# PUBLIC INQUIRY INTO THE NORFOLK ISLAND REGIONAL COUNCIL

**South Pacific Hotel Board Room**

# 110 Taylors Road, Norfolk Island 2889

**Before: Ms Carolyn McNally, Commissioner**

# Counsel Assisting:

**Mr Paul Bolster Ms Kathleen Morris**

# On Wednesday, 2 June 2021 at 9.05am NFT

**(Day 3)**

1 THE COMMISSIONER: Mr Bolster.

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1. MR BOLSTER: Thank you, Commissioner. The first witness
2. today is Mr McCoy who is sitting in the hearing room, if he
3. could please come forward.

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# 7 <ALAN JOHN MCCOY, affirmed: [9.05 am]

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# 9 <EXAMINATION BY MR BOLSTER:

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1. MR BOLSTER: Q. Mr McCoy, for the record could you
2. indicate your full name, please?
3. A. My name is Alan John McCoy.

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1. Q. You've lived on Norfolk Island all your life?
2. A. I've had a short period off Island for seven years, so
3. five years I lived in Surfers Paradise and another two
4. years up in Macquarie, and that was - I returned back to
5. Norfolk Island nine years ago.

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1. Q. Before your election to the Norfolk Island Regional
2. Council, you had a fairly long history in the Norfolk
3. Island Assembly?
4. A. I certainly did, I was a member of the 10th and 11th
5. Assembly.

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1. Q. Did you hold office?
2. A. I held office for a short period, I was the Minister
3. for Health and Environment.

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1. Q. In that period, did you have a close involvement with
2. the budgetary processes for the government?
3. A. Yes, as I said, as Assembly members, we sure did; when
4. budgets were - was due for the budget process to occur,
5. that would start in about March, and the senior staff of
6. administration at the time would come and present their
7. bids and we would go through the budget line-by-line to
8. come up with a final budget which the Assembly would be
9. comfortable with, which then the Minister for Finance would
10. still need to have that budget passed.

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1. Q. Who was the Minister for Finance and who was the Chief
2. Minister when you were in the government?
3. A. At that time the Minister for Finance was Ronald Coane
4. Nobbs, and he was also the Chief Minister.

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47 Q. Then you had a period away from the local government

1. until the transition period began and you ran for office.
2. What was the thing that attracted you to nominating for the
3. council elections?
4. A. Well, basically to make improvements to Norfolk, to
5. put in place, for example, plans and management for
6. reserves, to improve our waste management system, to
7. upgrade our road network, to have kerb and channelling, you
8. know, to manage the runoff of water from the roads in a
9. better manner than we did, and also, yeah, we had a lack
10. of - at that time a lack of rock source feed for the
11. industries on the Island, for housing, for the road, so in
12. order to achieve improving the roads network, making
13. repairs where necessary, that I felt I could be of benefit
14. to the community.

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1. Q. I take it though that all of those issues you just
2. mentioned, they'd been issues that have confronted the
3. Norfolk Island Government before 2016?
4. A. Correct.

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1. Q. And there's been a difficulty in meeting those needs
2. in the years leading up to 2016?
3. A. Well, there had been money expended on road repairs
4. but, as I mentioned, I had a vision that we needed to have
5. a better system of the water run-off from the roads and to
6. try and capture, through swales and mini dams, some of that
7. water so it would permeate back into the Island. It's more
8. of an environmental matter as such, the same with the waste
9. management system.

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1. Just on the waste management system, a report had been
2. prepared by Anne Prince which needed to be implemented, so
3. I felt I could be of benefit in that area, because simply I
4. just believe that we need to improve how we treat the waste
5. on the Island.

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1. Q. Just on the roads, to what extent has the condition of
2. the roads been a safety issue? We've struggled to find
3. statistics about accidents and fatalities; are the roads
4. that dangerous on Norfolk that you've had those sorts of
5. problems arise?
6. A. Well, that is a difficult question to answer because
7. I'm not aware of any accidents on the Island that were a
8. direct result of the condition of the roads.

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1. Q. We've obviously become familiar with the roads and
2. we've driven along a number of them ourselves and we can
3. see a difference between what occurred in 2019/2020 with
4. some of the areas of the roads that are on the more remote
5. parts of the island where there are steep grades, dips,
6. sharp turns, and the surface is of a very poor quality. To
7. do anything meaningful about the roads would, obviously I
8. take it, involve quite a lot of work, quite a lot of
9. expenditure, far more than the $5 million that was spent
10. over the last two years; you'd agree with that, wouldn't
11. you?
12. A. I would agree. A quick example: there was a section
13. of roadworks repaired just along Taylor's Road over here.
14. In the early days of council I requested a breakdown of the
15. figures for the seal works, the footpath and the gutter and
16. kerbing so that, when council puts a budget together to do
17. roadworks, we had an understanding of what it would cost
18. per metre, per kilometre, to do the resurfacing, to do the
19. gutter and channelling; I got an answer back to say, "The
20. roadworks cost $500 million and was paid for by the
21. council." That was it.

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1. Q. That was a request to whom and who gave the answer?
2. A. To senior staff.

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1. Q. Anyone in particular? Mr Taylor, or was it the
2. general manager?
3. A. Yes, correct.

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1. Q. When you were elected were there groupings of
2. candidates? Was there a ticket or were there informal
3. parties or associations?
4. A. No, not on my part. I stood independently, I'm always
5. an independent person, so I was not part of any party and I
6. was not aware of any other councillors being part of any
7. party or - oh well, some of the councillors are members of
8. the Labor Party et cetera, but as far as forming a group on
9. the Island, I couldn't answer that.

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1. Q. What about on council when it came to voting on
2. issues, were there groupings or alliances that voted a
3. particular way?
4. A. Well, I wouldn't say that, you know, there was no real
5. alliance because there were difference of opinions between
6. the five councillors, we did not all agree or say, well,
7. I'm going to vote the way a particular councillor wants to
8. run.

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47 Q. When you were first elected, were you given any

1. training in the way in which you would have to operate
2. differently under the Local Government Act compared to
3. self-governing?
4. A. The Local Government Act, we were given approximately
5. three hours to go through, I believe it was Susan Law, with
6. Peter Gesling to walk through the Local Government Acts,
7. you know, 400 sections or clauses, which of course a lot of
8. them became applied laws which would be applied to the
9. Island as time went on. So, that was it, but then we had
10. training like as a council with (indistinct), I believe his
11. name was, that was over a three-day period which was, you
12. know, hugely beneficial, I believe, to transition to become
13. a council.

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1. Q. What did you take away from that training?
2. A. Well, simply how a councillor should operate, how a
3. councillor acts in council meetings, what we can do as
4. councillors, moving motions, whether recommendations - but
5. one of the more important things is the financial side of
6. how a council operates and really, when it comes to the
7. public monies, it's no different to how the Assembly
8. operated, it was a responsibility - we owe a responsibility
9. to expend public funds in a responsible manner.

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1. Q. You'd be familiar with the sort of propositions - I
2. don't know whether you were here yesterday for Mr Buffett's
3. evidence? You weren't, okay. We might show you some
4. provisions in the Act and see if these matters were pointed
5. out to you.

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1. If we can go, please, to section 8B, page 37. There's
2. a set of principles of sound financial management. The
3. first of those is:

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1. *... responsible and sustainable, aligning*
2. *general revenue and expenses.*

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38 Is that something that your attention was brought to

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| --- | --- | --- |
| 39 | at | the beginning of the local government process? |
| 40 | A. | Well, are you asking without training or what? |
| 41 |  |  |
| 42 | Q. | Yeah, with the training; I'm focusing on -- |
| 43 | A. | Well, yes, I would say, yes. |
| 44 |  |  |
| 45 | Q. | Was sustainability an issue that was conveyed to you |
| 46 | as | being important in the training you received? |
| 47 | A. | Yes. |

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1. Q. "Aligning general revenue and expenses", I take it,
2. you would understand that means balancing the budget?
3. A. That would mean balance, yes, I understand that's
4. balancing the budget but --

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1. Q. You would be familiar with that from your --
2. A. Correct, and if I can elaborate on that, you mentioned
3. on Monday that the council assets that were passed on to
4. council were in a poor to fair condition, so as a
5. councillor I felt I had an obligation to invest in improved
6. infrastructure, and if you want me to go through where
7. council invested monies to replace ageing infrastructure, I
8. can elaborate.

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1. Q. No, we'll get to that in due course, I want to give
2. you that opportunity and, if I don't, please remind me
3. because I want you to have the opportunity to say that.

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1. *... effective financial and asset*
2. *management, including sound policies and*
3. *processes for ... performance management,*
4. *asset maintenance, funding decisions, risk*
5. *management practices.*

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1. Were those issues conveyed to you by the people who
2. gave you the training?
3. A. Yeah, reflecting back, yes.

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1. Q. If we could go, please, through to section 223, the
2. role of the governing body is to direct and control the
3. affairs of the council, to provide effective civic
4. leadership, ensure, again, financial sustainability.

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35 Then (d), which is:

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1. *To ensure as far as possible that the*
2. *council acts in accordance with the*
3. *principles set out in Chapter 3 ...*

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1. And Chapter 3 includes those four financial management
2. principles that we just went through. Did you understand
3. that the governing body, that is the five of you, the five
4. members of council, had to ensure as far as possible that
5. you acted in accordance with those principles?
6. A. Without a doubt because, quite simply, whilst a lot of
7. it becomes operational, as a councillor I felt that I had a
8. right to glean from the officers why and where they were
9. spending funds. So, when it comes to that, it became a
10. grey area for me, as to who actually held that
11. responsibility, so when financial matters were put to
12. myself as a councillor, I took that on good faith and spent
13. many, many hours trolling through the council budgets and
14. asking questions, but one of the differences is, we did not
15. get to through the budget line-by-line.

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1. Q. Why was that?
2. A. I'm not the general manager.

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1. Q. The budget was something that was presented to you in
2. late May, early June each year for the following years?
3. A. Correct.

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1. Q. The budget was something that you as a council had to
2. sign off on, wasn't it?
3. A. Correct.

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1. Q. From time to time officers put forward a range of
2. revenue measures to improve the financial position of the
3. council, didn't they?
4. A. Yeah, they certainly did, and you know, I rely very
5. heavily on the audit reports, monthly audit reports, the
6. investment report, and also the annual report which was
7. prepared by Pitcher Partners to compare how the council's
8. travelling with the income and expenditure. But there's -
9. yeah, you may get to an area where I can answer, you know,
10. questions as to some of the difficulties that were
11. encountered during the early days of council with the
12. budget. The budget was passed on from --

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1. Q. Let's talk about that, shall we. The first budget was
2. prepared by the administration?
3. A. By a consultant.

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1. Q. And that person was meant to continue for another
2. three months to finish the council's accounts?
3. A. Yes, correct.

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1. Q. And he resigned on 30 June, said "I'm out of here."
2. A. Correct.

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1. Q. Council staff then had to finish the Norfolk Island
2. Government's accounts for the previous year, didn't they?
3. A. Correct.

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1. Q. One of the features of that budget was, it predicted a
2. deficit of about $4.2 million; correct?
3. A. Correct, yep.

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1. Q. Then, in November, you received a report from council
2. staff which said things were looking worse than that?
3. A. That is correct, I believe it had increased by
4. a million.

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1. Q. And a new financial plan was presented to you, a
2. 10-year financial plan; do you remember that?
3. A. Well, a long-term financial plan was presented, but
4. there's also of course the operational plan which is what
5. you're referring to in the budget as the budget.

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1. Some of the - well, some of the income that council
2. indicated the council would receive from the Commonwealth
3. had not been sorted, so therefore that's why there was a
4. deficit of that amount, because there was still matters
5. that needed to be addressed between the Commonwealth and
6. council, but that matter was addressed with council staff,
7. not councillors and Commonwealth officers.

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1. Q. Let me see if I understand this correctly. There was
2. a shortfall in funding you had been anticipating from the
3. Commonwealth through the service delivery agreement in the
4. early months in the first year?
5. A. Correct.

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1. Q. That was resolved for the second, third and
2. fourth years; correct?
3. A. Well, yeah, if I --

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1. Q. It was improved?
2. A. It was improved, that is correct, but still if you
3. read through some of the documents that are not council
4. papers you'll see quite clearly there was the issue of
5. negotiating between the Commonwealth and New South Wales
6. for service delivery agreements, and then of course there
7. was the issue of what service delivery agreements would be
8. held between the council and the Commonwealth.

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1. Q. Leave aside New South Wales, that's education and the
2. hospital?
3. A. That is correct, but that was an issue that had not
4. been sorted prior to the council budget being developed.

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| 1 |  | |
| 2 | Q. | But that was off the council budget, wasn't it? |
| 3 | A. | Well, I couldn't - I cannot answer that. |
| 4 |  |  |
| 5 | Q. | Perhaps if we summarise the position: by this last |

1. financial year Commonwealth operational grant funding had
2. virtually doubled from where it was in the first year, so
3. all of those issues had been effectively - well, if not
4. resolved, let's say substantially improved; you'd agree
5. with that?
6. A. Well, it has improved, but there's underlying reasons
7. why: you know, would anything have changed if COVID didn't
8. happen? And, just harking back on the improvement and the
9. mechanisms to get the SDA agreements in place and the FAGs
10. agreements, because if I remember correctly we hadn't
11. received any FAGs in the first budget. Then there was the
12. Grants Commission which indicated that funding from the
13. Commonwealth was not sufficient and there will be financial
14. issues for the council as time went on, it would increase.
15. So, these are some of the underlying matters I referred to
16. when I say that which had not been addressed correctly.

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1. Q. I want to turn to then revenue measures that council
2. took over the four years effectively to improve the
3. situation, particularly in light of these other matters
4. that are going on in parallel. For example, a contentious
5. issue: rates and broadening the rate base and increasing
6. rates. What was the reason for council's reluctance and in
7. some cases opposition to increasing rates over time?
8. A. Well, there's a number of matters. Firstly, as a
9. Norfolk Islander, I don't see land as an asset, it's
10. something that we enjoy whilst we occupy that property to
11. pass on to try and maintain and to pass on to future
12. generations; it's - I guess it's matrimonial land, it is
13. not a consumable, it's not something that - so, that's
14. that.

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1. Then there's the matter of, there are some large
2. landholders who adopt that policy and they are retirees,
3. then their asset value prohibits them from being able to
4. get a pension. Then there's, if I remember, at the last
5. census 2016 there was 1,080 houses on the Island. Off the
6. top of my head, I think there's around 4,000 ratable
7. properties, so 25 % is covering the cost of land rates.
8. Now, you might understand there are some members of the
9. community who have a number of portions, ratable portions.
10. Like, when the general manager said the other day the
11. average cost is $500 - that's totally incorrect. There are
12. some in the community who pay up to $8,000 in rates a year.
13. Personally, I pay $700, you know, so --

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1. Q. How big is the block that you have for $700?
2. A. I have three acres of rural land. I know we keep
3. getting told that's how rate - how it is in Australia:
4. well, sorry, this is not quite Australia, and this is not a
5. council similar to any other council in Australia, as
6. you're well aware.

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1. But then, so to change - I put up a motion, if you
2. would like to hear, to remove land rates but to replace it
3. with a consumer-based levy and I couched it as an
4. environmental levy which would collapse five fees into one
5. which include the land rates, the water assurance scheme,
6. waste management import levy, the waste management ticket
7. collecting system and also the fuel levy.

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1. If I can talk on the - I think the waste management
2. ticketing was cumbersome. Also the water assurance scheme,
3. it was only in the Burnt Pine area, so you have around 280
4. properties who cover the cost of running the water
5. assurance scheme, and for council to try and build up funds
6. to replace that scheme, which is now 30-odd years old, is
7. nigh-on impossible.

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1. With the GST, the Assembly collected around just under
2. $7 million in the last round of GST, the administration
3. collected, and that was based on a turnover of $72 million.
4. We had a 12% GST. With KPMG, if I remember, their estimate
5. of the GDP for Norfolk Island is $80 million, so I proposed
6. that we have around a 5% consumer levy to cover those other
7. five, which I felt was a more efficient system, it's more
8. efficient for council staff to collect that revenue, and
9. then, when I presented that to the Assistant Minister, the
10. Assistant Minister wouldn't have a bar of it because the
11. people are not contributing at the moment, how will they be
12. affected?

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1. Just briefly, this accommodation property here pays
2. the water assurance scheme. I don't know what they achieve
3. in occupation here, but I know some of the accommodation
4. properties on outlying areas of the Island where you've got
5. beautiful views, 80 per cent, but they don't pay anything
6. in for the water assurance scheme, or very little, only
7. when they have a pump out, so is it a fair method of
8. collecting revenue and trying to build up funds to replace
9. the system?

3

1. Q. In answer to my question then about why you didn't
2. increase rates to meet the growing budget problem and which
3. became particularly acute in the last financial year, I'm
4. discerning an in principle opposition to rates as a means
5. of raising revenue, at least on your part?
6. A. That is correct, I don't believe it's an efficient or
7. appropriate method of raising revenue for this community.

11

1. Something else just crossed my mind. With the land
2. rates, you might note in the Pitcher Partners audit report
3. there's been a slight increase each year in the amount of
4. outstanding rates, more than likely because those
5. landholders cannot afford. You know, some people did opt
6. not to pay it, but my discussion with people in the
7. community saying, well, you need to consider paying the
8. rates because the inevitable outcome may not be as good; if
9. you can afford it, consider paying it, and there are those
10. who simply cannot afford it. That's why I was opposed to
11. trying to increase the rates.

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1. I also - on rates I moved, which took a lot of
2. convincing the other councillors and senior council staff;
3. when the rating model came in I adjusted - I made an
4. adjustment so that commercial properties contributed more
5. to the land rates thing simply based on the fact with. I
6. ran a small hotel, all my rates were tax deductible.
7. Whereas private property, you've just got to bear the brunt
8. of paying the rates.

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1. Q. Mr McCoy though, the real point I want to get to is
2. that nothing that council did sought to use the rates
3. mechanism to increase revenue when other revenues were
4. going down and expenditures were going up and the budget
5. deficit was going up.
6. A. Well --

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1. Q. Say, for example, let's talk about the budget. In
2. June 2020 COVID is on, rates was an opportunity to broaden
3. the income base of council; you'd agree with that?
4. A. Not at all.

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1. Q. Why wasn't it?
2. A. Well, because, as I've explained, by increasing the
3. rates and putting that burden on community members who are
4. already suffering financially, where were they going to get
5. the income to cover that rate impost that we've now decided
6. to increase? It just doesn't make sense.

4

1. Q. I understand the principle, I understand the
2. principle, but the question I want to ask you is, where was
3. council going to get the income so that it could continue
4. to operate?
5. A. Well, we had one poor business - one main industry on
6. the Island: tourism. Once we shut the gates on the
7. visitors then our revenue decreased dramatically. It's not
8. just land rates. There was no revenue coming in through
9. the airport, which council collected $100 per passenger
10. coming in, so that was $2.7 million in the 2019 budget.
11. Then that meant that, where our businesses like the liquor
12. bond, telecom, electricity, their revenue all went down.

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1. Then there was the issue, we have an issue which is a
2. sideline thing, with shipping. See, where we used to get
3. 12 ships a year, we were down to three, so there was
4. revenue which impacted on the council revenue. So, simply
5. by going, oh well, we've upped the rates even though we
6. know your bucket's empty, was not going to improve the
7. council's position.

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1. Q. What were the options available to you?
2. A. Well, the options, the total was limited, it was a
3. matter of considering whether we continue council
4. operations that we do, you know, that option had to be
5. considered. But if you want to discuss the COVID issue and
6. the impact on the community, on Norfolk Island, on the
7. council's economic or financial situation: when COVID
8. started right from the start in China I made a call to the
9. Mayor to say, "Well, I believe this COVID matter will go
10. out of control, we need to have a discussion with the
11. Administrator", because health fell under the Commonwealth
12. banner. The Mayor contacted the Administrator who
13. consequently called me and he said, "I agree, we need to
14. see what we - make some considerations."

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1. The Administrator was away for a period and a month
2. later I had another call, we were going to be having a
3. meeting at the Administrator's office. The Administrator
4. fortunately had discussions with doctors in Australia who
5. told him that COVID will be a problem. He had contacted
6. the Assistant Minister to say, "I'm considering closing the
7. borders because we have an aged community on the island.
8. If COVID gets in here we'll be saying goodbye to some of
9. our elders." That was on Sunday. The Administrator said,
10. if I enact the state of emergency there will be stimulus
11. funding from the Commonwealth. We felt more comfortable,
12. if we have to close the borders, we can. Tuesday, that
13. following Tuesday, the borders to Norfolk Island were
14. closed, much to the disappointment of some businesses on
15. the Island because they could immediately see the impact
16. that it would have, but the discussion hinged around that
17. there would be a stimulus package.

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1. Then an options paper was put together, the
2. Administrator had a contractor put an options paper
3. together to seek financial assistance for a stimulus
4. package for shovel-ready jobs on the Island, and you'll see
5. some of that stimulus package is still working from the new
6. buildings that's going on, the footpath around the airport.

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1. Q. Was that income into council's coffers or was that
2. dealt with outside of the council budget?
3. A. The figures that were thrown around at the start
4. compared to what was eventually granted to the community
5. was a lot less than what was originally set, so some of
6. the --

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1. Q. But it might, just to be --
2. A. No, I'll answer that question, I'm getting there. So,
3. out of the funds that were the stimulus package, there were
4. funds that went to some of the sporting associations,
5. netball got new netball surfacing, the council got
6. $1.5 million which had to be expended by 30 June this year.

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1. Q. And what has that expenditure gone towards?
2. A. Well, it was specifically for the Bicentennial Centre.
3. Where the council chambers are at the moment, for that
4. building to be refurbished, rebuilt, some extensions done
5. so that all council staff can be located into that
6. building.

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1. Q. Moving up from Kingston where they had been before?
2. A. Moving from Kingston, yep. So, that work, I was on
3. the committee to move that project ahead as quick as we
4. can. We met once a week to get that project running, so
5. knowing that we had a short timeframe to expend the funds.

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1. Also, I had promoted, and in my policy speech for
2. elections to the council, that we need to have a research
3. centre established on Norfolk Island. There's opportunity
4. for a lot of university graduate students to visit Norfolk
5. and do important research that we need. We also had a lot
6. of --

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1. Q. Can I just pause you there. A lot of the things that
2. you're talking about are the sort of things that are the
3. responsibility of the government of the Island, these are
4. the sort of things that Norfolk Island Government would
5. have done previously; they don't sound to me like issues
6. that are within the four walls of the obligations of a
7. council, that is, delivering local government services.
8. A. Well, that may be correct, but we have a small
9. economic base. Now, the idea of having a research centre
10. to encourage university students to visit the Island gave
11. us an opportunity to have Commonwealth funding, a conduit
12. for Commonwealth funding which would increase our economic
13. base; that is the reason for proposing a research centre.
14. It's a different - to try and encourage a different tourism
15. market.

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1. And during the COVID period we're fortunate to have
2. groups of, you know, university students visit the Island
3. and Norfolk is starting to become more popular because
4. they - you know, it's another form of visitor because we
5. have a small tourism market. So, that's the reason, and I
6. know it's outside of what is ordinary council business, but
7. so is running a telecommunications centre, power house,
8. liquor bond and airport. We are different, we have to
9. think outside of the square, that's my whole point, we need
10. to increase the revenue stream into the Island. Not - you
11. know, otherwise we cannot afford to cover the expenses that
12. the council need to upgrade infrastructure on the Island.

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1. Q. I want to pause you there and change topic. I want to
2. talk about the Nexia report.
3. A. Yep.

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1. Q. That was the result of a process initiated by
2. councillors on the recommendation of Mr Roach in June of
3. last year?
4. A. Correct.

43

1. Q. When you read that report, did it come as a surprise
2. to you?
3. A. Not at all. Not at all, and one of the underlying or
4. one of the main first paragraphs of the report is the
5. impact that COVID has had on the finances of council, and
6. it was not hard to see, I've already outlined where we are
7. losing out on revenue that we had budgeted for during - you
8. know, because of the COVID pandemic that occurred, so the
9. Nexia report was not a surprise.

6

1. Q. Were you surprised about the conclusion that there was
2. only $600,000, $700,000 of operating cash available as
3. unrestricted funds at 30 June 2020?
4. A. No, I was not surprised because the general manager
5. already walked the councillors through the problems that we
6. were going to encounter.

13

1. Q. When did he tell you about that?
2. A. Well, as soon as - around, in early May, maybe April;
3. I couldn't say off the top of my head, I can't remember
4. when. When we had that discussion, he may have said the
5. other day it was 23 May.

19

1. Q. 23 May, I think there was an earlier meeting in April,
2. but we'll come back to that in a minute. When you
3. commenced your role as a councillor on 1 July 2016 did you
4. have any idea in your mind about the sort of cash reserves
5. that the council should keep as a bottom line to enable it
6. to continue to operate?
7. A. Well, I just believed that the council should not
8. erode its reserves, wherever possible the council must
9. maintain a - yeah, I did not have a set figure or, you
10. know, at least 12 months worth of funds.

30

1. Q. What's 12 months worth of funds?
2. A. Well, that would be, off the top of my head, to
3. continue council operations. Say, council staff I believe
4. is $3 million a year to continue paying council wages.
5. Maybe you can't continue carrying out all the functions,
6. but again, without that stimulus going through the
7. community.

38

1. Q. Absolutely. Is your evidence that you thought that at
2. least $3 million was necessary for council to keep as cash
3. throughout the four years?
4. A. No, in my mind the investment money that we kept in
5. investment because, quite clearly, the airport resurfacing
6. was coming up and we need to build up some reserves so that
7. we could do that, but as a new councillor I had no - it
8. wasn't until our meeting with Senator Nash, Assistant
9. Minister Nash, that it became clear that there was a 1:3
10. ratio; if we're asking for funding from the Commonwealth,
11. well, we need to meet that through a 1:3 ratio.

3

1. Q. Firstly, when was that meeting?
2. A. Now, that's a tough one, about March 2017.

6

1. Q. So, fairly early on. I take it, you were talking to
2. her about the sorts of things that needed to be done on the
3. Island, of which the list is a long list?
4. A. Well, yeah, there were the matters that were
5. immediate, but there was also the fact that our
6. telecommunications system was needing upgrading and the
7. reports were there, so we discussed that, and the health;
8. the airport runway, that was brought up as well.

15

1. Q. So, in March/April 2017 when you think this meeting
2. took place, what was the expected timeline for the airport
3. runway?
4. A. Well, I believed it was 2021. The runway's done in
5. 2006 with a 15-year life, so simply we had until 2021 to
6. secure funding to have material to be able to do the
7. runway.

23

1. Q. And later in 2017 that position changed, didn't it?
2. A. As far as?

26

1. Q. The timeframe for having to do the work?
2. A. Yeah, well - m'mm, was it 2017 or 2018?

29

1. Q. CASA came out here in 2017, didn't they?
2. A. Well, yeah. Yeah, again, I'm not fully aware because
3. we didn't get a full CASA report in 2017. It was
4. indicative and it didn't come to council, the report. And
5. then, when CASA did a report in maybe 2018 indicating that
6. the resurfacing may need - well, I got probably half an
7. hour to quickly glean through the report in the general
8. manager's office.

38

1. Q. When did that report come in?
2. A. Well, like I said, the general manager made us aware,
3. Lotta, that there was a CASA report and the airport runway
4. needed some attention.

43

1. Q. Was that --
2. A. But that report, we were told it's commercially in
3. confidence, "If you want to view the report you can view it
4. at my office", so roughly half an hour to quickly flick
5. through the report. You can't take any notes, nothing like
6. that. I took two things out of that report: (1) CASA had
7. said, providing the maintenance program is kept up, there
8. would be room for dispensation. I walked the runway prior
9. to the previous resealing, I've seen far worse condition
10. than the runway that the councillors viewed prior to the
11. resurfacing work, far worse condition: CASA kept giving
12. dispensation providing the maintenance program was kept up.

9

1. Q. That changed though, didn't it? There was a
2. suggestion that, if nothing was done within two years, then
3. you would lose the certification to land commercial
4. aircraft on the Island?
5. A. Well, that's --

15

1. Q. Do you disagree with it, do you?
2. A. Well, without having had the opportunity to study the
3. report, you know, over hours, not briefly, I cannot say
4. whether that is true or correct. That's the report that
5. came to us from the general manager, so we take that on
6. good faith.

22

1. Q. Just pausing there. What was your relationship with
2. the general manager like in 2018, and in the lead-up to

25 2019?

1. A. Well, I had respect for the general manager, you know,
2. because the general manager had a difficult job, and coming
3. into the environment in Norfolk Island where the community
4. was not happy that the governing body had been sacked and
5. removed and now we have a council. So, the general manager
6. had a huge task to set up the council, you know, so --

32

1. Q. Were you happy with information flow passing between
2. the council governing body and the general manager and her
3. senior staff?
4. A. Well, depends on what information you're referring to.

37

1. Q. Well, was there information that you wanted and you
2. couldn't get and you were unhappy about?
3. A. Well, not in the early days because in the early days
4. we were adopting community strategic plan, we were
5. understanding the Local Government Act, we were being
6. guided to comply with the reporting framework, so then the
7. operational plan was to be developed and asset management
8. plan, long-term financial plan, you know, and also, we had
9. no audit report for 2015. I can't recall when we managed
10. to get that audit report which the council had to pay for

1 to get.

2

1. Q. The audit for 2015, the audit of Norfolk Island
2. Government, that was done by the Australian National Audit
3. Office?
4. A. Well, yeah, I had a meeting with them as well.

7

1. Q. And for 2016, they did that, and then in 2018 they did
2. a report on the transitional arrangement with the
3. Commonwealth, they made some recommendations about that.
4. What I want to try and ascertain from you is, how was the
5. relationship with the general manager when it came to
6. providing information about the airport?
7. A. Well, the general manager felt - Lotta had a huge
8. responsibility to ensure the airport job went ahead.

16

1. Q. And, did she tell you why?
2. A. Well, based on the CASA report which we didn't have in
3. front of us so, like I said, we had to take the general
4. manager's reasons on good faith, so yeah, that's why we
5. accepted that the job - we knew that the job will have to
6. be done in 2021 at least, so you know, I felt, well, I'm
7. sure with the maintenance program we can get out to 2021
8. and achieve CASA's requirements.

25

1. Q. It seems as though you're trying to challenge the need
2. for the airport resurfacing taking place at all. Do you
3. challenge that? Do you say, well, it may not have been as
4. necessary as the general manager and others have said, or
5. do you accept that it had to be done?
6. A. I accept it had to be done, but whether it needed to
7. be done in 2020 or we can continue that maintenance program
8. to 2021 is what I questioned, but we were being advised by
9. the council's experts. "You're not an expert, Councillor
10. McCoy, we have experts in the room who are telling you it
11. must be done", so you get to a point where you believe,
12. well, on good faith we must resurface the runway earlier
13. than the given life of the runway.

39

1. Q. I want to take you then to a specific meeting that
2. occurred on 20 February 2019 and this is the meeting where
3. council passed a resolution to proceed with the airport
4. runway, we'll see that in due course, but I want to show
5. you firstly a document. If the witness could be given
6. this. Commissioner, I'll just read onto the record, this
7. is a confidential document, it's NIRC.020.001.0002.

47

* 1. You remember receiving a report in these terms at that
  2. meeting on 20 February? Feel free to read it, familiarise
  3. yourself with it. For the record, it's document No.14 in
  4. the electronic airport tender bundle, if it may assist.
  5. A. Yes, I do recall.

6

1. Q. Prior to that, let's just clarify where things stood
2. at 20 February. What were the events leading up to that
3. briefing, in terms of what information you were conveyed by
4. the general manager about this project? Had it been
5. discussed previously?
6. A. Well, that's what I was referring to where we - the
7. general manager gave us the opportunity to read the CASA
8. report. We also, if I remember correctly we had meetings
9. which involved the airport manager at the time, and prior
10. to this maybe - if I remember, we also had - included in
11. those meetings was Professor Greg White, the asphalt cook
12. or whatever.

19

1. Q. Professor White was an international expert in airport
2. runways, wasn't he?
3. A. Well, that's again, like I said, the term "expert" was
4. used and that was in reference to Professor Greg White.

24

1. Q. If you could go to page 3 and just read to yourself,
2. please, the second paragraph under the words,
3. "Attachment 1" that begins with, "Boral has indicated."
4. A. The $4.2 million?

29

1. Q. Yes. You understood when you came to deal with this
2. matter that there was a $4.2 million cost hanging above it,
3. wasn't there?
4. A. Well, yeah, my understanding was the $4.2 million was
5. outside of the tender.

35

1. Q. Outside the Commonwealth funding, yeah, outside the
2. Commonwealth?
3. A. Outside the Commonwealth funding.

39

1. Q. If you go down to the last paragraph that says,
2. "Further Dr White has highlighted", you see there that the
3. limitations on acquiring rock from the island, of which you
4. would be extremely familiar, were evident?
5. A. Well, that's one thing that's not in this paper.
6. Originally the tenderers or the interested parties were
7. told to tender, as you might recall from Monday, to win the
8. rock on the Island. They all received a letter to say, do

|  |  |  |
| --- | --- | --- |
| 1 | not | tender on Option 1, from Dr Greg White. |
| 2 |  |  |
| 3 | Q. | Do you have a copy of that letter? |
| 4 | A. | Not on me, I do have a copy. |
| 5 |  |  |
| 6 | Q. | Is that something you'd be able to provide us with? |
| 7 | A. | I certainly can. |
| 8 |  |  |
| 9 | Q. | When do you say that letter was sent? |
| 10 | A. | Just prior to the - I couldn't tell you the date, but |

1. prior to the tender closing date. Just as a background for
2. you I, in the early days of the council roughly in November
3. or October I moved a recommendation that a rock source feed
4. committee be set up by council knowing full-well we needed
5. to win rock to resurface the runway. That rock source feed
6. committee was chaired by Councillor Porter. Originally we
7. met once a month and then it was, the recommendation came
8. through to meet only quarterly.

19

1. Q. Just going back to this paragraph you will see, in
2. addition to the limitation about the volume available, so
3. 15,000 tonnes available, 30,000 tonnes required, so you've
4. got a 15,000 tonne deficit. Two years was the suggestion
5. that it would take to approve an expanded quarry; you
6. understood that?
7. A. Yes, but you see, there's a lot of grey areas here.

27

1. Q. What are the grey areas?
2. A. Well, with Assistant Minister Lee and the council, we
3. put in place a significant development pathway, and
4. I believe that was in 2018 which had a sunset clause of
5. 2019 to put in place the development applications to win
6. rock from Youngs Road. Now, nothing happened in that
7. process. The councillors were told, and there are reports
8. indicating, that we cannot start the work or the quarry
9. design until we get a drilling rig. You see, the rock
10. source feed committee knew that there was only a limited
11. amount of rock in Youngs Road, but the approval was to also
12. extend into the Cascade Reserve which is Commonwealth land.
13. Now, you might understand you need to quantify and qualify
14. the amount of rock, but also the next area that council
15. intended to quarry rock was at Headstone which was
16. inhibited by the waste management process, so there's a lot
17. of interlinking activities which I have mentioned earlier
18. in the interview that were required to happen but it just
19. did not happen.

47

1. Q. There were problems with each of those possibilities,
2. weren't there?
3. A. Well, if you have a project and you don't get on with
4. it, that's the problem, not getting on with the project.

5

1. Q. But this briefing paper was pointing out those
2. problems, saying that getting approval to do all of these
3. things is going to take at least two years.
4. A. That was questionable.

10

1. Q. Did you question that at the meeting?
2. A. Yes.

13

1. Q. Do you have a clear memory in your mind of the
2. discussion at that meeting?
3. A. This particular meeting?

17

1. Q. Yes.
2. A. Well, I didn't believe the asphalt engineer, or
3. professor, had any right or knowledge to tell us whether we
4. could win that rock or not. His job was the asphalt mix,
5. not to come and try and influence council outcomes; that's
6. how I felt, that's what was discussed at that meeting. I
7. also indicated at that meeting how uneasy I feel about
8. having a contractor trying to influence the council outcome
9. to actually win crushable rock on the Island.

27

1. Q. When you say "a contractor trying to influence", who
2. are you talking about?
3. A. Greg White.

31

1. Q. Well, he wasn't the contractor?
2. A. He was contracted to do the asphalt mix.

34

1. Q. But he's an expert, he's an expert on airport design?
2. A. Not in quarrying.

37

1. Q. An expert on airport design.
2. A. Airport design, not in quarrying. We had expert
3. quarry masters who were willing to carry out the work. One
4. particular off the top of my head, I can't remember his
5. name, but he had been involved with Norfolk Island for
6. 20 years and was willing, but he was no expert so they
7. said, but he knew more about quarrying than anyone else in
8. the room. Andrew --

46

47 Q. We'll come back to the meeting in a minute, just to

1. deal with this point: by August you were aware that
2. drilling had taken place at the proposed sites?
3. A. Because the recommendation to --

4

1. Q. No, we'll come back to --
2. A. -- award the tender to Boral, we made an amendment to
3. that recommendation that Boral must do everything within
4. their powers to assess the quality and to win rock on the
5. Island. Now, they came in, I'll just touch on that, they
6. did the drilling works, they used a local drilling rig,
7. they sat with the councillors, and Boral project manager -
8. his name will come to me - he stated very clearly, the
9. quality of that rock is so good that we need to sanction it
10. for future projects of that nature, of the airport runway
11. nature, we cannot just waste it in driveways and roadworks,
12. it's such good quality rock. Then they took the samples
13. off to their own laboratory, had it tested, came back: no,
14. it doesn't meet the standard. Now, it was remiss of me not
15. to remove a recommendation, and I regret very strongly, to
16. get a second opinion.

21

1. Q. Are you saying this: that before Boral produced a
2. report that said the rock was not suitable for the airport
3. runway, Boral had told you that it was?
4. A. Very clearly.

26

1. Q. Why then, may I suggest, you did not do anything about
2. that by preventing council from executing the contract for
3. the airport runway project? Why didn't you do something
4. about it, Mr McCoy? If that's what you were told by Boral,
5. why didn't you do something to stop all of the rock from
6. having to be imported from the mainland?
7. A. Well, I didn't personally - I, as a councillor did not
8. want to be - you know, because they were community members
9. having protests, lying on the road putting up --

36

1. Q. Protesting about what?
2. A. About importing rock into the Island when we have our
3. own - we live on a rock, this is what they were saying. I
4. felt comfortable that Boral was doing the survey, and at
5. the last minute because, you see, we had been told the
6. runway could have a catastrophic failure, so who would that
7. fall on? Councillors if that happened, this is what we
8. were being told.

45

1. Q. But you say you were told by someone at Boral that the
2. rock was of sufficient quality to use in the airport runway
3. project: did you tell the Mayor, did you tell Mr Buffett?
4. A. All the councillors were in the meeting, we were all
5. in the meeting with three Boral staff.

4

1. Q. Well then, why didn't you do anything about it?
2. A. Well, continually, as a member of the rock source feed
3. committee, we had continually tried and been invited by
4. council staff to have the drilling rig brought in, we even
5. had half a million dollars in the budget to develop the
6. quarry, continue it.

11

1. Q. Why didn't you rescind the motion of approving
2. acceptance of the tender on the basis of Option 2 if you
3. thought that the rock was of a suitable quality?
4. A. Well, I guess I could say, maybe peer pressure and --

16

1. Q. Peer pressure from whom?
2. A. From council staff, from other councillors that we
3. cannot run the risk of not doing the work, and knowing
4. full-well that, you know, in order to achieve the job for
5. this there was a lot of logistics involved. We even
6. discussed Boral establishing a rock crushing - bringing
7. their own rock crushing plant and setting it up at Cascade,
8. you know, and feeding and crushing the rock at that point,
9. so we went through everything possible and had discussions
10. to encourage Boral in whatever way or shape or form to win
11. the rock on the Island.

28

1. We had - and the Mayor and the Assistant Minister Lee
2. spent many hours getting the significant development
3. pathway approved. We also spent many hours with our
4. planning staff to get that legislation put in place and the
5. amendments for the Norfolk Island plan for that legislation
6. to be put in place. So, we were running, you know, close
7. to not meeting timelines, so once Boral indicated that they
8. felt the rock was not of sufficient quality and they would
9. import the rock themselves --

38

1. Q. You accepted that, did you?
2. A. We had no - very little option. You know, like I
3. said, we were being told by experts that this is what
4. needed to happen. We were having rock source feed meetings
5. to understand where this equipment is, why isn't it coming
6. to the Island, and then to be given 20 minutes, number one,
7. to go through the tender documents and agree to Boral still
8. with deep concerns. I guess I could have voted against the
9. motion, that's the only avenue I would have had.

1

1. Q. All right, let's bring up please, if we could, the
2. minute that was agreed back on 20 February. The document
3. reference is NIRC.PUB.001.0192\_0019. So, this was a closed
4. meeting, you recall?
5. A. Correct.

7

1. Q. It wasn't recorded. It wasn't recorded, was it?
2. A. Not, um, no.

10

1. Q. If we could go down the page, you will see the
2. original motion moved by Councillor Snell, seconded by
3. Councillor Buffett, was simply to support the project, to
4. approve the contract being awarded to Boral, with council
5. contributing any shortfall of funding for the project over
6. and above the funding provided by the Commonwealth of
7. Australia.

18

1. If we go up the page, and that that provision of
2. funding would be "by way of a loan from Norfolk Island
3. International Airport Government Business Enterprise." But
4. let's pause there on those words of "a loan from the
5. Norfolk Island International Airport Government Business
6. Enterprise", did you understand what was involved in that
7. part of the resolution?
8. A. Yes, I did. At that time the airport had the ability
9. to fund a loan.

28

1. Q. To fund the loan?
2. A. To fund the loan. Now, I questioned the senior
3. finance officer on how the airport will fund the loan.

32

1. Q. Who was the senior finance officer at the time?
2. A. Phil Wilson.

35

1. Q. Phil Wilson?
2. A. Wilson, and I said, we have a long-term financial plan
3. that doesn't allow for this to happen. And he said, "Well,
4. you might recall we had adjusted the long-term financial
5. plan to include an extra $20 million to be expended in case
6. we needed to meet the shortfalls", which he pointed out and
7. I said, "Yes, that's correct", because I remembered once he
8. pointed it out to me, yes, we had an adjusted long-term
9. financial plan in case we needed to borrow funds from the
10. airport.

46

47 Q. Precisely how was that going to work? I mean, the

1. Norfolk Island Airport was just a part of the council,
2. wasn't it? It was a business unit inside the council,
3. there's no separate entity, separate corporation?
4. A. Yep, correct.

5

1. Q. Did it have the cash to lend council or was it going
2. to take out a loan at commercial rates from a bank?
3. A. Well, to be honest, I didn't ask that question of the
4. senior staff who had proposed that we could meet the
5. shortfalls with a loan from the airport operation.

11

1. Q. A loan from the airport operations?
2. A. To pay for its - yeah. Now, how the operational arm
3. was going to configure that funding, I couldn't tell you
4. what they were thinking, but in my mind we had an agreement
5. with the Commonwealth for $43 million and don't come and
6. ask for any more, so we need to find a way, a mechanism, to
7. cover any potential shortfalls in the airport resurfacing
8. project.

20

1. Q. Just on that point. As the project developed did you
2. query any of the staff about how that loan was being
3. structured, how it was being recorded?
4. A. How it will operate?

25

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

28

1. Q. All right, please go back down to the amendments to
2. the motion. Now, these were moved by Councillor Buffett
3. and Councillor McCoy. What were you trying to achieve with
4. this particular motion, what was directing your intentions
5. when it came to putting forward something like this?
6. A. Well, as we covered earlier on, was to maximise the
7. economic gain to the community by selling our own rock or
8. using our own crushed product to do the airport
9. resurfacing, rather than buying 30,000 tonne of crushed
10. rock from Boral, which is the end result.

39

1. Q. I understand that, a perfectly legitimate, reasonable
2. thing to want to do; you didn't give yourself much time to
3. do it, did you? 31 March, less than two months. You see
4. that?
5. A. Yep.

45

1. Q. If you can't get the Minister's approval to quarry the
2. extra 15,000 tonnes we'll proceed with Option 2 which means
3. importing all the rock?
4. A. That is correct:

3

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

6

7 Operational.

8

1. Q. Did you follow up on that over the next 18 months or
2. so?
3. A. Well, that's correct, but --

12

1. Q. Did you? Were there any scopes of - was there any
2. changes to the scope of work to minimise any grant funding
3. shortfall?
4. A. Well, there was a change which is - that's Boral's -
5. again, Boral's option. They were going to bring large
6. loads, 10,000 or, you know, 5,000 tonne at a time, but
7. because of my indicating to the project manager that,
8. "You're running a great risk by trying to import, bring
9. barge loads of rock from Australia across the Pacific
10. Ocean, you know, why can't you just bring the equipment and
11. win the rock here?" So then they decided to bring it in
12. large shiploads.

25

1. So, you know, whilst it's not recorded, and this is
2. one of the frustrations of council, there's no Hansard, so
3. the discussions are very - the recording of meetings are
4. very limited and what you have here doesn't give a true
5. indication of the discussions that took place.

31

1. Q. No, there's no recording of this meeting.
2. A. No, this was --

34

1. Q. Financially the most significant meeting in the
2. four years of the council and there's no recording of it?
3. A. No recording and councillors cannot - any documents
4. provided to councillors in the closed meetings goes back to
5. the general manager, so you don't even have that record to
6. refer to at a later date.

41

1. Q. Let me take you to another paper that was in the
2. public section of that meeting. If we go to
3. NIRC.PUB.001.0193\_177. At this 20 February meeting there
4. were two investment reports provided to council. Do you
5. remember how often you used to get these investment
6. reports?
7. A. Yeah, they were sent into council at ordinary council
8. meetings monthly, but - yeah, there was a period in 2020
9. when the investment reports were not available, but yeah,
10. they were part of the - pretty well standard part of the
11. council meeting.

6

1. Q. This is the December one, let's scroll down to
2. the January one and the data in the January one. So, the
3. January, this is the most recent report, so this is where
4. cash was at on 31 January 2019 and you're sitting on
5. 20 February dealing with a contract to resurface the
6. runway. If we just go down the page to your investments,
7. it's either term deposits or at call deposits, total value
8. of the investments was $16,897,000. If we go down a bit
9. further, there we have the table of restricted and
10. unrestricted cash. How would you describe your
11. understanding of externally restricted, internally
12. restricted, and unrestricted cash at that time?
13. A. Well, my understanding is that the externally
14. restricted cash was there for the purpose it was deemed
15. for, and the internally restricted cash was for such, as we
16. can see here, the capital projects which again are largely
17. for the purposes there for. It's not general revenue that
18. can be spent, so the capital project 18/19, which I assume
19. refers for the airport budget?

26

1. Q. Can I suggest that that is not the airport budget,
2. that's the capital projects in the budget for all capital
3. projects of the council, so roadworks, telecommunications
4. works, anything you were doing of a capital nature in
5. that year.
6. A. But that would - oh, yes, capital projects, but unless
7. I have budget papers in front of me to look at, you know, I
8. would glean from the discussion we've had, you're referring
9. to the airport project.

36

1. Q. But at this point, at this point, the airport project
2. has not been approved, there's no contract?
3. A. Funding had been approved.

40

1. Q. Funding from the Commonwealth had been approved?
2. A. Correct.

43

1. Q. But council has not agreed to anything with Boral, it
2. hasn't signed any contract with Boral, so therefore it has
3. no commitments to Boral; correct?
4. A. Correct.

1

1. Q. So, it's not included in capital projects 18/19,
2. 18/19. The airport wasn't going to be done in 18/19, was
3. it?
4. A. Correct.

6

1. Q. The airport was going to be done in 19/20 and 20/21.
2. A. Works for the - if I'm correct - you see, this is the
3. thing; Professor Greg White may have already been
4. contracted at that time.

11

1. Q. Okay, he's paid some consultant fees, but nothing in
2. the order of $5 million though?
3. A. No, no, no, but then we have the 4G upgrade.

15

1. Q. 4G, that would be in there, wouldn't it?
2. A. Without having everything in front of me, yes, I would
3. say probably 4G, the purchase of a new crane, the - yeah,
4. the list goes on. The three new generators, but that came
5. at a different time. So, you know, like I said, without
6. having the full budget in front of me to read through it
7. all, and you might appreciate, a lot of water has passed
8. under the bridge since this time.

24

1. Q. Absolutely. The bottom line though is that you had
2. unrestricted cash of $10 million.
3. A. Yes.

28

1. Q. I take it you were fully aware of that when you came
2. to consider the resolution that involved council paying for
3. everything over and above the $43 million?
4. A. Yes.

33

1. Q. To the best of your recollection, what was the
2. anticipated cost of the airport project as communicated to
3. you at the time?
4. A. Around $48 million.

38

1. Q. So, that is an immediately significant figure?
2. A. It is a significant figure.

41

1. Q. Of nearly $6 million?
2. A. Yeah, $6 million, or $5 million. However, we had 43
3. from the Commonwealth, so council needed to find
4. $5 million, just rough figures, or 4.7 if I remember,
5. somewhere around that area.

47

|  |  |  |
| --- | --- | --- |
| 1 | Q. | Nearly 6; 4.2 was this risk of the -- |
| 2 | A. | The risk plus 1.5 for -- |
| 3 |  |  |
| 4 | Q. | Plus 1.5, okay. When do you think you understood what |
| 5 | the | actual cost of the airport was definitely going to be? |
| 6 | Was | that after you found out that Boral had reported that |
| 7 | the | rock would not be suitable? |
| 8 | A. | Well, to be honest, we - that was a guess as what it |

1. would finally cost. If you have a bulk loader sitting off
2. the Island for six months, who knows.

11

1. Q. Yes.
2. A. We did not have any idea, and again, it's an
3. operational matter. And when we questioned these things,
4. without putting a recommendation up to get answers, "It's
5. an operational matter" is the answer that comes back.

17

1. Q. Perhaps if you go to the document in front of you and
2. go to the second-last page, I think this will clear up
3. where we were dealing with internally restricted funds
4. before. Do you see the paragraph headed, "Financial
5. Implications"?:

23

1. *The council has budgeted $2 million*
2. *this year [that is, 2018/2019] for the*
3. *planning and preparation of the project and*
4. *to date we have committed $500,000.*

28

1. So, that obviously needs to be factored into the
2. capital projects 18/19 figure in that report.

31

1. The cost of the project from the recommended tenderer
2. is 44,898, then there's the indication that there's the cap
3. of $43 million, and a suggestion that the Commonwealth
4. won't waive the eligibility criteria under any
5. circumstances.

37

1. Then there's the next paragraph, if you can read that,
2. "Therefore council", you see that?
3. A. Mmm-hmm.

41

1. Q. But having previously indicated in the earlier report,
2. the 4.2. All right. Can we then turn to the resolution
3. that was passed in May concerning the road project. If we
4. can go to NIRC.PUB.001.0227\_0022. While that's being
5. brought up, when did it first come across your desk that
6. there was an opportunity to make a significant improvement
7. on Norfolk Island's roads whilst Boral were on the Island?
8. A. Yeah, well, it was mooted at, I guess, a council
9. workshop prior to the council meeting that the opportunity
10. is here to do the 9 kilometres of road using the scalpings
11. from the runway. Quick estimate was, taking 50mm of
12. scalping would provide the material to redo the roads
13. because, quite simply, we don't want to have a pile of
14. scalpings just left to waste, and the asphalt equipment was
15. here, so the prime opportunity was there. But, unbeknown
16. to councillors, there was already 3,000 tonnes of crushed
17. product being brought to the Island by Boral to do that
18. work.

13

1. Q. Just pausing there. To assist the Commissioner, what
2. are scalpings?
3. A. Scalpings is what they remove with a profiling
4. machine, it's called, a layer of material from a road, from
5. a runway. You may have seen in Australia large machines
6. working where they're churning up the road but generally
7. they put it through the asphalt and re-use that material.
8. But with the runway the scalpings, once it's brought up,
9. they would have to create a new mix of asphalt, so there
10. would be this waste product of asphalt and gravel that
11. could be re-used and to a quality where it would be used on
12. our roads, and that's the smooth roads that we now have on
13. the Island, and the figure was $5 million.

27

1. Q. Just pausing there. Previously, and looking at the
2. lead up to the airport project, in the years leading up to
3. it obviously being talked about over many years, had anyone
4. suggested that this was an option when whoever did the
5. airport was on the Island?
6. A. Yeah, in discussions through the community, yeah, the
7. community members were saying, well, why don't we do all
8. the roads, whilst Boral's here why don't we do it all?
9. Where are we going to get the material? You see, and that
10. came from a driver many years ago when the airport was
11. surfaced by - well, Fulton Hogan was one of the - in
12. Kaipara, and there was a rumour that Kaipara offered to do
13. all the roads for $1 million. My question to anyone who
14. developed that rumour was, where are we going to get the
15. crushed product from or the funds to do the roads?

43

1. But when this opportunity was presented and seeing the
2. pile of scalpings from the previous overlay, you know, we
3. thought, well, we do have the funds; we were guided in good
4. faith that we could cover the costs. I did ask --

1

1. Q. We'll come to that meeting --
2. A. -- whether we would drain our reserves. Now, we were
3. told and in good faith we can fund this project.

5

1. Q. We'll come to that in a minute, what I just want to
2. know is this: in February when you discussed the airport
3. tender and you made resolutions to proceed with it subject
4. to certain conditions, was the issue of the roads, and
5. using the scalpings or any part of Boral's equipment, was
6. that raised at that meeting?
7. A. No.

13

1. Q. It was brought to council by Boral?
2. A. No, it was brought to council by council staff.

16

1. Q. Council staff, okay, but it was brought to council -
2. before council staff brought it to council, the governing
3. body of council, a proposal or a quote or a tender, call it
4. whatever you will, an invitation was submitted by Boral to
5. council. It was at their suggestion that this happen; you
6. understand that?
7. A. No, I don't, I'm not aware of that.

24

1. Q. The roads budget had been something that had been set
2. out in the long-term financial plan and the long-term
3. operation of the council since you started preparing those
4. plans in 2016; correct?
5. A. Correct.

30

1. Q. So you had a budget in place for how you would manage
2. making improvements to the roads?
3. A. Correct.

34

1. Q. And the Boral contract was a substantial deviation
2. from that budget, wasn't it?
3. A. Correct.

38

1. Q. None of us were there, except I think two or three
2. other people in the room were there at the meeting where
3. you discussed this project, it's not recorded. How long
4. did it go for, that meeting to discuss the roads?
5. A. Yeah, probably an hour.

44

1. Q. An hour. And, what do you recall being told about the
2. cost of the project?
3. A. That, yeah, we have sufficient funds in reserves to

1 cover the costs of that project.

2

1. Q. Who told you that?
2. A. Would be our senior staff who proposed the initiative
3. to councillors.

6

1. Q. Am I right in thinking that, when Ms Jackson was the
2. general manager at about this time, it was basically left
3. to her to do the briefings to councillors at council
4. meetings; that is, she did the briefing herself?
5. A. Well, this was actually presented to us by Bruce
6. Taylor.

13

1. Q. By Mr Taylor?
2. A. And Alan Buckley, the engineer at the time.

16

1. Q. What do you recall Mr Taylor saying to you about it?
2. A. That there was an opportunity whilst Boral's equipment
3. is on the Island, the asphalt was here, that we could use
4. the scalpings from the runway to achieve repairing
5. 9 kilometres of road, and they would need to use some
6. bitumen to add to the mix to do the job.

23

1. Q. What else do you remember Mr Taylor saying?
2. A. The roads that would be done would be, yeah, New Farm
3. Road, Douglas Drive.

27

1. Q. Have a look at the --
2. A. Oh, it's in front of me, yep.

30

1. Q. Were the roads that he suggested to be done the roads
2. that appear in the resolution?
3. A. Yeah.

34

1. Q. Or was there some sort of discussion or change or some
2. bidding process?
3. A. No, well, we thought, well, here is an opportunity,
4. we've been told we can afford to do it, we're going to do
5. some of the worst roads on the Island and that's the ones
6. that are listed there.

41

1. Q. Do you remember there being a discussion about why
2. those roads were chosen?
3. A. Because of the condition of those particular roads.
4. There was also discussion about doing alternative roads.

46

47 Q. Did you suggest any alternative roads?

1 A. Not at all.

2

1. Q. Do you remember anyone else suggesting alternative
2. roads?
3. A. Councillor Porter did.

6

1. Q. What roads did he suggest?
2. A. Queen Elizabeth Avenue, they're more heavily impacted
3. roads.

10

1. Q. So, that's the big long road --
2. A. Well, the road that runs up from Taylors Road here.

13

1. Q. That's right, sorry, I --
2. A. Yeah, no, that's fine.

16

1. Q. -- am not entirely familiar with all the roadways.
2. A. That's why I jumped in to clarify for you which roads.
3. You know, and you think, well, possibly that is the better
4. way to go, even though all of the roads on the Island do
5. have quite heavy impact, but that road you understand leads
6. to the school, to and from the school, things like that
7. and, you know, tourist accommodation along the roads here,
8. so the impact from buses.

25

1. Q. How long did the discussion take when it came to
2. choosing the location of the roads out of the, roughly,
3. hour?
4. A. Well, the discussion was that Boral had driven the
5. roads and that's the conclusion they came up with, that
6. they could do the 9 kilometres with the scalpings, and then
7. after obviously some consideration which you will probably
8. bring up shortly, the roads that were to be repaired
9. changed to the ones that hadn't been done.

35

1. Q. How much of the meeting was devoted to the cost of the
2. project? Was there any discussion about, why is it
3. $5.65 million, why isn't it less, why isn't it more?
4. A. Well, obviously there were discussions but as I
5. intimated earlier, in the meeting I had sought a report on
6. what it cost to do a half a kilometre of road.

42

|  |  |  |
| --- | --- | --- |
| 43 | Q. | You sought a report at this meeting? |
| 44 | A. | No, no, in early --. |
| 45 |  |  |
| 46 | Q. | Previously? |
| 47 | A. | Yes, previously, because that would then give me |

1. information necessary to understand what it cost to do the
2. roadworks. There was some discussion on what it cost
3. per metre to do the roadworks, and you do a quick estimate
4. at the time sitting there: okay, yeah, we'll get 50mm of
5. scalping, that will cover the 9 kilometres of road and the
6. cost is what Boral has put up as proposed to us by senior
7. council staff.

8

1. Q. Roughly half a million dollars a kilometre?
2. A. Yep.

11

1. Q. Was that in accordance with your understanding at the
2. time of the cost of these sorts of improvements?
3. A. Well, I would have considered that it would have
4. been - because that was the cost of this work out here,
5. which was done using totally different methods, with the
6. equipment and the knowledge, the experience of Boral, you'd
7. think, well, maybe it would be a little bit cheaper; and
8. they've already won the material to do the road through the
9. scalpings.

21

1. Q. Did you raise the issue of, well, why isn't it
2. cheaper?
3. A. No, no.

25

1. Q. Are you sure? Why wouldn't you?
2. A. Well, of course, why wouldn't I, who --

28

1. Q. Can't we get 15 kilometres out of this?
2. A. Well, we may - I may - we may have discussed why we
3. can't go further, but that's the price, that's what we were
4. being told by experts and senior staff, that's what it will
5. cost to do the roadworks.

34

1. Q. So, was there no degree of negotiation at all? Didn't
2. you say - I mean, on the airport runway deal you put your
3. foot down about sourcing rock from the Island, and you made
4. the acceptance of the tender conditional upon quite
5. legitimate concerns that you had about getting rock from
6. the Island involved in the project thereby saving council
7. money; that was what was motivating you then?
8. A. Yep, correct.

43

1. Q. Was there any discussion amongst the council that we
2. would try and get a better deal out of Boral for the roads?
3. A. Well again, it's not councillors who are in the
4. discussion with Boral around the project. I understand
5. where you're coming from, councillors should have
6. necessarily driven the senior staff, but then when you get
7. called out and threatened with code of conduct by the
8. general manager for questioning senior staff, and then when
9. you get told, "Well, you're asking questions that for the
10. staff to answer those questions takes them away from doing
11. important work", you start to think, well, hang on, I've
12. got to take what they're telling me on good faith, but with
13. the assumption that we're not, that we're using a waste
14. product.

11

1. Now, you're correct, why did it cost so much, why
2. didn't I ask the questions? I concur with your questioning
3. and, you know, as a councillor I do regret, but there is
4. a - you know, when you don't have the ability to sit around
5. the table and question the contractor as to why it cost
6. that amount it becomes, again, a grey area that the council
7. operates in here on the Island because you're taking in
8. good faith what you're being told by the operational arm.

20

1. Q. May I respectfully suggest to you that at this meeting
2. you could have - you and your fellow councillors could have
3. asked all the questions that you needed to have answers to
4. of council staff about how you could get a better deal; you
5. could have imposed conditions on accepting the tender; you
6. could have directed that further negotiations be held, and
7. I just ask you why that did not happen?
8. A. Well, the simple answer is, when we asked the
9. questions about the roadworks being done quite clearly it
10. was indicated to us, "We have an opportunity, why are you
11. questioning our initiative?"

32

1. Q. So you accepted their initiative?
2. A. Correct.

35

1. Q. When you accepted their initiative, it occurred after
2. being told in February that there was $10 million in cash
3. reserves, after approving an airport resurfacing contract
4. that you believe would cost $48 million of which council
5. would have to fund about 5, 5.6, that you understood would
6. be funded by a loan from a council entity that didn't have
7. the cash to give a loan, $5 million and $6 million,
8. $11 million, might have been $2 million less, might have
9. been $2 million more, that would have eaten away, may I
10. respectfully suggest, the cash that was available to
11. council as you understood it at the time.
12. A. That is correct, and that is a comment that I made in
13. the council meeting, that probably around the point when
14. this was proposed and approved, that we will erode our cash
15. reserves.

4

1. Q. Who did you say that to?
2. A. The whole council at the council meeting. I asked the
3. question that the possibility of eroding the cash reserves
4. is real, and the answer was that we can continue because
5. we've got the cashflow coming in and we're investing in
6. these particular projects that will not require funds in
7. the future.

12

|  |  |  |
| --- | --- | --- |
| 13 | Q. | Who did you ask that question of? |
| 14 | A. | That would have been of the senior finance officer. |
| 15 |  |  |
| 16 | Q. | Mr Wilson? |
| 17 | A. | Yes. |
| 18 |  |  |
| 19 | Q. | Do you remember the question you asked him? |
| 20 | A. | Simply asked, "Will this activity erode our cash |

21 reserves?"

22

1. Q. And what was his answer to the best of your
2. recollection, what did he actually say?
3. A. As I've indicated, that with the expenditure or
4. investments in the projects that we're doing we will not
5. need to be funding those projects for a number of years,
6. airport for example, 15 years, that would allow the
7. reserves to be built up again. And the long-term financial
8. plan indicated quite clearly that process, that would
9. occur. Also, the audit report from Pitcher Partners
10. indicated that the council was in a sound financial
11. position and could afford therefore the projects that we
12. were taking on.

35

1. Q. I want to suggest to you that you must have
2. understood --
3. A. That we could possibly erode the reserves?

39

1. Q. -- that your cash reserves would be substantially
2. impaired by proceeding with this contract in conjunction
3. with the other contract?
4. A. Yes.

44

1. Q. And, if you had such a concern, why did it have to be
2. $5 million, why couldn't it have been $3 million?
3. A. I can't answer that question.

1

1. Q. Did that topic get discussed? Did anyone on council
2. suggest, well, we can't afford 5, why don't we get 3?
3. A. No, I can't answer that question either.

5

1. Q. I want to suggest to you that you put the
2. sustainability of the council's long-term position at risk;
3. I don't mean you personally, I withdraw that. I want to
4. suggest to you that council's decision - council's
5. decision, please don't take it as a personal criticism -
6. council's decision placed the long-term financial
7. sustainability of Norfolk Island Regional Council at risk.
8. A. Well, that is probably debatable. At that time our
9. tourism numbers were increasing, revenue into council was
10. increasing, so you know, and as I had intimated earlier we
11. had invested in projects that would not require funding for
12. a fair period of time; it was indicated that the long-term
13. financial plan, we can manage this possible eroding of the
14. council reserves.

20

1. Q. And then, in April 2020, not even a year later, COVID
2. is having its effect on council, it's true, and the
3. accounts demonstrate those effects quite starkly, but it
4. really did come home to roost when the new general manager
5. had an informal meeting with each of the council members,
6. didn't it?
7. A. Well, yeah, but --

28

1. Q. Do you remember that meeting?
2. A. With the general manager? Yes.

31

1. Q. What did he say, what do you recall him saying to you?
2. A. That we're running - we will run out of cash, and
3. what --

35

1. Q. Did you accept that or did it surprise you? What was
2. your reaction?
3. A. Well, it didn't surprise me because the council had
4. all of a sudden lost its revenue stream. You know, we're
5. heavily reliant on the tourism industry, imports, visitors
6. coming in, imports coming in, you know. So, yeah, it's not
7. a surprise when you don't have your visitors coming in that
8. you don't have the income, so therefore you can no longer
9. fund the operations. And, no one had a crystal ball to see
10. that there was a pandemic coming that would have a massive
11. impact on the Norfolk Island economy.

47

1. Q. May I suggest that's precisely why you would seek to
2. protect and maintain your cash reserves?
3. A. Well, of course.

4

1. Q. When the general manager proposed revenue measures on
2. both rates and electricity in the 2020 budget, the council
3. chose not to support them; correct?
4. A. Correct.

9

1. Q. I presume the same reasons you've indicated earlier
2. apply broadly about rates?
3. A. Well, yes, that's correct.

13

1. Q. And what about electricity: electricity has always run
2. at a deficit. What he proposed, given the financial hole
3. council was in, was to make electricity self-sustaining,
4. that is, budget neutral. You didn't agree?
5. A. No, I don't agree with just simply increasing the cost
6. of electricity and increasing the receivables so council
7. would have outstanding. Here on Norfolk Island we've got -
8. roughly 25% of houses on the Island have photovoltaic solar
9. power. Whilst it was a great idea, the supporting network
10. that runs the photovoltaic was being covered by the portion
11. of the community who did not have the benefit of solar.

25

1. Because, quite simply, if your photovoltaic is not
2. connected to the powerhouse you cannot produce solar power,
3. so we needed a better charging machine than just simply
4. coming out and saying, hey, let's just charge another
5. 4 cents to the people who are already subsidising
6. electricity. But also at the same time we'd been waiting
7. for a 2kVA battery to arrive so we could stop the expensive
8. cost of dumping excess solar power. You see, these are
9. some of the - in the capital budget initiatives that the
10. council were doing.
11. That solar system now is feeding into a battery which
12. is now being fed back and reducing the cost of the diesel
13. demand on the electricity service, so it's a matter of
14. making those improvements, not just coming out and saying,
15. oh, we need another 4 cents, because electricity was still
16. running at a pretty well, even though very fine line, cost
17. neutral, they were not in deficit. Sure, they needed funds
18. and there is a requirement for funds to upgrade some of the
19. transformers, but the electricity team have made it quite
20. clear that, let's not spend a heap of money at once, we'll
21. do it as a planned program, so that's why I did not support
22. just simply increasing.

1

* 1. You know, for example, we have a waste management
  2. levy - just digressing a little.

4

1. Q. Yes.
2. A. Now, anything that comes into the Island incurs a
3. levy. What happened when Boral brought in all their
4. material, they brought in, I don't know how many
5. containers. I moved that we charge the same or a fee for
6. containers coming into the Island, because one day it will
7. become a waste. We will leave that, I was told, we're
8. going to do a full waste audit. So, now we've got a heap
9. of containers coming to the Island that no revenue was
10. gained from it, so why take the easy road? That's what I
11. asked the senior staff, why just take the easy road?

16

1. Q. Given the financial position of council as a result of
2. COVID, as a result of the contracts we were just talking
3. about and the general overall position of council, what can
4. you point to as being measures that sought to increase the
5. general revenue so as to match it with the expenses of
6. council?
7. A. What measures?

24

1. Q. Yeah, what measures can you point to that council
2. considered or passed that sought to align general revenue
3. with the ever growing - with the deficit associated with
4. expenditure?
5. A. The increasing deficit: well, unfortunately there were
6. tough decisions that were required --

31

1. Q. Yeah, no, no, I understand decisions were made to
2. reduce expenditure, people lost their jobs, a very
3. unfortunate situation, there were other things that were
4. done on the expenditure side, but the obligation on the
5. government body is about aligning/balancing revenue and
6. expenditure. Whilst steps were being taken on the
7. expenditure side that meant many people on Norfolk Island
8. lost their employment, what were you doing to offset that
9. in terms of generating revenue?
10. A. Well, that's a tough question because when you're in a
11. cash poor/asset rich society, how can you extract more
12. funds? Yeah, it's not as easy as just saying, we'll
13. increase the charges, we'll increase fees, you know, it's
14. not - and, when you come up with initiatives that are not
15. quite an activity of the council it's not readily accepted.
16. You know, trying to have an alternate income stream than

1 just tourism.

2

1. Q. Could I turn briefly to the issue of the other assets
2. of the council. Compare the state of the sewerage system
3. today to where it was on 1 July 2016: better, worse?
4. What's been done to improve the assets?
5. A. Well, the only one area we worked on is putting in new
6. pumps to make the system more efficient. We've gone
7. through an exercise with Balmoral to cost a new and
8. improved sewerage scheme, and --

11

1. Q. It's beyond the budget, isn't it, that cost?
2. A. That's beyond the budget, that's totally beyond the
3. budget, but at that time there was indicators that we would
4. be able to fund some of that by going to the Commonwealth
5. for funding to improve our water sewerage scheme.

17

1. Q. What about the power infrastructure?
2. A. The power infrastructure, council bought three new
3. generators because --

21

1. Q. What was the cost?
2. A. That was, gee, 1.25, if I remember. But the other
3. generators was bought by the Assembly secondhand. They had
4. two extra services in excess of what they should be
5. serviced, so they were beyond their use by life, so we
6. bought the new generators. We also went down the path of
7. trying to get Norfolk 100% photovoltaic, so we sought
8. expressions of interest to do a plan for Norfolk Island to
9. become 100% self-staining in electricity, which that tender
10. was won by Hydro Tasmania Australia. The report cost
11. $275,000, which I felt was incomplete, they did not meet -
12. and then we were told, oh, we cannot do the tariffs because
13. we need an electricity economist. I don't know if you've
14. heard of one?

36

1. Q. Yes.
2. A. They couldn't find one, the staff. We didn't get such
3. a beast to come and tell us how much we need to charge for
4. electricity. We then, at the initiative of the electricity
5. staff bought the 2kVA battery, Tesla battery, put that in
6. place, which is now saving revenue, saving on diesel
7. consumption.

44

1. Q. Was that a proposal that came from the staff or from
2. council, council officers, the council governing body?
3. A. It was actually hatched out of the engineers who came
4. to help set up the coming - the new generators. They said,
5. you don't need this, there's things that you can do to
6. improve and reduce your diesel consumption here and the
7. changes are not that great. So, that's where the battery
8. initiative came from and it's moving towards becoming
9. self-sustainable in photovoltaic electricity, but we need
10. to have the infrastructure in place. So, council invested
11. - as I will keep using the term "invested" - in the
12. powerhouse so that we have reliable electricity supply.

10

1. We also, which hasn't been touched on here, invested
2. in a new fleet of vehicles for council staff because some
3. of the vehicles were 30 years old and it was irresponsible,
4. I felt, to continue having council staff driving around in
5. what could potentially be dangerous vehicles, so we
6. replaced them.

17

1. The crane that we used to discharge cargo, sea freight
2. onto the Island, was now unserviceable, so we had to buy a
3. new crane. On that note, a crane was brought to the Island
4. at the - councillors did not support the initiative to
5. bring a crane to test, a crane that came to Norfolk, a
6. contract had been entered into with a hire firm in
7. New Zealand, brought to the Island and the crane, we had no
8. way to get the crane off the ship, so there went another -
9. and locked into a six month contract.

27

1. Q. But who made that decision?
2. A. Senior staff, nothing to do with councillors. They
3. advised us that - and we said, don't do it, but it was
4. already on the pier.

32

1. Q. When was that?
2. A. Oh, that would have been about 2018. We also had
3. purchased, spent around $4 million to improve our waste
4. management system. Again, experts told us what composter
5. we need. The composter was purchased, sat in storage,
6. which was paid for by council in Australia, until they
7. could get it to the Island. It sat around at the waste
8. management centre for 12 months and it's still not running,
9. you know, so these are --

42

1. Q. It sounds like you --
2. A. -- costly initiatives that have been put in place
3. which is not actually operating. What else --

46

47 Q. Just pausing there. Assuming what you've just said is

1. correct, those are all things that were done by council
2. officers that would seem to be things that the council
3. should have been involved with and should have controlled?
4. A. We were involved, we were involved, we were supportive
5. to get a composter so that we stopped burning green waste
6. and we tried to comply with Marine Parks Australia to stop
7. dumping waste, which is what the community wants to do,
8. stop dumping waste into Headstone.

9

1. We also have air freight delivery which everyone
2. appreciates, but the council have to fill that plane with
3. waste and pay $400 a tonne to send it off the Island. You
4. know, so there are some things that were totally out of
5. control of the council, which again, was revenue depleting.
6. So, you know, but the airport job I will say was a
7. necessary investment; sure, we ran into issues.

17

1. The roadworks maybe could have been left but the
2. opportunity to do that whilst the equipment was on the
3. Island will not come again for another 15 years. So then
4. the equipment that required replacing. The 4G upgrade, the
5. reports indicated our telecommunications system could very
6. well collapse at any time. A lot of visitors when they
7. come to the Island expect to have good communications, so
8. these are things that council felt they could achieve, but
9. unfortunately what happened? The pandemic occurred, so all
10. of a sudden the revenue that was coming in just simply
11. dried up.

29

1. MR BOLSTER: Thank you, Mr McCoy. Commissioner, I have no
2. further questions.

32

1. THE COMMISSIONER: I don't have any questions either. Do
2. you?

35

36 MR SIMONE: I don't have any questions.

37

38 MR BOLSTER: Might Mr McCoy be excused from his summons?

39

1. THE COMMISSIONER: Okay, thank you, Mr McCoy. Thank you
2. for your up-front and insightful information around the
3. sort of things that happen at the council, I found it very
4. helpful, so thank you very much.
5. A. Thank you very much, Commissioner, and I appreciate
6. the opportunity and I also do support the inquiry that's
7. going on. Thank you.

47

# 1 <THE WITNESS WITHDREW

2

1. MR BOLSTER: Thank you. We might take an adjournment,
2. Commissioner.

5

1. THE COMMISSIONER: Mr Bolster, what time do you need me to
2. come back?

8

9 MR BOLSTER: 11.20, Commissioner, I think.

10

1. THE COMMISSIONER: Okay, we'll reconvene at 11.20. Thanks
2. everyone.

13

# 14 SHORT ADJOURNMENT

15

16 THE COMMISSIONER: Okay, Ms Morris.

17

1. MS MORRIS: Commissioner, the next witness to be called is
2. Councillor Porter.

20

# 21 <DAVID RAYMOND PORTER, sworn: [11.24 am]

22

# 23 <EXAMINATION BY MS MORRIS:

24

1. MS MORRIS: Q. Thank you, Mr Porter. Can we just get a
2. bottle of water for Mr Porter. Could you state your full
3. name for the record?
4. A. David Raymond Porter.

29

1. Q. Mr Porter, you weren't born on the Island?
2. A. No.

32

1. Q. You were born in Queensland?
2. A. In Bundaberg, Queensland.

35

1. Q. You've previously served on the council in Queensland
2. in Bundaberg, I understand?
3. A. That's correct.

39

1. Q. How long was that for?
2. A. From 1994 till my resignation to come to the Island in

42 2007.

43

1. Q. And, what brought you to the Island?
2. A. Lifestyle, it's a lifestyle choice.

46

47 Q. Then, when you were on the Island, you ended up being

1. a member of the final Legislative Assembly?
2. A. That's correct.

3

1. Q. What led you to seeking that role?
2. A. With my previous public service governance experience
3. I felt I could contribute to the Island, and in my opinion
4. we weren't travelling too well and I thought I could help
5. that.

9

1. Q. And that it was around the 2014/2015 timing?
2. A. Fifteen.

12

1. Q. And you had been, when you'd been at Bundaberg,
2. involved in some similar asset issues as here, for example,
3. the airport, fleets, roads?
4. A. For most of my time in Bundaberg I was Chair of
5. engineering services, so I had portfolio responsibility for
6. roads, water, sewerage, drainage, airport, plant, fleet,
7. waste management, yes.

20

1. Q. And so, was it from that experience that led you to
2. the concerns about how things were on the Island in

23 2014/2015?

24 A. That and the governance arrangements, yes.

25

1. Q. And what about the governance arrangements was
2. concerning?
3. A. That we're proving now, we couldn't afford to operate
4. in our own right.

30

1. Q. And, when the governance changed from the
2. administration to the council, were you approached to run
3. or was that something you thought yourself?
4. A. No, I felt there was - I could still contribute.

35

1. Q. And what in particular did you see as the main
2. priority at that time?
3. A. Probably the physical infrastructure definitely, and
4. also a mistaken belief that the vertical fiscal
5. equalisation model that would apply to a council rather
6. than an external territory would have been able to allow
7. the council to achieve much more improvement in the Island
8. in the short term.

44

1. Q. Could you explain that a little bit further?
2. A. Well, the classic example, if it's not jumping too
3. early, is the FAGs grant, the financial assistance grants;
4. in the first year I think we received $1.8 million; I think
5. you'll find now that's somewhere of the tune of
6. $5.8 million. It was obviously never going to allow the
7. council to achieve anything, and certainly not to
8. re-address the chronic shortfall in expenditure on the
9. Island infrastructure, and bear in mind that we inherited
10. an unknown asset value and an unfunded depreciation which
11. caused all those issues in the early budgets and was
12. forward for the whole time that I've been there.

10

1. Q. I'll come back in a short second further to the budget
2. and those plannings. When you first started at the
3. administration and then when the council was first formed
4. what were the major features you saw of how it was run as a
5. governance structure in comparison between the two?
6. A. Well, I guess the Assembly was - or the Administration
7. was a steep learning curve because you're dealing with
8. basically three tiers of government with no support for
9. those - or limited support with those other two tiers. In
10. a local government in Australia you're in a very mature and
11. reasonably rigid structure where you've got your local,
12. your state and your Commonwealth and clearly defined roles
13. and responsibilities and support mechanisms, so you don't
14. start immediately.

25

1. Q. How did that then compare between being in a local
2. council in Bundaberg and a local council on the Island?
3. A. Same, probably the same issues, that we are a local
4. government under the Commonwealth local government that has
5. no other local government, and I might tongue-in-cheek say
6. with very little local government experience, and that's
7. noticeable in the reaction to some things - problems we
8. have, that we would expect to have some support with, it's
9. difficult to get.

35

1. Q. The reactions from the Commonwealth?
2. A. Commonwealth Department, yep.

38

1. Q. How, on the ground, did you find the comparison, for
2. example, the councillors interacting with the council staff
3. compared to Bundaberg?
4. A. Bear in mind, that's Queensland local government
5. compared to New South Wales, it's also some 12 years later.
6. Queensland's Local Government Act had evolved beyond that,
7. but in my time in the Queensland local government all
8. councillors were extremely involved in the process of
9. council and the decision-making process. And I also was in
10. a council where after a couple of years got a new Mayor and
11. CEO who were very proactive in involving the councillors;
12. no major decisions were made in council without
13. councillors' involvement, and especially as Chair, my
14. direct involvement.

6

1. Q. Was that a model that you thought should have been
2. adopted here as well?
3. A. I'll be parochial and say it was better, in Queensland
4. it was a better - no, it was better; to me it achieved the
5. aim that I thought I was there for.

12

1. Q. In Bundaberg, but it wasn't a system that was in place
2. on the Island?
3. A. No.

16

1. Q. Did you have an understanding why there was a
2. different system in place on the Island?
3. A. I believe some of it was to do with the difference in
4. the Local Government Acts. The New South Wales Local
5. Government Act has a fairly - a very clear distinction
6. between the role of elected members and the operational arm
7. and the amount of information that's exchanged between
8. those or to the level that that information is exchanged.
9. Beyond broad policy setting it doesn't appear the Act
10. allows for as much involvement, and I would stand corrected
11. in that I believe the Queensland system has gone more like
12. that but is now returning back to the system that I had, so
13. it's a state of evolution.

30

1. Q. Were there attempts made by the councillors to seek
2. greater access to information from council staff or was it
3. that the attempts weren't made at times because you
4. understood you couldn't under the Act?
5. A. No, within the restrictions of the Act we all
6. constantly asked for more information. I was one that
7. constantly asked why we couldn't have a committee system
8. where we could deal with specific matters of council with
9. the council officers for that, to debate that particular
10. thing, not just come to a meeting where all matters are
11. just put through the official process.

42

1. Q. Do I take it, so there were certain committees that
2. were established with the council; for example, Councillor
3. McCoy referred to the rock source feed earlier today. Do I
4. take it though that you didn't see that that was having
5. that information sharing level or the input that you would
6. prefer?
7. A. They were advisory committees set up under the Local
8. Government Act as applies to us and they were only advisory
9. committees, they had very little opportunity to really
10. influence the council; you could advise but you couldn't
11. really influence.

7

1. So, it was good, it did help to disseminate
2. information, although there was information that we were
3. given that Councillor McCoy touched on, there was
4. information that we were given that several months later
5. another council employee could find no record of, so it
6. was - yeah, it did undermine our faith in the system there.

14

1. Q. Do you have any particular examples of that that you
2. recall?
3. A. I think Councillor McCoy spoke about a drilling rig:
4. there was a need to prove what rock sources were available
5. on the Island and we had an officer who was telling us,
6. assuring us in a rock feed source advisory committee
7. meeting that that machine had been procured and then it was
8. on its way, it was listed for a ship. Subsequent to that
9. the new general manager could not find any paper trail,
10. there was no evidence that that had been done.

25

1. Q. Is that the same rig that then later - there's
2. discussions about shipping and getting off the ship because
3. of weather, or is this a separate rig?
4. A. That was a crane to provide a short-term relief for
5. accessing freight to the Island: a different matter.

31

1. Q. Do you recall who that particular council officer was
2. that there was that issue with?
3. A. I'd rather not be seen to be --

35

1. Q. That's all right. Was that then an ongoing issue you
2. found with lines of communication between council staff and
3. councillors, for example?
4. A. No, that was probably one that really stood out,
5. because the winning of rock on the Island was such a
6. sensitive issue, so obviously it stuck in my mind.

42

1. Q. Were you here earlier this morning when Mr Bolster was
2. showing sections of the Local Government Act to Councillor
3. McCoy?
4. A. Yes.

47

1. Q. At a general level, what did you understand the
2. principles and responsibilities to be of the council?
3. A. As a councillor, I've got to act in good faith and
4. I've got to carry out to the best of my ability those
5. functions. But if you talk about finance, I'm not an
6. accountant and I wasn't elected, nor am I remunerated, to
7. be a forensic accountant, so I was here to ensure that the
8. general manager had used the resources of his council
9. wisely and what he brought to us was something that we
10. could have fair faith in.

11

1. Q. How did you ensure for yourself and for the
2. councillors as a whole that the general manager was using
3. those resources wisely?
4. A. You had your investment reports and your financial
5. reports monthly; sometimes those reports may have not
6. coincided with a council meeting, so some nights you might
7. have two, some nights you might notice there's only one.
8. With January being a recess, you might find in February
9. you've got two or three, but by and large you had
10. reasonable access to the financial standing of the council
11. supported by the chief financial officer explaining that
12. what he was giving you was in fact the case.

24

1. Q. Did you have any concerns at any time when that
2. information was being reported to you as to the figures
3. being reported?
4. A. Probably only from layman's terms right, as I said
5. before, from the beginning that the value of the assets of
6. the Island and the depreciation liable seemed to be fairly
7. fluid.

32

1. Q. Did you put questions back to the financial officers
2. about what that meant for your budget for your long-term
3. financial plans, for example?
4. A. Obviously, yeah, and any change in the value of
5. assets. The classic example right now: you've got a
6. $50 million airport that the Island couldn't fund that all
7. of a sudden has to depreciate.

40

1. Q. Do you recall being given satisfactory answers when
2. queries were raised?
3. A. I believe so, yeah.

44

1. Q. One of the early documents which we were touching on a
2. bit earlier before was the long-term financial plans and
3. the operational plans and resourcing plans that were
4. developed in the early days of the council. Do you recall
5. the discussions about the strategy that the council wanted
6. to adopt for that long-term financial planning?
7. A. Well, obviously you have to stay solvent, you know,
8. there's basic parameters in any business, whether it's a
9. council or your own household budget, but we all wanted
10. better outcomes and we had the limitation of revenue
11. raising capacity. A very small community in an isolated
12. location is going to have difficulty forever in getting a
13. reasonable quantum of their fund, their turnover, from own
14. source revenue.

12

1. Q. What had you understood the approach to be of the
2. previous administration in meeting that challenge?
3. A. It had its challenges in doing that, and that was part
4. of the reason that we weren't - the state of most of the
5. assets that came to the council was evidence of the fact
6. that the previous administration was struggling for the
7. same reason.

20

1. Q. And you'd been aware that the previous administration
2. had often operated at a deficit?
3. A. I don't believe I would have been in that government,
4. I may have reason to recollect that from living on the
5. Island, but I'm not qualified on that.

26

1. Q. Do you recollect in the discussions around long-term
2. financial planning being told that, if things continued in
3. the same way, that there would be an ongoing deficit in the
4. budget?
5. A. Talking about deficit on the budget: originally, as I
6. said, when the council came into being we had this enormous
7. issue of depreciation which hadn't been funded by the
8. previous administration and was always going to be a
9. challenge for this Administrator, for this council, so that
10. was going to cause trouble. As I said, when you're looking
11. at getting $1.8 million in your financial assistance
12. grants, of course you were going to be under enormous
13. pressure, there's a limit to how much money you can raise
14. from own source revenue, be that rates or be it commercial
15. activities.

42

1. On the other side of the coin, if you're getting the
2. $5.8 million or what the correct figure is in financial
3. assistance from grants - because most people would - a lot
4. of people if they took the time would understand that
5. vertical fiscal equalisation is about allowing us to live
6. at a reasonably degree of comfort like any other
7. Australian, and I'm not talking about Sydney or Melbourne,
8. I'm talking about Diamantina Shire or Carpentaria Shire in
9. the remote north who has very little ability to have own
10. source revenue.

6

1. Q. Much of the FAG grants were directed more for
2. operational spending and the ongoing maintenance and
3. renewal, from what I understand of the budgets?
4. A. Yes, and they're quite specifically linked. You do
5. have some of the FAGs grants are untied, but there is road
6. components and there are other - for different councils,
7. and in various years some programs may impact on what you
8. can expend that money for.

15

1. Q. And then there were separate grants as well for
2. capital investiture?
3. A. We could, and that was another issue for us, that a
4. lot of the infrastructure grants that a normal council
5. would get would be generated by their own state or
6. territory: we don't have one. So, I think that was - and
7. the Mayor will be able to give you more information on that
8. because it was something that she was quite passionate
9. about was, I think in one year I think there was something
10. like $4.8 million available of state-type grants that we
11. weren't able to access. There was even, in the early days,
12. great discussion about whether we could even get Roads to
13. Recovery or Black Spot funding, or Building Better Regions
14. funding; all those things had to be worked through to give
15. us the ability to even to compete for those funds.

31

1. Q. From what we can see of the records, 2016/2017 there
2. is that ongoing back and forth around the level of FAG
3. grants and capital grants?
4. A. Absolutely.

36

1. Q. By 2018, mid-2018, there's a recognition of what the
2. level will be for the next five years?
3. A. I thought it was three years.

40

1. Q. Until the end of 2021, I think, with the --
2. A. Initially I think it was three years, and even that I
3. queried inasmuch as I think that the 1.8 went to, like, 2.8
4. and then to 3-point-something and then a little more, and
5. to me our emergent funding needs, it should have been the
6. other - if we possibly had high funding earlier we may have
7. been able to stand less funding later, but it was how
8. quickly we needed to address issues like piling our garbage
9. up on a cliff and burning it, set it alight and kicking it
10. into the ocean: it's not a good look; we were committed to
11. trying to achieve better outcomes.

5

1. Q. But the FAG grants, as you were saying, particularly
2. going towards maintenance, renewal and general operations;
3. the capital grants were then for funding projects such as
4. the telecommunications upgrade?
5. A. Yes, bear in mind at the end of the day it doesn't
6. matter what buckets they're in, it's money that comes to
7. this island that eventually balances a budget, and you
8. can't take money from that pile to balance that pile, but
9. in taking strain off of that particular pile allows your
10. own source revenue to be more used there. Also, if you
11. want to look at the pure economics, if it leads to a more
12. affluent island, people can afford to pay more fees, so you
13. might be able to get closer to full cost pricing.

19

1. Q. Just to clarify on that, your understanding was that
2. there were certain funds that could be received for only
3. particular purposes and some that couldn't?
4. A. Absolutely.

24

1. Q. But the hope was that by receiving them and spending
2. them in a restricted way it would relieve a burden on the
3. other funds?
4. A. Typical, we didn't have any success in getting funding
5. for the composter so it came out of our budget. Had that
6. been funded, that was an enormous relief to our budget, so
7. it's cause and effect.

32

1. Q. Part of the budget process was each year a revisiting
2. of the operational plan and how that affected the long-term
3. plan?
4. A. Yes. Yes, those plans aren't set in concrete, they're
5. a work-in-progress; as you know, they're a living document;
6. the council don't just get to the end of 10 years and say,
7. where are we going now? It's a living document and it's
8. populated from those other shorter term operational plans
9. and budgets.

42

1. Q. If we take, for example, in 2018 there's been a couple
2. of years where the budgets haven't come in at the level
3. expected to be because of grants being lower, because of
4. other sources being lower. Do you recall discussions
5. around that time as to whether there should be a shift in
6. the strategy of how the council should approach its
7. budgets?
8. A. I think it would have been around those times that we
9. had a grants officer and that we were actively working
10. with - and also at the political level working with the
11. government of the day about the unique circumstances of
12. Norfolk and how we don't fit into those normal Commonwealth
13. state, local funding mechanisms, so that's an ongoing work
14. and that has achieved some good outcomes. The Mayor, as I
15. said, would have a much more - probably a much more
16. detailed grip on that. I've been involved and I understand
17. how it works because I came from that world, but some of
18. those discussions were with the - I think fortnightly
19. discussions with the Mayor and the general manager and the
20. Administrator.

16

1. Q. But at the council level, at the point in time when
2. you've been told what to expect in terms of FAG grants
3. going forward but you were aware of some of the shortfalls
4. in the years before, were there discussions at that time of
5. whether a strategy still based on self-staining business
6. models, for example, was still an appropriate strategy?
7. A. I think the council through its budgeting process was
8. cutting its costs, were cutting its cloth: bear in mind
9. that, as Councillor McCoy said, we were involved in the
10. budget discussions at a very, very high level.

27

1. My previous experience was, I was totally immersed in
2. the budget process through my offices in my department that
3. I represented at the council, through to where the whole
4. council in those budget processes are; you might not have
5. quite got to line-by-line, but you certainly targeted the
6. big ticket items more so than what we've had the
7. opportunity to do here.

35

1. Q. Can you just explain a little bit further why there
2. wasn't that opportunity under the council here to have that
3. same back and forth on the budget?
4. A. Partly the Local Government Act of New South Wales
5. which is quite punitive about that separation between
6. operational matters, and is the budget an operational
7. matter or is it a council matter? It's open for
8. interpretation. I thought we could have had more access,
9. but I'm not an expert on the Norfolk Island Local
10. Government Act; I now how to comply with it but I'm not an
11. expert on it.

47

1. Q. There were reports given to you though at council
2. meetings with the planned budgets?
3. A. Oh, yes, yes, you had a pre budget meeting and then
4. obviously you had an extraordinary meeting to adopt the
5. budget, so yes.

6

1. Q. Was there scope there for those discussions about
2. where targets were set or the assumptions of the budgets?
3. A. Limited. Limited, I would have thought.

10

1. Q. Limited because you - and by you I mean the
2. councillors as a whole - weren't seeking to have that
3. information, or the response was that you weren't allowed
4. to have that conversation?
5. A. No, some of it we - some of it we, and most
6. councillors, pushed quite hard. Some matters we did have a
7. small win, but on many it more tended to be a fait
8. accompli, or we - I felt.

19

1. Q. Can you just expand on that a little bit further what
2. you mean by it was a fait accompli?
3. A. That, although we would have - and there was divergent
4. views within the council - would have been maybe setting up
5. a fee for something or not introducing a fee for something,
6. or alternatively looking at, are we upgrading our fleet too
7. quickly? Is there some that can last a little longer?
8. Yeah, obviously, look at some of the big ticket items could
9. we - and things were deferred into the next year, but quite
10. often that was opportune, they were deferred because the
11. item wasn't available or hadn't been purchased, it wasn't
12. because there was a conscious decision made to say, we
13. won't purchase that piece of equipment for 12 months.

33

1. Q. Were these concerns that you raised with the general
2. manager, or was it with finance?
3. A. It would have been raised at the meeting where both of
4. those people would have been present, would have been
5. within the normal ongoing discussion around the budget and
6. the budget process.

40

1. Q. And what was the response that you received? Do you
2. recall a particular instance of a response where there was
3. a question raised and the answer?
4. A. No, none actually pop into my mind, I'm fairly broad
5. on that. One will occur to me as soon as I walk out, but
6. there were issues that were raised that we felt we could
7. have had a better outcome and that, within the limitations

1 of the Act, whether we could actually achieve that.

2

1. Q. Do you recall that in late 2018 there was some further
2. training done with councillors about Local Government Act
3. and the responsibilities?
4. A. Yes, yes, we did have. We didn't have anywhere near
5. the training I thought we should have had, and that was
6. talking about after being a councillor for 14 years. I
7. still understood there was a lot you need to learn, and
8. certainly a lot to need to learn about New South Wales
9. Local Government Act as it applied to Norfolk Island
10. compared to any other ongoing training. I went to two
11. conferences every year where there was a high element of
12. training in my old council. I never went anywhere here,
13. not that I need to go to a conference, but I did have
14. access to that training.

17

1. Q. What sort of training was missing that you wanted to
2. have access to here?
3. A. You could pick any skill set in the entire council
4. where councillors were involved in the decision-making
5. process.

23

1. Q. Could we bring up NIRC.005.002.0001, page 7. This, as
2. I understand, is part of the PowerPoint slideshow in the
3. late 2018 training that you had. Does this look familiar
4. to you?
5. A. It doesn't spring immediately to my mind, and bear in
6. mind - I probably should have mentioned it earlier - but my
7. wife has significant health issues which requires us to
8. depart the Island reasonably regularly, and to a great
9. extent with the forbearance of the specialists we've been
10. able to work around council meetings, but there are some
11. times when there were council matters that I was
12. unavoidably away from the Island, but I will put my wife's
13. health first in any event. So, I don't know, if you could
14. show me more of that, I'd know.

38

1. Q. If perhaps you just go to page 79.
2. A. The name --

41

1. Q. And, if we just turn that round. You will see, this
2. is the list that was --
3. A. Yes, so I am there: good. Oh, no, I may not be.

45

1. Q. Your name is on there at that level.
2. A. But I haven't signed it.

1

1. Q. But it's not been signed, it's not been signed by
2. anyone; I don't think we have a signed version but --
3. A. Well, that doesn't help me, I'm sorry.

5

1. Q. That's all right. If we go --
2. A. Sorry, but that name, the name of that person doesn't
3. spring to my mind, sorry.

9

1. Q. Doesn't spring to mind?
2. A. No.

12

1. Q. The dates were 3 and 4 December 2018; does that assist
2. in recalling whether you may have been on or off Island at
3. the meeting?

16 A. In 2018?

17

1. Q. Yes?
2. A. I missed the council meeting in December 18, so
3. there's a reasonable chance, if it was something serious,
4. we may have been away for two or three weeks.

22

1. Q. If you go to page 20, and I accept you may not have
2. been at this meeting, so this is just at a higher level.
3. But we see that this is one of the slides presented by
4. Ms Sheehan which talks about the interactions between the
5. governing body and the council itself, and says that it
6. allocates the councillors the task of setting strategy,
7. allocating financial resources and allocates to the admin
8. staff implementation of the strategy and ensuring
9. compliance. Now, that seems to me to be at odds with the
10. description you've given so far as to the understanding of
11. the council as to where those responsibilities lay.
12. A. Certainly in the matter of allocating finances or
13. resources at what - how - at what micro level were we
14. involved at; certainly wasn't at the line item. I don't
15. even recall probably even down as far as departmental
16. level, no. It was presented to us, explained to us, and
17. was probably accepted by us. Because you would have to
18. explain to me what allocating financial resources means in
19. your mind to tell me whether I've got a correct
20. understanding, because to me that could go all the way from
21. just making sure that the chief financial officer used the
22. right funds and had the sufficient funds to make sure that
23. those resources were available to populate the budget, or
24. was it saying how much money we were going to spend on
25. cleaning the toilets in Burnt Pine; what's allocating
26. financial resources mean? Everyone would have a different
27. opinion, I'm sure.

3

1. THE COMMISSIONER: Q. I would suggest, it's all of the
2. above, Mr Porter?
3. A. It's all of the above, yes, thank you.

7

1. MS MORRIS: Q. But I take it, you don't recall, for
2. example in late 2018 or early 2019, there being any shift
3. between council and council staff following this conference
4. about how budgets or those discussions should be had?
5. A. Not looking back from here, no.

13

1. Q. I accept that you may not have been in conference, so
2. it's not clear what you may have been told at that time but
3. we may explore that with others.

17

1. As you would have seen from this morning, there's been
2. a lot of discussion around the airport contracts and road
3. contracts. Do you agree that those have been two of the
4. more significant investments of the council in the last
5. five years?
6. A. Absolutely, and obviously the footnote to the airport
7. tender is, whenever the Commonwealth gives Norfolk Island
8. large sums of money for large projects, but don't do a risk
9. assessment as to whether the shortfall can be funded by the
10. local authority, what's the implications if we don't do the
11. project, what's the implication if the council can't afford
12. it? To my mind that was never done, and bearing in mind my
13. wife had a significant event at that time and I was off
14. Island for a month, including that meeting, so I was at a
15. loss to be able to - and bear in mind, my background is
16. commercial construction and civil construction, so I
17. understand experts and I chaired an airport before, so I
18. understand what was the motivation and the drivers here,
19. but I wasn't here for the actual meeting.

37

1. But, as I said, to me the great risk is that we were
2. given money that was insufficient and no risk assessment as
3. to what impact that would have on the ongoing resources to
4. the council, and one I did raise right from the beginning,
5. and I said just before, you acquire $50 million worth of
6. assets that you don't pay for but you have to depreciate
7. them. That's going to have a significant impact on an
8. Island that couldn't afford its depreciation budget anyway
9. and is proving that in the condition of our assets, but
10. we've got a Commonwealth that are prepared to half fund us,

1 part fund us.

2

1. Q. Breaking that into two parts. Is it not though the
2. council's responsibility to take that risk assessment of
3. whether it can meet those additional costs?
4. A. Probably to spend a lot of money to prove that we
5. couldn't and, what's the alternative? There's no -- that
6. 2 kilometres of asphalt is the beginning and the end of
7. which way you are doing your journey of our national road
8. network; that's our access to Australia, it's our economic
9. lifeline, and it's our social lifeline, so we have to have
10. it and we'll just have to live with the consequences of not
11. being able to afford it. There was no alternative. The
12. Commonwealth didn't offer us an alternative. I don't think
13. we had the time. At the time it appeared you had experts
14. like Dr White and CASA telling us that our airport could
15. become unserviceable. There is no alternative. Somewhere
16. like Bundaberg has five main modes of transport: if you
17. lose one it's inconvenient. If we lose one it's
18. disastrous.

21

1. Q. I readily accept that the airport project needed to be
2. done. My question more was in light of that, that it
3. needed to be done, in light of the fact that the council
4. was told how much grant money the Commonwealth was prepared
5. to extend, was the risk assessment process not something
6. that was a council's responsibility rather than
7. Commonwealth's responsibility?
8. A. I'll maintain it's the Commonwealth. Having said
9. that, I'm not taking exception to this, at the end of the
10. day we had a process, we had advice from our council, from
11. our chief financial officer and from the CEO, we could meet
12. our share of the funding, we could activate that airport
13. loan. I know there's lots of technical issues around that,
14. but we're not accountants. We were told by our chief
15. financial officer and by our general manager that we had a
16. mechanism to fund the shortfall, and a significant
17. shortfall over and above. Like, we were talking initially
18. only probably, depending on the biosecurity arrangements,
19. we were probably only talking about a shortfall of
20. $4 million or $5 million.

42

1. And something that should be tabled in those
2. documents, there was also advice from Dr White and from
3. Boral telling us about potential costs savings within the
4. project, so that we had options, we looked at those
5. potential costs savings and they weren't really - we were
6. spending a lot of money to achieve a little - sorry, losing
7. a lot of money to achieve a little.

3

1. Q. And there were certain aspects within the tender, as
2. you say, that could have been cost savings but council
3. decided to go with the full suite of services?
4. A. I believe those costs savings were going to cost us
5. more than they would have saved us, and the level of the
6. facility that we had to maintain, we're talking about
7. international standard lighting which was - our old
8. lighting system was no longer compliant, and it was not
9. suitable for our atmospheric conditions: we are much better
10. placed now.

14

1. Q. And knowing then, as you said, that there was a cap
2. and it was a hard cap on the amount of money that the
3. Commonwealth was prepared to grant for the project, and
4. knowing that the cost would go above that grant, how did
5. you satisfy yourself and the councillors satisfy yourselves
6. that that shortfall, as you said, would be able to be
7. funded?
8. A. As I've said, we had reports from our general manager
9. and chief financial officer that a loan mechanism could be
10. put in place. I had great difficulty with a loan, because
11. a small cash-strapped community is going to have trouble
12. meeting interest let alone retiring the principal, but at
13. the end of the day you've got to balance that against the
14. fact of, if no airport, this island doesn't exist. COVID's
15. a classic example of what happens when you turn that plane
16. off.

31

1. Q. Did you understand then that, by reference to a loan,
2. it was an actual loan?
3. A. I understood that the airport - and I understood and
4. it was explained to us, that the airport would be able to
5. raise funds, and I recall, I think, discussions around
6. whether that was something Treasury would do. All other
7. local governments have access to their state treasuries for
8. subsidised loans for public infrastructure. Another gap.

40

1. Q. But the loan that was - and you may recall having seen
2. the resolution, if not I'll bring it up again, but the loan
3. was expressed to be a loan from the Airport Business
4. Enterprise?
5. A. Which it would have had to have raised because they
6. don't have cash on hand, but I would have understood even
7. at that time that I would have taken that to mean that they
8. were going to secure the services of either government or
9. corporate loan facilities.

3

1. Q. So, was there discussion at that time around cash
2. reserves as opposed to loans that you recall?
3. A. Yes, and that was always in there, and at that time
4. the council was a going concern, COVID wasn't a cloud on
5. the horizon, we were a going concern. We also had our
6. chief financial officer telling us that we were, as
7. Councillor McCoy said, our visitor numbers were increasing,
8. our incomes were increasing, we were in a reasonably solid
9. if still shaky position.

13

1. Q. You mentioned earlier and it's shown in the minutes
2. that you weren't at the meeting itself where the tender for
3. the airport was decided upon, which is the 20 February 2019
4. meeting. Did you, however, receive the minutes agenda, the
5. agenda papers before that meeting?
6. A. I read the agenda papers; in fact, I was obviously
7. very interested in that particular one and read them online
8. in Bundaberg. I kept abreast of the development and of the
9. argument, because there was a great passion on the Island
10. about rock, as you've discussed/explored before, but
11. spending money you haven't got to buy something you possess
12. in relative abundance, that doesn't really make sense to
13. get it from somewhere else.

27

1. Q. Did you at the time reach out to any of your fellow
2. councillors or to anyone on staff about the matters that
3. were in the agenda since you wouldn't be at the meeting
4. itself?
5. A. No, I felt I couldn't influence it from away, they
6. knew where I stood on the whole matter.

34

1. Q. And where was it that you stood?
2. A. That the airstrip is critical infrastructure, we'll
3. have this argument now rather than have an argument about
4. why we let the airport run into - fall into disuse, which
5. would have destroyed - my wife and I operate a small
6. accommodation property, we're at the frontline of no planes
7. flying and I can assure you that from the effects of COVID.

42

1. Q. Was there a discussion though about the pricing of the
2. different tenders, for example, that were up for choice?
3. A. No, as I recall that came to council as a
4. recommendation. I believe we had - we would have had a
5. decision matrix that would have populated the decision
6. because there is a probity officer - all these major
7. contracts would have had a probity officer, so there would
8. be a quite detailed decision-making process, and I am
9. confident - I don't have that document in front of me - but
10. I am confident we would have seen a decision matrix that
11. would have explained to us that Boral resources were the
12. obvious standard.

8

1. Q. And, as I understand it, all of the tenders were above
2. the $43 million amount?
3. A. This gets back to where the Commonwealth - they knew
4. that we were a cash-strapped impoverished - well, not
5. impoverished, but cash-strapped island with our only vital
6. link to Australia in jeopardy; they would have far more
7. resources to have satisfied themselves that, if they gave
8. us money, we could complete the project rather than have
9. this inquiry now as to why we couldn't.

18

1. Q. So, was there any thought then given at the time of
2. going back to the Commonwealth with the tenders and saying,
3. we can't do it for the $43 million?
4. A. I believe that was quite an active discussion, the
5. Mayor would be able to tell you more about that. The
6. councillor level didn't get involved in that, I believe the
7. Mayor was, and certainly with the Administrator if not
8. directly back to the department. But certainly we
9. recognised the challenges of not having sufficient funds to
10. meet that project cost.

29

1. Q. Do you recall what the response was given?
2. A. No. Obviously, we didn't get the money, no, refer to
3. the original clause.

33

1. Q. But was there an explanation as to why, for example?
2. A. I'm not privy to that, I don't recall that at this
3. point in time.

37

1. Q. After the 20 February 2019 meeting that is voted upon
2. in your absence and the tender is accepted, was there a
3. feedback to you as to what was discussed at that meeting?
4. A. I believe I was - well, I was satisfied. And, this
5. whole and, as you know, this was the largest investment the
6. council's made in its entirety, so this was a topic of
7. conversation for months; at every opportunity that we met
8. it was explored and discussed ad nauseam, so it wasn't just
9. something we said, we've done that, let's get onto the next
10. one, we lived with this project. And even to the point of,
11. it would be interesting to be able to travel through that
12. timeline from when we were first - it was first indicated
13. to Boral that they were the successful tenderer, there were
14. many months before the tender, the contract was actually
15. executed.

6

1. But if you understand contract law, once Boral were
2. given an undertaking that that contract was live, they had
3. the capacity to charge council for any out-of-pocket
4. expense if the contract eventually didn't go ahead. And
5. even to the point as you move closer to that execution
6. date, may have even been liable for lost income, loss of
7. profit. So, it's a very complex matter to sit here now and
8. look back and try and remember every single thing that
9. happened from that - well, well before 20 February right
10. through to when the contract was executed, you know, quite
11. some time later I believe.

18

1. Q. And I appreciate it's difficult to recall, but there's
2. a situation, it's in early 2019, you know the amount that's
3. going to be received from the Commonwealth, there's been
4. the discussions as to whether it can be any greater and
5. you've been told no so you know this 43 is the cap; you are
6. presented with a tender, as you've said, that had some
7. options in it for costs savings that might have reduced the
8. price and maybe reduced it below the cap, but council
9. determines not to take those savings because of concerns
10. about you not saving money in the long run. Were there
11. otherwise discussions about whether there were other ways
12. of reducing the costs with Boral, for example, or other
13. ways of managing that risk that there was going to be this
14. shortfall gap?
15. A. Also the issue of pursuing the procurement of rock on
16. the Island. There was two things: one was that you kept
17. the residual value of that rock purchase within the local
18. community. The second one was, it felt like it should have
19. been cheaper, but in hindsight, as I say, I have extensive
20. experience in commercial construction and civil
21. construction. Boral produced all the rock they needed for
22. this island probably in a two shift or three shift run in a
23. major established quarry in Australia. You compare that to
24. hauling quarrying equipment and processing equipment all
25. the way across the Pacific Ocean, commissioning it, making
26. the stone over probably a 10-week period, and then
27. decommissioning and removing all of that plant and
28. equipment back to Australia. The economies of scale to me
29. would suggest that the rock out of the Australian quarry
30. was probably going to be cheaper anyway; that only left the
31. residual value of purchasing the rock on the Island left.
32. I don't know whether that explains ...

4

1. Q. Just to clarify that, the tender that was put forward
2. by Boral was put on the basis of on Island rock?
3. A. No, and I think John explained that quite clearly
4. before, that out of date we were advised that Boral had
5. been informed that their tender was to be for off Island
6. rock only, so when the tender came in there was not a local
7. component.

12

1. Q. You're aware though that there was a separate head of
2. amount that was allocated for biosecurity risks and issues
3. of that nature from Boral?
4. A. Even that is a problem for me having not been at that
5. meeting, because in traditional contract costings prime
6. cost items, PC items are included in the whole sum but are
7. identified as a separate amount in case they need to be
8. adjusted.

21

1. My initial understanding was that that biosecurity fee
2. was within the tender and I don't recall anyone giving me a
3. view contrary to that initially. Now, very soon after that
4. it became apparent that that was above, but that got back
5. to, again, we still have a failing asset that is the only
6. access to (indistinct).

28

1. Q. I understand. When did it become apparent to you that
2. it wasn't included in the tender price, that it was a
3. separate head?
4. A. Probably in returning after that February 20 meeting,
5. going through the document that was presented to council
6. properly, and I had my suspicions from viewing it online in
7. Australia, but that to me was probably the most serious
8. overrun in the way a normal contract would be developed.

37

1. Q. There was quite a long period of discussion to still
2. seek on Island rock after the February 2019 meeting?
3. A. Oh, definitely, yes, as you explored with Councillor
4. McCoy, yeah. It was still a push, but obviously the
5. timelines weren't too tight.

43

1. Q. From your role on the rock source committee, you would
2. have been aware that that had been an ongoing discussion

46 since 2016/2017?

47 A. When I first came to the Island I had a couple of

1. engineer friends of mine come over and we did a proposal
2. for the Assembly at the time to develop a quarry at
3. Headstone, because even at that date I could see we didn't
4. have the rock resources for an airport upgrade, and that
5. was something I intended to try and privately fund and the
6. government of the day supported me, but the GFC hit and it
7. ran out of legs. So, I was aware of the shortage of rock
8. on this Island from the day I arrived; I first bought a
9. house here 20 years ago.

10

1. Q. And given there had been that quite lengthy period of
2. knowing of the issues of on Island rock, how feasible was
3. it thought in the beginning of 2019 that the on Island rock
4. would actually be a possibility?
5. A. I held great hopes, but not much real faith.

16

1. Q. So, it was recognised that there was a good chance
2. that there'd be non-Island rock with the $4 million or
3. $5 million price tag would be required?
4. A. We exhausted every avenue to procure rock on Island,
5. I believe: for a whole host of reasons it wasn't to be.

22

1. Q. So, fast-forward then to towards the end of 2019 and
2. around September, had at that point it become apparent that
3. it was unlikely to be on Island rock or was that later?
4. A. I'd have to consult my diary or think about that
5. further, that's such a long time back to look at a precise
6. timeline. It advanced, there was robust discussion from
7. before February right through to the day the rock was on
8. the Boral bulk carrier.

31

1. Q. Do you recall the meeting where the additional Boral
2. roadworks were discussed?
3. A. Yes.

35

1. Q. In fact, as I understand, you moved the motion. So,
2. what had led to you moving the motion for that project?
3. A. The ability to upgrade the roads was a one in 40-year
4. event - sorry: I should start by backgrounding this by
5. saying that the airport project was now locked in, we had
6. the assurance that we could have the loan mechanism to
7. cover any shortfall to well over the cost of any expected
8. overrun.

44

1. At the same time we had a chief financial officer
2. showing us that we were a going concern and we were
3. actually increasing our reserves so we could meet
4. commitments as and when they came due. Also, we have a
5. report telling us that the scalpings - I'm trying to
6. explain what they are, it's that little layer that you take
7. off the top, and because it's contaminated with the rubber
8. from the planes and fuel it can't be used again in an
9. airport but it's quite suitable for roads.

7

1. We had the other option of seeing, if you drive to the
2. waste management centre now there's still a reasonable pile
3. of scalpings from the last airport upgrade, and you look at
4. that and think, what a waste of resources, now full of
5. grass and totally contaminated. We had this opportunity to
6. take an asset that was still quite usable and do the
7. maximum benefit.

15

1. Why $5 million was picked? That came from an engineer
2. who no longer works with us who put up that proposal with
3. Boral, and to second-guess how much this roadwork cost, if
4. I can just give you a little bit of background: in a normal
5. road reconstruction, where you're going to do an overlay,
6. what you call an overlay, putting some asphalt on an
7. existing road, you'll pick a measurement which the
8. engineers will determine is what you need to protect that
9. asset, extend its life, and traditionally that'll be sort
10. of 15, 17 millimetres.

26

1. But in Norfolk, if you look at the state of our roads,
2. 15 or 17 millimetres between you and I will go up and down
3. by 50 millimetres, so you can't take mainland road costs -
4. well, you can't take the mainland road costs anyway, but
5. you can't even extrapolate them out for transport and say,
6. we can do up an extremely degraded road for the same cost
7. as that you would overlay a road that is still economically
8. viable to do. You wouldn't overlay these roads in
9. Australia, you would reconstruct them.

36

1. Q. So, you say that there was an engineer report from a
2. member of staff; was there a financial report that
3. accompanied it?
4. A. I believe so. I certainly know that the CFO was
5. involved in this, because you don't spend $5 million just
6. by saying, let's do this, it's a good idea. We understood
7. the financial implications. As I said, at the time, no
8. such thing as COVID, a chief financial officer telling us
9. that we were on top of our depreciation issues, we were
10. balancing our budget, we had the reserves. I think when we
11. started talking about all this I think the reserve figure
12. got up to somewhere like $17 million or $18 million: I
13. stand corrected on that, but we were --

3

1. Q. It might assist if we bring up document
2. NIRC.PUB.001.0228\_133. So, we see on here, this is part of
3. an extract of the investment report that was presented by
4. Mr Philip Wilson at the 17 July 2019 meeting. If we scroll
5. up a bit you'll see the date on there. So, this is the
6. same meeting where the Boral roadworks are then also
7. discussed.

11

1. If we scroll back down, you will see there the figure
2. that you were adverting to, around $17 million.
3. A. Yeah, $17 million.

15

1. Q. What was your understanding then of the restricted
2. versus unrestricted lines on that?
3. A. Quite obvious. Restricted, well, it depends, is it
4. internally or externally restricted? Externally restricted
5. obviously is, you can only use it for that process and a
6. lot of that will be trust funds, so obviously you're not
7. going to fiddle with them.

23

1. Your internally restricted: I guess you'd be silly to
2. touch them, but I guess you could move them around but, as
3. I said, it would be foolhardy, so I'd accept that the
4. unrestricted funds, you say, 0.456 million, but that fund
5. was being repleted by normal business activities going
6. through; it wasn't a finite matter that, when it was gone,
7. it was gone.

31

1. Q. No, it was being repleted through, but you'd accept
2. that a $5.5 million roads is a substantial chunk of the

34 8.4?

35 A. Absolutely.

36

1. Q. And at the same time there's this in the background
2. knowledge that there could be a $4 million to $5 million
3. shortfall for the airport as a whole whether that comes
4. from a loan or otherwise?
5. A. If it came from a loan it was not going to be a
6. current liability, it was a contingent liability, it had to
7. be - the repayments would have had to have been met as and
8. when they fell due; it wasn't going to affect our
9. unrestricted cash other than to the extent that you
10. couldn't replenish your unrestricted cash if you were
11. retiring loans, of course, but that was something that was

1 going to be done over 15 or 20 years.

2

1. Q. But you're aware now that there wasn't a loan actually
2. entered?
3. A. It was probably, to my mind, not really ever mentioned
4. again, it disappeared. And I recall questioning that at
5. the next budget and my recollection of that was that we had
6. been able to weather that storm, we were over that, we
7. wouldn't need - we could fund it, we could fund it
8. ourselves, we had the reserves and the resources to fund it
9. ourselves. It was going to be tight, we all knew that, and
10. obviously if we hadn't have spent that $5 million our
11. crisis in COVID would have been averted by, what,
12. four months only.

15

1. Q. And on the back, what you just said about becoming
2. aware of it being funded from cash reserves, what sort of
3. timing was that that you were thinking of?
4. A. So, was that the - what year is this one?

20

1. Q. This is 2019.
2. A. 2019. So, it would have been for the 19/20 - or would
3. have been for the 19/20 budget, I'd assume.

24

1. Q. So, the 19/20 budget would have been set by this
2. point because we're at July 2019.
3. A. Yes.

28

1. Q. So, is it your evidence that at that point it was
2. known that it was going to come through cash reserves, not
3. the loan then?
4. A. No, I can't, I can't give you any definite assurance
5. on that. I know now looking back, with the value of
6. hindsight, that the loan option seemed to have disappeared
7. and not resurfaced. I can't tell you if it was then or if
8. it was the next year.

37

1. Q. But you don't recall any further discussions or being
2. presented with any further discussions about a loan or cash
3. reserve for that?
4. A. No, I don't know if you've found any in the records

|  |  |  |
| --- | --- | --- |
| 42 | but | I certainly don't recall any. |
| 43 |  |  |
| 44 | Q. | Not from what we've -- |
| 45 |  |  |
| 46 | THE | COMMISSIONER: Can I just ask a question? |
| 47 |  |  |

1 MS MORRIS: Yes.

2

1. THE COMMISSIONER: Q. So, am I correct in understanding
2. that you felt that the council could get access to a loan
3. potentially from a state Treasury like (indistinct) has in
4. New South Wales and things like that?
5. A. That was a discussion. Commissioner, I don't know
6. whether that was viable, available, legal.

9

1. Q. It just seems odd that there's no State Government
2. layout but it was thought that you could get a loan from
3. State Government, like Treasury, so I thought that was a
4. rather odd comment.
5. A. No, I think - sorry, I was making the comment that
6. normal councils would access that. For us, I believe it
7. would have been through the Commonwealth Treasury or by
8. some other Commonwealth mechanism --

18

1. Q. Okay.
2. A. -- maybe funding through our department or perhaps
3. commercial.

22

1. Q. So, if you take it that there may have been a loan,
2. even though you just said that there was no further
3. discussion, was there no-one that asked any questions
4. around, if we've got 8.4 unrestricted and we have to make
5. decisions about the road which is around 5, what would the
6. repayments on the loan be?
7. A. This is what I'm saying, we didn't have that sort of
8. level of discussion.

31

1. Q. It seems odd to me that no-one really knew whether the
2. loan ever went ahead, no-one knew how much it was going to
3. be - what the servicing costs of the loan were, what the
4. interest rates would be; so that puts in my mind there was
5. an assumption that there was no loan, so that then that
6. money would then have to be found by council, so when you
7. add the amounts together it doesn't even actually match up

39 to 8.4.

40 A. No.

41

1. Q. It exceeds that by quite a bit.
2. A. Yes.

44

1. Q. So, I'm just a bit puzzled as to how the maths - the
2. people's mind went on the day?
3. A. We were assured that we were going to be sailing close

1 to the wind but it was achievable.

2

1. Q. Okay.
2. A. And that's what - I'm not an accountant, I was - we
3. were advised that by our accountant and the general
4. manager. So, I'm not suspicious by nature, I --

7

1. Q. You made a comment earlier that the budget - it was
2. hard to distinguish around responsibilities of the council
3. regarding whether the budget was an operational matter or a
4. council responsibility. Given your previous experience in
5. the Queensland councils and then us having seen the objects
6. of the Act here plus the responsibility of the council to
7. be able to have an annually balanced budget, I'm puzzled by
8. that comment as well, that wouldn't the councillors need to
9. assure themselves that the budget did balance rather than
10. thinking, well, that's an operational matter?
11. A. No, no, we were assured that the budget would balance.

19

1. Q. But you would need to see the figures?
2. A. Well, yeah, I understand that, but I don't know on
3. what level - as I say, I'm not an accountant, so at what
4. level I could interrogate the officers that they could
5. prove that that was the case. We were assured that it was,
6. that we would be a going concern and that we could meet
7. our --

27

1. Q. But if you run a business, whether it's a government
2. entity such as a council, you do need to understand that
3. the numbers will balance, and you do need to get visibility
4. of that. Most people operating in those kind of roles or
5. in their own business don't go on hearsay, so what I'm
6. really puzzled about is that no-one actually seemed to
7. think, when they were making sequential decisions that were
8. very significant, they didn't understand how the maths
9. would add up and what position that would lead them into.
10. I mean, it seems there was five people on the council and
11. no-one asked that question from what I've ascertained so
12. far, maybe I'll get the answer tomorrow. But is that
13. your --
14. A. We did question our ability to do it, we were assured
15. that it was achievable. And, bear in mind that this is a
16. snapshot; the projects are rolling, the liability for those
17. projects were spread over a couple of years, the funds of
18. the council would have recovered to the extent that those
19. debts would have been paid as and when they became due. We
20. weren't working on a finite resource, we were working on a
21. going concern, so I was comfortable - not, I wasn't
22. comfortable, that's sailing too close to the wind for mine,
23. but the benefits outweighed my reservations because I had
24. no idea of COVID.

5

1. Q. One of the things you also mentioned was that you
2. didn't pursue costs savings in the contract as this
3. wouldn't really save funding in the long-term. Can you
4. explain that to me?
5. A. Some of it was, I think one of the matters was even to
6. the resealing of the cross runway. Now, that wasn't done
7. at the previous overlay, so it would have got to the point
8. where that runway would have probably had to be
9. decommissioned. Now, in the event of significant failure
10. at any time in our main runway, that cross runway, would be
11. available to military and medical, aeromedical flights,
12. that would be our only line of defence, so I felt that -
13. and I think most of the councillors agreed with the
14. professional opinion that we couldn't afford to not do that
15. runway again.

21

1. Also, there was some components of the new lighting
2. system that I understood. As I recall I think there might
3. have been some parts of the new lighting system that could
4. have been left to a later date, but the technical advice
5. was that that was risky in the extreme, so the argument of
6. the day carried that we needed to do the entire project,
7. yeah, as scary as it was.

29

30 THE COMMISSIONER: Okay, thanks.

31

32 MS MORRIS: Thank you, Commissioner.

33

1. Q. Mr Porter, in the exchange you just had with the
2. Commissioner, at one point there was discussion around the
3. unrestricted amounts and what you were told and the
4. satisfaction you were given by the staff and the financial
5. officer, and you used the phrase that you were told it
6. would be "close to the wind"; do you recall who said that?
7. Were those the actual words you used or?
8. A. That was my take out from the general discussion, that
9. this was really a dangerous place to be but it was
10. manageable.

44

1. Q. Do you recall the actual words that you were told?
2. A. No.

47

1. Q. Was the word "dangerous" used, for example?
2. A. No, no idea. No, I'd only speculate, I don't know. I
3. would imagine it would have been couched in far softer
4. tones than that, I don't know.

5

1. Q. But that was your take away?
2. A. My take away, that to me personally it was a dangerous
3. place to be.

9

1. Q. And was that the take away of other councillors to
2. your understanding?
3. A. No, I can't speak for them.

13

1. Q. Was there a discussion with any of the other
2. councillors?
3. A. Not that I'm - not that I can bring to mind
4. immediately, no.

18

1. Q. One of the other consequences of using $5 million of
2. the $8.4 million restricted, even if we leave to one side
3. the question of how the airport shortfall would be funded,
4. you'd accept there's a far smaller pool for any other
5. unexpected spending for assets, for example?
6. A. Absolutely, yes.

25

1. Q. Was there a discussion as to that consequence of
2. choosing to spend the 5 on roads?
3. A. Obviously, because we have an ageing infrastructure
4. set, yes, we've done major amounts of work, and you've
5. heard from PJ Wilson that we've done major amounts of works
6. on a lot of our assets but a lot of them still have
7. critical failure potential.

33

1. Q. And so, for example, the generators, there was a
2. requirement in 2017 I believe to suddenly fund about
3. $1.25 million to purchase three generators; that was
4. unexpected and unplanned?
5. A. Not unexpected but certainly not planned for.

39

1. Q. Not unexpected, that's the wrong word, but it wasn't
2. planned to happen then and there?
3. A. Certainly not planned for definitely.

43

1. Q. So, was there discussion then of what would happen if
2. something of that nature occurred after you'd committed the
3. $5 million for the roads?
4. A. In a normal robust debate one of us, and I certainly
5. probably would have mentioned it myself, yeah, you're
6. looking at what is our potential for - what's the added
7. risk of the consequences of this action, yes, definitely.

4

1. Q. Do you recall where people landed on either side of
2. whether that was an appropriate risk to take?
3. A. We approved the project.

8

1. Q. And, was it approved unanimously?
2. A. No, you've got the record, I don't have it in front of
3. me, yeah, you could enlighten me.

12

1. Q. Do you recall though that the general sentiment was
2. that it was the right decision to make?
3. A. I believe so. It carried the vote of the day.

16

1. Q. So, stepping aside from the airport and the roads more
2. generally, we discussed at the beginning earlier about the
3. state of the assets inherited from the Administration, the
4. issues of valuations and depreciations. How do you see the
5. state of the assets today compared to five years ago?
6. A. Oh, infinitely better, but not probably - a lot of
7. them probably aren't fit for purpose, but they're
8. infinitely better than they were. Our sewerage scheme, the
9. receiving orders, our effluent is totally out of bounds to
10. be putting in a marine bar. And the plant was never
11. designed for that, and then with 30 years of minimal
12. maintenance it's obviously not going to achieve that
13. objective.

30

1. Q. And, are the assets now at a state where they can be
2. extended further through maintenance or are they reaching a
3. point where they need to be redone from scratch?
4. A. Seven different experts would give you eight different
5. opinions on the total life expectancy of any asset,
6. especially varied ones. As you know from local government,
7. it's one of the great Achilles heels of local government is
8. all your buried assets, be they water or sewerage or, so --

39

1. Q. What's your sense, what's your view?
2. A. It's a fairly simple system, that's why it's still
3. operating; it doesn't produce appropriate, like, qualified
4. effluent but it does work, and with maintenance it will
5. keep working. You might have spikes in the amount of money
6. you need to invest to keep it working, but by and large
7. it's a fairly simple system.

47

1. Q. And for the other assets, so, for example,
2. electricity, telecommunications?
3. A. Well, telecommunications now is solved. Another issue
4. where we were given some money from the Commonwealth and
5. then told to go and find the rest ourselves, with an asset
6. that was no longer serviced anywhere in the western world,
7. where we had technicians buying parts for our phone system
8. on eBay. Not a good --

9

1. Q. And that was the Building Better Regions Fund?
2. A. M'mm, but it wasn't a complete fund, we had to still
3. upgrade it.

13

1. Q. No.
2. A. So, that's fixed that one. The power has had more
3. money spent on it in recent times, and I think it's very
4. reliable when you consider where we live and the harsh
5. environment we live in, we have extremely reliable power.
6. You lose power now and again, but you're in an aged system
7. in a hostile environment, I think they do - it's an
8. absolute credit to them. So, I don't know what other left
9. field COVID type thing's going to pop up to hammer us down
10. again.

24

1. Q. With the change now that's occurred with the general
2. manager, has there been a change in the level of
3. information sharing?
4. A. I think, and two reasons for that: I believe there's
5. more maturity in the council now, there's more acceptance
6. of our role and the role of the general manager; I know it
7. from previous experience, I can see it happening.

32

1. I was elected to a council that had been there for 120
2. years. Some of the councillors look like they've been
3. there that long, but really I think the longest at that
4. time was 30, but still, there's 30 years of knowledge, of
5. governance knowledge there that gets imparted on you fairly
6. quickly. So, we were a brand new council, I was the only
7. one with council experience, so we were on a steep learning
8. curve. By the time the new general manager came along, he
9. had a different mindset, but it was a mindset that the
10. councillors generally were prepared to accept.

43

1. Q. And, does that mindset extend to the back and forth,
2. for example, about budget settings, is there the chance to
3. have input or greater oversight on that?
4. A. I believe so. Bear in mind that 2020, the year that
5. the general manager was involved, we were dealing with a
6. catastrophic failure of budget, so it wasn't a normal
7. budget setting.

4

1. Q. No.
2. A. It was a whole different world, we'd never experienced
3. that, I've never experienced that with any general manager,
4. let alone this one.

9

1. Q. Has there been otherwise any more general changes in
2. culture within the council body as a whole that you've
3. noticed over the last five years?
4. A. As far as I'm concerned, yes. I felt we had more
5. access to information, we had more - it could have been
6. better, but then that may well be the constraints of the
7. New South Wales Local Government Act, I'm not being
8. critical of the general manager, just that I'm operating in
9. an environment that is new to me as well. But no, I felt
10. there was a better flow of information, but bear in mind it
11. was possibly brought on by the circumstances as well.

21

1. Q. You would have heard discussions earlier today and
2. yesterday as to how council tends to vote: if there's
3. parties, if there's alignments in there; do you have a view
4. on that?
5. A. And you've got all the documents, I'm sure if you
6. wanted to look through it you might be able to establish a
7. voting trend; I have no interest in that. I took every
8. decision of council seriously, I weighed my - used my
9. experience to weigh the debate both from other councillors
10. and from the recommendations from the officers, and then I
11. voted appropriately. I've got strong views on things like
12. cross-subsidisation and full cost pricing because I've
13. lived through that, so I'll vote that way; some others may
14. view that differently. But I don't - there's probably a
15. definite trend there but you'd have to dig through it and
16. find it. It's there for you if you want to look, yeah.

38

1. Q. You don't have a sense of there being particular
2. alignments otherwise?
3. A. If I do, it's personal.

42

1. Q. Personal? Where did you fall in terms of revenue
2. raising options available to the council where there are
3. issues with, for example, the cross-subsidisation of
4. industries and of other assets?
5. A. Well, there's some fairly clearly defined roles there
6. and responsibilities, and my view is obviously that you
7. shoot for full cost pricing wherever you can.
8. Cross-subsidisation will mean that you will tax an affluent
9. business and prop up a business that may need to be
10. overhauled, or they do things the way they've done like
11. that because they've done it for 100 years and there's a
12. whole new way you could do it, so cross-subsidisation hides
13. those sorts of things.

9

1. Also, if I consume a lot of power but don't drink much
2. alcohol, I'm probably getting cheap power. If you wanted
3. to look across the broad range of how the council raises
4. revenue, one of your main cost raisers is the sale of
5. alcohol. So, if anything's being subsidised, where is it
6. being subsidised from? So, you've got to keep that in mind
7. in terms of cross-subsidisation.

17

1. In terms of revenue raising effort, what we can do to
2. raise more money: if I knew how to raise significantly more
3. funds on this Island, I wouldn't be here, I'd be the
4. general manager or the chief executive officer of the
5. biggest council in Australia and I'd patent it and go
6. worldwide.

24

1. Q. If we leave to one side in that respect the sums
2. required for purchasing new assets and the large up-front
3. costs, and we just take the yearly operational costs of
4. running each of the services and running each of the
5. business enterprises, the goal that was set was
6. self-sustaining for each of telecommunications, waste,
7. airport, electricity: that hasn't been achieved but, in
8. your view, is that something that should still be the
9. manner in which those operational costs are funded?
10. A. To me, we should be striving at every opportunity to
11. either trim our costs or increase our revenue raising
12. ability because they really should be self-funded. If
13. you're an old pensioner living in a small home where you
14. produce basically no waste, should you be subsidising
15. somebody who imports lots and lots of stuff and doesn't
16. consolidate or separate their waste, they just dump it?
17. I'm trying to be a bit too specific here, but you've got to
18. look at cause and effect, so to me, yeah, you've got to try
19. and achieve full cost pricing in a very, very micro
20. economy.

45

1. Q. And again, leaving to one side the large costs of
2. purchasing, do you then see the appropriate revenue raising
3. to achieve self-funding is through the user charges and
4. through raising those charges when required?
5. A. Except that, if we digress a moment and think that in
6. Indian Ocean territories, who are an external territory and
7. who are relying on Australia for their existence, in terms
8. of electricity there's a basket of electrical costs in
9. Western Australia that are aggregated, that mean average is
10. applied to Christmas Island and the Commonwealth Government
11. funds the residual, so they're probably paying 40 cents a
12. unit for power. I'm not crying foul, I'm just using it as
13. an example where we're a very isolated community that
14. doesn't seem to get that vertical fiscalisation help to
15. where we can have a reasonable standard of service at a
16. comparable, reasonably comparable price. If you're paying
17. 20-odd or 30 cents in Australia, even 40 or 50 is a lot,
18. and 70 is enormous.

17

1. Q. And, if you take a different example for example with
2. waste and the levies, however?
3. A. Waste is a hard one because, if you look at waste,
4. we're taxing waste as it arrives on the Island and we're
5. taxing it when it's disposed of. So straight away I'll
6. say, rightie-o, so I've imported a pallet of Vita Brits and
7. a pallet of chook food: how much of that went to the waste
8. management centre? You know, so you're cross-subsidising
9. anyway or you're double dipping.

27

1. So, if you're - really in a perfect world you'd work
2. out how much waste everything produced and you'd have a
3. finite cost for that and where that waste stream led, if it
4. could be diverted away from ultimate destruction. In a
5. typical council you'd be looking at a landfill site and
6. you'd be looking at how you could maximise the life of your
7. landfill site. Here, we've got to look at how we afford to
8. dispose of that asset possibly off Island.

36

37 MS MORRIS: No further questions, Commissioner.

38

39 THE COMMISSIONER: Okay. Any other questions? Okay.

40

1. MS MORRIS: If Mr Porter can be excused from further
2. attendance.

43

1. THE COMMISSIONER: Okay, thank you, Mr Porter, that was
2. very helpful.
3. A. I hope. Thank you.

47

1. Q. And thanks for your understanding and for explaining
2. some of those things to me, that was very good.
3. A. No. As John said, I appreciate the opportunity to
4. appear. The hope would be that a better outcome for
5. Norfolk comes from this process.

6

1. Q. I think that's all of our hope.
2. A. Thank you, Commissioner.

9

10 MR BOLSTER: 10am tomorrow, Commissioner?

11

1. THE COMMISSIONER: Okay, well, that's it for today. I
2. think the rest of the day is free for whatever people need
3. to do and we'll recall again tomorrow at 10am. Thank you.

15

# AT 12.42PM THE PUBLIC INQUIRY WAS ADJOURNED

1. **TO THURSDAY, 3 JUNE 2021 AT 10.00AM**

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