouldn't he look at the winning tender, because that  
45 would be the - wouldn't that be, absent the final contract  
46 which had not been signed by the end of June, wouldn't he  
47 look at what the likely cost of this project was, at least

1 from Boral's perspective?  
2 A. He would more than likely be expected to look at the  
3 resolutions of council to what expenditure has been adopted  
4 and approved, but finance officers don't go in to look at  
5 tenders or matters like that, that's not --  
6  
7 Q. No, they don't look at tenders in the sense that a  
8 tender is being compared to other tenders, but by  
9 20 February a resolution had been - or on 20 February a  
10 resolution had been passed that involved council agreeing  
11 to go ahead with the project; it didn't specify a price.  
12 Do you recall that? Perhaps if I show you the resolution?  
13 A. The resolution. If that's the case, that's the case.  
14  
15 Q. Let's bring up the resolution because I want to raise  
16 that with you. Do we have that, the minutes of 20 February  
17 2019. Sorry, I should know this off the top of my head, I  
18 apologise, I've been over and over it.  
19 NIRC.PUB.001.0192\_0021. This was my point to Mr Wilson.  
20 when you look at paragraph 3 of the resolution:  
21  
22 *Council contributes any shortfall of*  
23 *funding for the project, over and above the*  
24 *funding provided by the Commonwealth ...*  
25  
26 Now, I'm not an accountant and I've never prepared a  
27 budget for local government but, if I was tasked with doing  
28 so, I might ask myself, what is the likely shortfall of  
29 funding for this project? And, if he'd have asked you that  
30 question, you'd have said what? Would you have said you  
31 didn't know? But, if the biosecurity risk is realised,  
32 it's going to be a lot more than \$45 million.  
33 A. Yes, but not necessarily, depends on the mitigation as  
34 well and what other measures that we can take to alleviate  
35 that.  
36  
37 Q. But again - but when you say mitigation, you've said  
38 mitigation about the biosecurity risk?  
39 A. Both that and also the other scenarios within the  
40 report where --  
41  
42 Q. But none of those scenarios were ever adopted, and  
43 this resolution says council accepts Boral resource be  
44 awarded the contract, and there was no suggestion that  
45 there be a negotiation in respect of the McVeigh  
46 variations.  
47 A. I will probably say that, we budgeted what we knew;

1 what we didn't know we would have to deal with when we  
2 knew, and we would have to deal with that in line with  
3 whatever resolution we had or we would have to go back to  
4 council and ask for another resolution. At this point in  
5 time any overruns would have to be a loan, so we had that  
6 resolution, so that was an avenue that we had as Plan B, so  
7 to speak.

8  
9 Q. When council come to pass the budget which says  
10 \$45 million at the end of June, was that questioned at all  
11 by councillors? Did any of the councillors say, "Hang on a  
12 minute, you told us back in February this might cost  
13 somewhat more than \$45 million"?

14 A. I can't recall them questioning it, and at that point  
15 in time we still didn't know whether that was going to be  
16 the cost or not.

17  
18 Q. Didn't you think it was important to tell them that,  
19 okay, this is what we know it's going to cost, but it could  
20 be more?

21 A. I think that was very clear; we had workshops --

22  
23 Q. You think that was clear to councillors?

24 A. We had workshops, we had that council meeting, Dr Greg  
25 White had spoken to them; that was also mentioned in the  
26 public meeting, I believe, which I didn't attend, but that  
27 was word-for-word in the paper later on.

28  
29 Q. Do you think it was clear to you?

30 A. Yes.

31  
32 Q. You think it was clear to the community, do you think  
33 it was clear to councillors?

34 A. The amount of information about it, I can't see why it  
35 wasn't.

36  
37 Q. Do you think it was clear to Mr Wilson?

38 A. Yes, but he looked at it from a budget perspective in  
39 what he needed to put into the budget, but I believe he  
40 would have understood that it was in addition.

41  
42 Q. What do you say to his assertion, or his evidence,  
43 that he didn't find out about the biosecurity risk until  
44 after the budget and close to the period - close to the  
45 time at which he left council?

46 A. I find that that would be difficult not to know being  
47 on the Island.

1  
2 Q. If the risk came home to roost - sorry to use that  
3 metaphor, perhaps I'll put it a different way. If that  
4 risk came to be realised, the call on the cash reserves of  
5 the council would have been significant?

6 A. Not necessarily if you take out a loan.  
7

8 Q. But no loan was taken out?

9 A. Well, I wasn't there at that time. I would have  
10 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

16 THE COMMISSIONER: Q. It says, Ms Jackson, in  
17 these minutes that the loan was to come from the Norfolk  
18 Island International Airport Government Business  
19 Enterprise, which implies to me that the loan was to come  
20 from an internal source because that funding from the  
21 enterprise went into the council. So, is that correct?

22 A. No, it meant that council would take a loan, hopefully  
23 from the Commonwealth, and if the Commonwealth wouldn't  
24 lend the money, go to a commercial bank, but it would be  
25 funded by the airport as an entity; that's what that is  
26 saying.  
27

28 Q. It says "by way of a loan from the Norfolk Island".  
29 When we questioned the councillors, they all indicated that  
30 they understood it to be coming from the funds that would  
31 be raised from the airport, but they then went on to say  
32 that COVID actually impacted on that funding.  
33

34 So, there seems to be a lack of - a whole lot of  
35 confusion around where this loan was to come from, because  
36 there's no documents that I've read so far, there's  
37 absolutely nil reference to any possible loan from the  
38 Commonwealth; in fact, the councillors went as far to say  
39 that they were very, very clear from day one that the  
40 Commonwealth put a cap - or used the word "cap" during the  
41 hearings last week on the amount of \$43 million, so they  
42 felt that the liability, wherever the money was to come  
43 from internally, was definitely not coming from the  
44 Commonwealth.  
45

46 So, I'm a bit surprised that today, on the last day of  
47 the hearing, we've got two people from the council talking

1 about a loan from the Commonwealth when there's not a  
2 single document that references that, and none of the  
3 councillors had any view of that and none of the other  
4 council staff had a view of that.

5 A. Okay, so, in the budget you would have seen that it  
6 actually specifies a loan of \$2 million for the airport  
7 project; that's the \$2 million on top of the 43.

8

9 Q. Yes.

10 A. So, yes, there was a cap, that was the grant money  
11 that we would get. We were given the grant money  
12 conditional on, that council would pay for anything above  
13 the \$43 million. So, I can see that this can be confusing,  
14 number 3 here, so it was a loan serviced by the airport, if  
15 that clarifies it to you, Commissioner.

16

17 Q. But the loan would come --

18 A. No, would come from - wherever we could find the loan  
19 but because the Commonwealth had written off our previous  
20 loan it was assumed or inferred that we could probably  
21 borrow from them again.

22

23 Q. Okay.

24 A. And, if that wasn't possible, we'll go to the bank.

25

26 Q. So that was obviously an internal discussion that  
27 happened amongst the council staff, because it certainly  
28 wasn't a discussion that any of the councillors raised?

29 A. Well, I can't comment on that, I'm sorry.

30

31 Q. Or was it a discussion around raising the money from  
32 the Commonwealth had occurred amongst the senior council  
33 staff? Because, I mean, that was put together and there  
34 was an understanding that you're explaining to me that the  
35 loan would come from the Commonwealth and be serviced by  
36 the airport --

37 A. Airport.

38

39 Q. There must have been a discussion at a senior level  
40 that that was the idea and the intention?

41 A. Yeah, more than likely; you know, how do we pay for  
42 any overruns, what's the best way for an asset like that  
43 who has a life-span of 15 years or so; that is reasonable  
44 then and financially responsible to take out a loan for  
45 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

4 Q. Because I want to make sure I represent the issues  
5 correctly.

6 A. Yeah.

7

8 Q. So, there was a discussion at a senior level in  
9 council, I presume involving the CFO, that the money - that  
10 you were both of the same view that the money was  
11 presumably going to come from the Commonwealth, that you  
12 were aware there could be a cost overrun but you were  
13 pre-approaching the Commonwealth to get a loan, if there  
14 was such an overrun?

15 A. Yes. I mean, look, that's the way local government  
16 works; you have to get loans, you have to take --

17

18 Q. I'm aware how a local government works, I used to be  
19 responsible for a local government in New South Wales, so  
20 what I'm trying to understand is, not how councils work,  
21 I'm trying to understand exactly what happened within the  
22 council to get to point number 3, that a loan was coming  
23 from somewhere, and you've just explained to me that the  
24 way this is written is confusing, it was actually in the  
25 minds of senior people in council that it was coming from  
26 the Commonwealth; then it would be serviced by the airport?

27 A. Yes, more than likely that - the first - when you're  
28 government, you try to borrow from government, number one,  
29 so that's why I'm saying Commonwealth because we didn't  
30 have a state government, so we go to the Commonwealth.  
31 That's the first port of call when you say you're going to  
32 borrow money.

33

34 Q. So, was it ever discussed?

35 A. It must have been discussed. We had workshops with  
36 the councillors, we as a senior team we met weekly and we  
37 discussed all matters at hand.

38

39 Q. So, at the senior management level you discussed all  
40 these kind of matters, that there potentially could be a  
41 cost overrun but there wasn't a whole lot of worry about it  
42 because you could approach the Commonwealth to get a loan  
43 similar to the way loans have been got before, but you were  
44 generally of the view that there was going to be an amount  
45 of overrun, which is why you've got the recommendation  
46 there?

47 A. We knew that there was an overrun when council adopted



1 this resolution, because there was \$43 million from the  
2 Commonwealth and the contract was almost 45, so we knew  
3 straight up we needed to fund \$2 million. Should we say no  
4 to a grant for \$43 million? I could not take that risk. I  
5 was responsible for the airport.  
6

7 Q. So, your view is that the \$4 million potential overrun  
8 for the biosecurity, even though this whole decision here  
9 talks about exploring other options and going to the  
10 Ministers and so on, only relating to the rock, only  
11 related to the \$2 million but not the rock? Because I find  
12 that hard to understand.  
13

14 You've got a whole lot of series of recommendations  
15 relating to rock. You said earlier in your evidence that  
16 rock was a big issue and you spent a lot of your time on  
17 the Island trying to actually source Island rock but you  
18 were unable to do that. Then Boral comes along and says,  
19 "You need rock", and you know that it's hard to achieve on  
20 the Island. So, then the option is to bring it in, and  
21 then there's community opposition to the idea of bringing  
22 in outside rock because it has to be cleaned, so there's a  
23 biosecurity cost, so Boral flags that in their tender.  
24

25 Then the tender is accepted with everyone knowing that  
26 that still needed to be explored, even though there was a  
27 view that you hadn't been successful in getting rock so  
28 far, so you put in a provision, which seemed sensible to me  
29 at the time, that if you did have a cost overrun - which I  
30 presume relates to the rock because that's what this is  
31 about - it would come from a loan from the Commonwealth.  
32

33 All I'm trying to establish is whether the senior  
34 executive of your council discussed the Commonwealth as an  
35 option for funding the rock transfer from the mainland?

36 A. Not the transfer but any overrun.  
37

38 Q. The biosecurity costs?

39 A. And if that be biosecurity costs or whatever the  
40 overrun would be; look, any big project would potentially  
41 have an overrun.  
42

43 Q. So, you were all aware there could be - I know why it  
44 wasn't in the budget, I understand that you didn't put it  
45 in the budget because you didn't have a firm figure - but  
46 you were all aware, in February, that there could have been  
47 a \$4.2 million overrun if the quote around biosecurity that

1 Boral put forward was realised because you could not source  
2 the rock on the Island?

3 A. Yes. Well, I certainly was aware of it, yeah.  
4

5 Q. Okay, that's what I was trying to establish. And your  
6 executive would have been discussing those matters with you  
7 at that time, because it's a fairly significant issue?

8 A. Yeah, more than likely. I mean, this was something  
9 that was discussed Island-wide.  
10

11 Q. So, Mr Wilson would have been part of those  
12 discussions?

13 A. He would have, yes.  
14

15 THE COMMISSIONER: Okay, thank you.  
16

17 MR BOLSTER: Q. It may assist you, Ms Jackson, if we  
18 could go back to NIRC.001.0002\_0005, it's the document you  
19 have in front of you at tab 14. So, page 5 of that. You  
20 see on page 5 there is a box, "Financial Implications"?

21 A. Sorry, it doesn't have a page number.  
22

23 Q. The page is right up the top.

24 A. Oh, right, yes.  
25

26 Q. You see, \_0005?

27 A. Yes.  
28

29 Q. It says, "Financial Implications". Underneath the  
30 quote, the italicised quote there's this wording:  
31

32 *Therefore council and the elected members*  
33 *is required to be supportive of the project*  
34 *and be prepared to pay for any funding*  
35 *shortfall. Boral's costing is close to the*  
36 *available grant funding and it is*  
37 *anticipated that negotiations will be*  
38 *possible to find savings.*  
39

40 I think your evidence would be that those savings were  
41 the savings that had been listed.

42 A. Yeah.  
43

44 Q.

45 *This will minimise the cost to council and*  
46 *it is recommended that any such outlay by*  
47 *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  
6       there - that would seem, on one view, to suggest that the  
7       airport was going to take out a loan.

8       A.    The airport, there were no separate funds, so again --

9

10      Q.    No, council is the airport, the airport is council.

11      A.    That's correct.

12

13      Q.    There's no separate entity.

14      A.    That's right, there's no separate entity; but the way  
15      the business enterprises, as they used to be called - we  
16      continued using that word because that was what the  
17      community was familiar with.

18

19      Q.    It doesn't suggest there that it would be a loan from  
20      the Commonwealth, that's what I'm suggesting to you?

21      A.    Okay, yeah, no --

22

23      Q.    At the time it would not appear that the source of  
24      funds was to be the Commonwealth?

25      A.    No, but it was supposed to be a loan that was serviced  
26      by the airport.

27

28      Q.    By the airport. So, wherever the loan came from, it  
29      wasn't going to be from the Commonwealth, I want to suggest  
30      to you?

31      A.    No, that's not correct.

32

33      Q.    Wherever the loan came from, it would be paid for out  
34      of airport revenue?

35      A.    That was the aim. At that point in time the airport  
36      was doing really well.

37

38      Q.    Okay.

39

40      THE COMMISSIONER: I just want to ask another question,  
41      Mr Bolster. Sorry.

42

43      Q.    On the issue around the loan from the Commonwealth,  
44      was there any approach to the Commonwealth, at  
45      about February 2017 --

46      A.    No.

47

1 Q. -- to actually --

2

3 MR BOLSTER: 19.

4

5 THE COMMISSIONER: Q. Sorry, 19: to actually ask them  
6 about whether they would actually consider a loan?

7 A. No.

8

9 Q. So, there was no consideration that a loan was even  
10 something that they would agree to?

11 A. No.

12

13 Q. So, it was a hypothetical that it would come from the  
14 Commonwealth?

15 A. Yeah, my risk assessment on this was based on the risk  
16 of doing the reseal or not doing the reseal.

17 Q. So on one hand you've got the risk of not having the  
18 rock, and you've got the risk of the biosecurity costs, and  
19 then you've got another risk because you may not even get  
20 the loan?

21 A. The risk for me was, if a plane lands and it's unsafe  
22 and there is an accident or incident, that I'm the one  
23 who's liable for that and all those people that potentially  
24 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  
34 constantly pressured on me to defer this project because we  
35 didn't have the funds, we didn't have the rock, so let's  
36 just leave it for another two to three years. I could not  
37 live with that, and I was alone on that, and I would take  
38 the risk and say that, yes, let's take out a loan for any  
39 overruns rather than not doing this project.

40

41 MR BOLSTER: Who --

42

43 THE COMMISSIONER: I just want to ask you another  
44 question. Sorry, Paul.

45

46 Q. In respect of the money that might have to come from  
47 the biosecurity: given that there was a chance, you know,

1 of some degree, of which you would think would be a high  
2 chance given your understanding of the rock issues, you  
3 never thought that you should even raise it with the  
4 Commonwealth about whether they would even service such a  
5 loan?

6 A. I constantly spoke with the Commonwealth about a raft  
7 of matters. The Commonwealth wanted me to defer this for  
8 two to three years.

9

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

12

13 MR BOLSTER: Q. Did the pressure to defer come from the  
14 Commonwealth, did it?

15 A. As well --

16

17 Q. Who else?

18 A. -- as the community, as the councillors.

19

20 Q. Come July, Boral present a \$5million contract to  
21 resurface 9 kilometres of the roads. That was outside the  
22 budget, the budget did not have cash to fund that, and the  
23 resolution that deals with that refers to council using its  
24 cash reserves.

25 A. Yes, we had cash at the time.

26

27 Q. You see, at the end of January the cash position was  
28 about \$10 million in unrestricted funds. If you accept the  
29 risk that the airport would cost an extra six, seven,  
30 \$8 million, and on top of the \$5 million that was in the  
31 Boral roads contract, the only way, absent a loan, that  
32 those two contracts could be paid for was out of council's  
33 cash reserves?

34 A. The aim was to get a loan, and that was what the  
35 resolution said, so as officers we implement the resolution  
36 of council. If it says a loan, you endeavour to get a  
37 loan. And in this instance with the roadworks, there was  
38 cash in unrestricted. Internally restricted can also be  
39 modified by council resolution.

40

41 Q. Do you agree with the proposition that it was  
42 imprudent to proceed with the \$5 million road contract at  
43 the time, given the risk of the total cost of the airport  
44 contract and the amount of unrestricted funds that were  
45 then available?

46 A. I was not there when they actually did that, so I  
47 can't comment on that.

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Q. You were there in July when they accepted Boral's tender.

A. That's when we also had accepted a resolution to take the loan out of any overruns, and that was also a situation whereby we would then have to look at our restricted funds for that year, what was in there, is there anything in there that we can actually change if we need to.

Q. Restricted funds at that time were the superannuation, leave entitlements of employees?

A. No, there would have been capital works for that year too.

Q. But only capital works that had been contracted?

A. I don't have those figures in front of me.

Q. The Grassroots and Nexia reports, have you had an opportunity to read them?

A. I have skimmed through them, yeah.

Q. Is there anything that you want to say in answer to them that the Commissioner needs to know about?

A. I think there's a lot of good analysis in there. I think this constant that you have to go and seek funding from the Commonwealth, it's a constant battle, and trying to run an organisation with those constraints, which you also have constraints in local government on the mainland, but at least there's an avenue to have a state that is responsive to that; I think that's something that needs to be worked out, to look at a structure.

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

Q. In closing, is there anything further that you wish to say to the Commission before we finish?

A. I think there are great opportunities and I thank you for me providing evidence here, and I do apologise for being emotive, it's just some anxiety that's rising up in me in relation to the responsibility that I had for the

1 airport with those pressures around me, because the safety  
2 was the number one for me and I apologise for raising my  
3 voice, that wasn't my intent. It was the pressure that I  
4 was under at the time, so I do apologise for that.

5  
6 THE COMMISSIONER: Thanks, Ms Jackson.

7  
8 MR BOLSTER: Thank you, no further questions from me,  
9 Commissioner.

10  
11 THE COMMISSIONER: Mr Simone?

12  
13 MR SIMONE: Yes, just a couple of discrete questions,  
14 Commissioner.

15  
16 <EXAMINATION BY MR SIMONE: [1.37pm]

17  
18 MR SIMONE: Q. Ms Jackson, I understood your evidence  
19 about the availability of a loan from the Commonwealth  
20 Government in relation to the airport contract. You also  
21 suggested that, if a loan wasn't available from the  
22 Commonwealth, that you could obtain a loan elsewhere.  
23 Could you speak a little bit to that and explain what you  
24 had in mind?

25 A. What one would usually do is, if you don't ask  
26 government, if you don't get a loan from another government  
27 entity, you go to the commercial banks.

28  
29 Q. And, how confident were you about whether the council  
30 could have obtained a loan from the commercial banks at  
31 that time?

32 A. Seeing that the council of Norfolk Island hadn't had a  
33 commercial loan before, I didn't have an experience of  
34 that; I certainly have had experience of commercial loans  
35 in other councils.

36  
37 Q. In relation to your experience in those other  
38 councils, what factors did you find were persuasive to  
39 commercial banks in their rendering available to councils  
40 funds of this nature?

41 A. They would look at your working funds and your  
42 cashflow, which for us was very good.

43  
44 Q. So, taking that answer, in your view do you think  
45 there were any factors within Norfolk Island Regional  
46 Council which would have suggested that it would have been  
47 a good borrower for a commercial bank?

1 A. They would have looked at our financial reports, for  
2 example, they would have looked at, that they were  
3 unqualified, they provided two surpluses in a row, we had  
4 cashflow that was strong. I can't speak for the banks, I  
5 can just speak for the data that we would provide.  
6

7 MR SIMONE: No further questions, Madam Commissioner.  
8

9 THE COMMISSIONER: Okay. Well, thank you, Ms Jackson,  
10 you're excused from your summons, and thank you for  
11 travelling here today to actually give evidence.  
12

13 <THE WITNESS WITHDREW  
14

15 MR BOLSTER: Commissioner, can I please tender the  
16 metadata report for the document that we were looking at.  
17 For the record, it should be the metadata for the tender  
18 evaluation airport pavement repair and resurfacing project  
19 report, and that will be Exhibit 10.  
20

21 **#EXHIBIT 10 - METADATA FOR THE BRIEFING PAPER FOR THE**  
22 **AIRPORT PAVEMENT REPAIR AND RESURFACING PROJECT.**  
23

24 THE COMMISSIONER: Thank you, Mr Bolster. This brings us  
25 to the end of the public hearings for the Public Inquiry  
26 into the Norfolk Island Regional Council.  
27

28 Thank you everyone who has assisted the inquiry team  
29 so far. In particular, I would like to thank the people  
30 who have appeared as witnesses both on Norfolk Island and  
31 here this week in Sydney.  
32

33 I'd also like to thank those people that put in  
34 summons - responded to our summons in a timely way, and  
35 also for all those people that put in submissions. There  
36 have been a number of people that have corresponded with  
37 the Inquiry in the last couple of weeks and I'm aware of  
38 the issues that they have raised.  
39

40 Over the next few weeks counsel assisting will draft a  
41 detailed written submission outlining the facts and the  
42 findings they think I should make. That will be based on  
43 the evidence we have heard and the documentary evidence, so  
44 not just the witnesses' statements but also the documents  
45 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  
10 Counsel assisting will then provide me with  
11 submissions in reply taking into account any responses I  
12 receive, and I then will provide a report within six to  
13 eight weeks to the Minister for Regional Development and  
14 Territories, The Honourable Nola Marino MP.

15  
16 So, thank you again for your time and willingness to  
17 support the work of this Inquiry. The hearing is now  
18 closed.

19  
20 **AT 1.40PM THE PUBLIC INQUIRY WAS CONCLUDED**