# 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 Monday, 31 May 2020 at 9.08am NFT

**(Day 1)**

1. THE COMMISSIONER: Could the terms of reference now please
2. be read.

3

1. MS PERCOVIC: Public Inquiry into Norfolk Island Regional
2. Council terms of reference:

6

1. *To inquire and report to the Assistant*
2. *Minister for Regional Development and*
3. *Territories with respect to whether, in*
4. *exercising its functions pursuant to*
5. *sections 21, 22, 23 and 24 of the Local*
6. *Government Act 1993 (NSW)(NI)(Act):*

13

1. *The council and its governing body, since*
2. *2016, have managed, and are managing, the*
3. *finances of the NIRC in accordance with the*
4. *guiding principle in section 8B(c) of the*
5. *Act to have effective financial and asset*
6. *management, including sound policies and*
7. *processes for the following:*

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1. *- performance management and reporting, as*
2. *they relate to effective financial and*
3. *asset management;*

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1. *- asset maintenance and enhancement, as*
2. *they relate to effective financial and*
3. *asset management;*

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1. *- funding decisions, as they relate to*
2. *effective financial and asset management;*

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1. *- risk management practices, as they relate*
2. *to effective financial and asset*
3. *management.*

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1. *The governing body of the NIRC has, since*
2. *2016, complied with its obligations under*
3. *sections 223(1)(d) and (l), to:*

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1. *(1)(d) ensure as far as possible that the*
2. *council acts in accordance with the*
3. *principles set out in Chapter 3 and the*
4. *plans, programs, strategies and policies of*
5. *the council, as they relate to effective*
6. *financial and asset management; and*

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1. *(1)(l) be responsible for ensuring that the*
2. *council acts honestly, efficiently and*
3. *appropriately, in relation to effective*
4. *financial and asset management.*

5

1. *The Commissioner may make findings as the*
2. *Commissioner sees fit having regard to the*
3. *terms of reference.*

9

1. THE COMMISSIONER: Good morning, everybody. I want to
2. welcome you all here today to the Public Inquiry into the
3. Norfolk Island Regional Council.

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1. My name is Carolyn McNally. I have the honour and
2. privilege to be the Commissioner of this inquiry, a
3. responsibility I take very seriously.

17

1. I wish to begin by acknowledging the Norfolk Island
2. people, the traditional custodians of this Island.

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1. My job is to impartially assess and review the
2. evidence before me and report my findings to the Assistant
3. Minister for Regional Development and Territories, The
4. Honourable Nola Marino MP.

25

1. I am supported by a team of lawyers and experts in
2. financial and asset management and expect to deliver my
3. report to the Minister in about six to eight weeks' time.
4. The Minister will likely make the report public soon after
5. this time.

31

1. As many of you know, the public inquiry into the
2. Norfolk Island Regional Council was called in February
3. this year. The terms of reference for this inquiry
4. describe the scope of what I should enquire into. In plain
5. language, the terms of reference direct me to determine
6. whether the Norfolk Island Regional Council and its
7. governing body managed the council's finances according to
8. principles of effective financial and asset management.
9. When I say "Norfolk Island Regional Council", I mean the
10. five elected councillors, including the Mayor, as well as
11. the council's administrative structure.

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1. The terms of reference are focused on events and
2. decisions made by the council since 1 July 2016 when the
3. council came into effect and commenced its operations.
4. However, I recognise that the council's financial position
5. and the state of its assets at the time of the council's
6. commencement are important factors in understanding its
7. current state.

4

1. Over the next five days we will hear from members of
2. the council and other relevant people who currently reside
3. in Norfolk Island. Next week we will hear from people who
4. don't live on Norfolk Island. The hearing next week will
5. be in Sydney. There are two main reasons for hosting this
6. hearing in Sydney rather than Norfolk Island.

11

1. The first reason relates to the scope of the Local
2. Government Act 1993 (NSW) (NI). When this inquiry was
3. called there were questions as to whether the legislation
4. allowed me to gather information from locations outside of
5. Norfolk Island. This may have meant that I was not allowed
6. to require witnesses to attend or compel the production of
7. documents from people who did not live here. I was very
8. concerned about this.

20

1. I was concerned about not hearing from these people
2. which would mean that I would not have heard the whole
3. story, particularly those that were involved in the running
4. of the council or involved in aspects of committees and
5. things at that period of time.

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1. That issue has now been resolved. However, within the
2. time available it was not feasible to get all of the Island
3. witnesses here this week. Their evidence will now be heard
4. and considered next week.

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1. I was also somewhat concerned about the practicalities
2. of bringing a number of witnesses to Norfolk Island with
3. the associated travel, impact on their time requirements
4. and costs.

36

1. Having said this, I think it is critically important
2. that residents of Norfolk Island have open and transparent
3. access to the Sydney-based hearings. We will make a video
4. each day of the Sydney public hearing available on the
5. inquiry's website. The website will also contain
6. transcripts of each day's proceedings.

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1. There are a number of ways that public inquiries like
2. this one gather information and evidence. Public inquiries
3. have the power to compel people and organisations to
4. provide us with information, these are called summons. In
5. total, we issued more than 25 summons to a range of
6. different people and organisations. In response we
7. received over 2,000 documents.

4

1. Submissions are another important part of the process.
2. We received 77 submissions from different people and
3. organisations. Many submissions attached documents to
4. support the claims they were making. In total we received
5. and reviewed over 600 documents through the submission
6. process.

11

1. The scope and direction of this public hearing has
2. been informed by the documents produced in response to our
3. summons, the submissions, and information in the public
4. domain.

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1. On a final note, I would like to say a personal thank
2. you to everyone who has engaged with this inquiry and a
3. heartfelt welcome to everyone who has taken the time to be
4. here today. A council fills a vital role in most
5. communities providing much needed services and community
6. support. It is important for me, as I know it is important
7. for you, that this inquiry deliver on its ambition to
8. contribute to the long-term sustainability of Norfolk
9. Island.

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1. Before we begin, I would like to speak briefly to the
2. order of events over the next five days. After today the
3. hearing will commence each day at 10am. The hearing will
4. conclude between 4 and 5pm on all days except Friday where
5. we expect to finish by around noon.

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1. Each day the hearing will break for a short recess at
2. around 11.30am and then again at 1pm. This morning will
3. commence with an opening statement by counsel assisting,
4. Mr Bolster, then we will call the first witness. As
5. Mr Bolster will make clear, the opening statement contains
6. no conclusions about any matter still under investigation.
7. It will, however, help to set the context for the evidence
8. heard this week.

41

1. I would like to remind everyone that this public
2. hearing is a formal event. I warmly welcome everyone to
3. attend and observe the proceedings and ask that you respect
4. the customs of a legal setting; this means being quiet when
5. witnesses are being examined and not interfering or
6. interjecting as evidence is being heard.

1

* 1. Before I ask Mr Bolster to present his opening
  2. statement do we have any appearances this morning?

4

1. MR WEBSTER: Madam Commissioner, my name is Webster, I am
2. instructed by Clayton Utz and I seek leave to appear on
3. behalf of Mr Roach while he's giving evidence.

8

9 THE COMMISSIONER: I grant your authorisation, Mr Webster.

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1. MR SIMONE: Madam Commissioner, Simone, I am instructed by
2. RGS Law and I appear for the balance of councillors and
3. staff past and present as they have been summonsed to
4. appear before the inquiry.

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1. THE COMMISSIONER: I've already granted your
2. authorisation, but welcome, Mr Simone.

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19 MR SIMONE: Thank you.

20

21 THE COMMISSIONER: Mr Bolster.

22

1. MR BOLSTER: Thank you, Commissioner. Commissioner, I
2. appear with my learned friend, Ms Kathleen Morris. Each of
3. us has been appointed by the Commonwealth to assist you in
4. this inquiry. We are instructed by Mr Asaf Fisher of
5. HWL Ebsworth lawyers as the solicitor assisting.

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1. In opening this first public hearing of your inquiry
2. we too wish to begin by acknowledging the Norfolk Island
3. people, the custodians of this Island. On behalf of the
4. inquiry staff we would also like to acknowledge the
5. assistance and cooperation provided to the inquiry by those
6. who have made submissions and those whom we have met and
7. spoken to in the community engagement sessions held earlier
8. in the year.

37

1. This inquiry has been established by the Commonwealth
2. under section 438U of the Local Government Act. That
3. legislation applies to this territory by reason of
4. section 18A of the Norfolk Island Act 1979 and includes a
5. number of modifications made with a view to this particular
6. and special location.

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1. The inquiry follows the suspension of the council
2. pursuant to section 438I of the Act for a period of
3. three months on 9 February 2021. That suspension has since
4. been extended for a period of a further three months ending
5. on 4 August 2021. The effect of that suspension is that
6. any persons holding civic office are taken to be suspended
7. from office and are not entitled to any fee or
8. remuneration, the payment of expenses or to the use of any
9. council facilities they would otherwise have been entitled
10. to during the period of that suspension. Elections for the
11. council have also been postponed for a period of 12 months.

9

1. In place of the governing body an administrator has
2. been appointed to the council, not to be confused with the
3. administrator of Norfolk Island itself. This administrator
4. effectively stands in the shoes of the five councillors as
5. the governing body of the council.

15

1. The end result of the process that we're going through
2. this week and next week is a report that you'll be asked to
3. provide to the Minister. It should be emphasised to those
4. who may be watching or listening that what happens to the
5. council after that report is delivered to the Minister is
6. entirely a matter for the government.

22

1. I should add that, by amendments made to section 438U
2. of the Act on 12 May 2021, it is expressly stated that your
3. powers and functions as a Commissioner may be exercised and
4. performed both within and outside the territory of Norfolk
5. Island. These amendments confirm your power to sit outside
6. of the territory and to issue summonses to give evidence
7. and to produce documents to people who are located in other
8. parts of the Commonwealth.

31

1. Before I outline the direction of this inquiry and the
2. matters that will be the subject of evidence this week can
3. I formally tender the Norfolk Island Regional Council
4. Public Inquiry tender bundle and suggest that it be marked
5. Exhibit 1 and I'll refer to that bundle in due course in
6. the course of this opening.

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39 THE COMMISSIONER: Is there any objection?

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41 MR SIMONE: No objection.

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# #EXHIBIT 1 - NORFOLK ISLAND REGIONAL COUNCIL PUBLIC INQUIRY

1. **TENDER BUNDLE**.

45

46 MR BOLSTER: Thank you, Commissioner.

47

1. The discovery in 1995 of archeological remains at
2. Emily Bay confirmed Polynesian settlement of these islands
3. in the 13th and 14th centuries. No-one knows precisely
4. when or why they left the Island. History records that
5. Cook was the next visitor to the Island landing briefly in
6. 1774 and conferring the name "Norfolk" upon this Island,
7. the principal Island in an archipelago comprising Phillip
8. and Nepean Islands to the southeast.

9

1. The next inhabitants arrived on 6 March 1788.
2. By February 1814, all had left. Rough seas and suitable
3. landing sites posed difficult difficulties in supplying
4. provisions and communications.

14

1. The Island was reoccupied in 1825 as a penal colony
2. for a second time, with 34 troops, six women and children,
3. and 57 convicts. In 1829, there were 211 convicts, and by
4. 1834 this number had grown to around 700. Although free
5. settlers moved to the Island during this period, it
6. continued to be used as a penal colony until the last
7. convicts were removed to Tasmania in 1855.

22

1. Between 1844 and 1856, the Island formed part of the
2. colony that was, until 1856, known as Van Diemen's Land.
3. In 1856, 194 people arrived from Pitcairn Island,
4. descendents of Tahitians and the HMS Bounty mutineers. On
5. 1 November 1856, by force of UK legislation known as the
6. Australian Wastelands Act, the islands were constituted as
7. a distinct and separate settlement of the British Crown.
8. They were administered by a Governor of Norfolk Island
9. which office was almost always exercised by the Governor of
10. New South Wales.

33

1. In 1897, the office of the Governor of Norfolk Island
2. was abolished and, although responsibility for the
3. administration of Norfolk Island was vested in the Governor
4. of New South Wales, the Island was not made a part of New
5. South Wales and remained a separate British position.

39

1. On the federation of the Commonwealth in 1901
2. responsibility for the administration of Norfolk Island was
3. vested in the Governor of New South Wales. The first
4. Norfolk Island Act was passed in 1913 and was dependent
5. upon the King transferring the Island to the Commonwealth.
6. That occurred on 30 March 1914 and by a proclamation made
7. on 17 June 1914 the Governor General gave effect to that
8. order from 1 July 1914. From that point in time Norfolk
9. Island has been an external territory of the Commonwealth,
10. a matter that has been confirmed by the High Court in a
11. number of cases.

4

1. Between 1979 and 1 July 2016 Norfolk Island was a
2. self-governing territory of the Commonwealth. Prior to
3. 1 July 2016 there had been 12 separate Parliamentary
4. inquiries, a Royal Commission, and more than 20 reports
5. from experts concerning the governance arrangements for
6. Norfolk Island.

11

1. Could we please bring up document ANAO.PUB.0001.0002,
2. page 18, please. The process that I was just referring to
3. culminated in amendments to the Norfolk Island Act in 2015
4. by which the Commonwealth dissolved the Norfolk Island
5. Legislative Assembly effective 30 June 2016. In its place
6. a number of the functions of the Norfolk Island Government
7. and administration were conferred on the new Norfolk Island
8. Regional Council.

20

1. That council, as I previously indicated, was
2. constituted under the Local Government Act 1993 (NSW) (NI).
3. That council, the subject of this inquiry, was established
4. on and from 1 July 2016.

25

1. We produce on the screen, Commissioner, a timeline
2. prepared by the Australian National Audit Office in
3. connection with its 2018 report or audit of the design and
4. implementation of appropriate governance and administration
5. arrangements for the transition and delivery of sustainable
6. reforms to services on Norfolk Island. It's a long title
7. and it's a very important report.

33

1. In the same report the Australian National Audit
2. Office produced a convenient summary of the functions of
3. the former Norfolk Island Government that were transferred
4. to the new council. If we could go, please, to pages 32
5. and 33 of the same report, perhaps bringing up page 32.
6. Commissioner, the chart speaks for itself, but the
7. significance that we rely upon for present purposes are the
8. two columns, the two right-hand columns of the document.

42

1. On the far right-hand column we see a list of
2. traditional local government functions in the top half of
3. that column. In the bottom half of that column we see four
4. government business enterprises that are carried out by the
5. Norfolk Island Regional Council. One would not typically
6. see those functions in any local government structure in
7. the rest of Australia.

3

1. The column immediately to the left is a long list of
2. State Government type services that are performed by the
3. local council here that ordinarily would be performed by
4. either a state or a territory government. This means that
5. the council is responsible for a whole range of functions
6. for business enterprises in addition to the basic functions
7. of a local government entity. More will be said about the
8. relevant findings and recommendations flowing from the
9. National Audit Office report later in these hearings.

13

1. All of these services exist for the benefit of the
2. residents of Norfolk Island and as at the last census in
3. 2016 - there will of course be a census later this year -
4. the population of the Island was recorded at 1,748.

18

1. In advance of the formal handover on 1 July 2016 the
2. residents of Norfolk Island had the opportunity to elect
3. their representatives on the governing body of the new
4. council. Those elections were held on 28 May 2016 and five
5. councillors were elected: Robin Adams, John McCoy, Rod
6. Buffett, David Porter, and Lisle Snell. Subsequently, the
7. councillors elected Ms Adams and Mr McCoy as, respectively,
8. the Mayor and Deputy Mayor. Since then both have been
9. re-elected to those positions which they held at the time
10. of the suspension of the council.

29

1. Four of the five elected councillors had previously
2. been involved to varying degrees in the previous government
3. of Norfolk Island. Briefly, that experience included Lisle
4. Snell who was Chief Minister and Minister for Tourism in
5. the 14th and last Legislative Assembly. His biography
6. states that he was a member of the 7th, 8th and 9th Norfolk
7. Island councils and the 1st, 12th and 13th legislative
8. assemblies.

38

1. Mayor Adams was speaker of the 13th assembly and was
2. the Minister For Cultural Heritage and Community Services
3. in the 14th assembly, as well as having held various other
4. roles within the Norfolk Island public service since 1967.
5. Deputy Mayor McCoy was a member of the 10th and 11th
6. Legislative Assemblies; David Porter was a member of the
7. 14th Legislative Assembly.

46

47 If the terms of reference could be displayed, please.

1. Commissioner, your terms of reference read earlier today
2. contain a number of concepts that require some elaboration.
3. In this respect can I begin by noting the distinction
4. between the council on the one hand and the governing body
5. on the other.

6

1. The Norfolk Island Regional Council is the body
2. politic established pursuant to the combined operations of
3. sections 219, 220 and 221 of the Local Government Act.
4. Section 204A provides that a council is constituted by the
5. Local Government Act for the area of Norfolk Island. See,
6. for example, section 219(1). The territory of Norfolk
7. Island is precisely described in geographical terms in the
8. Norfolk Island Act which I won't take you to.

15

1. Section 220 governs the legal status of the council,
2. namely, it's a body politic with perpetual succession and
3. the legal capacity and powers of an individual. It's not a
4. body corporate, which means it's not a corporation. It
5. doesn't have the status, privileges and immunities of the
6. Crown, and is subject to applicable legislation as if it
7. were a corporation. The governing body, distinct from the
8. council itself, is comprised of the councillors and the
9. Mayor; that is, five people.

25

1. If we could perhaps display section 223 of the Local
2. Government Act. Section 223 prescribes a range of
3. obligations that rest with the governing body. Can I
4. highlight six for present purposes.

30

1. Subsection 223(1)(a) requires the governing body to
2. direct and control the affairs of the council in accordance
3. with this Act.

34

1. Subparagraph (1)(c) requires the council to ensure as
2. far as possible the financial sustainability of the
3. council. This will be a most significant obligation as we
4. move through the evidence for reasons that will soon become
5. apparent.

40

1. Subparagraph (1)(d) requires the governing body to
2. ensure as far as possible that the council acts in
3. accordance with the principles set out in Chapter 3 and the
4. plans, programs, strategies and policies of the council.

45

1. Subparagraph (1)(f) requires the council governing
2. body to determine and adopt a rating and revenue policy and
3. operational plans that support the optimal allocation of
4. the council's resources to implement the strategic plans,
5. including the community strategic plan of the council and
6. for the benefit of the local area.

5

1. Subparagraph (1)(g) requires the governing body to
2. keep under review the performance of the council, including
3. service delivery.

9

1. Finally, subparagraph (1)(l) requires the governing
2. body to be responsible for ensuring that the council acts
3. honestly, efficiently and appropriately.

13

1. Chapter 3, referred to in section 223D which I have
2. just read out, establishes a number of principles for local
3. government. The object of those principles being to
4. provide, and I quote:

18

1. *Guidance to enable councils to carry out*
2. *their functions in a way that facilitates*
3. *local communities that are strong, healthy*
4. *and prosperous.*

23

1. Could section 8B be displayed, please. Section 8B
2. sets out the principles of sound financial management that
3. apply to councils, namely, that - and I will read these out
4. because I think it is important that the community
5. understand the significance of what's been prescribed in
6. the Act.

30

31 Subparagraph (a):

32

1. *Council spending should be responsible and*
2. *sustainable, aligning general revenue and*
3. *expenses.*

36

1. *(b) Councils should invest in responsible*
2. *and sustainable infrastructure for the*
3. *benefit of the local community.*

40

41 I emphasise the word "sustainable".

42

1. *(c) Councils should have effective*
2. *financial and asset management, including*
3. *sound policies and processes for the*
4. *following —*

47

1 *(i) performance management and reporting,*

2

3 *(ii) asset maintenance and enhancement,*

4

5 *(iii) funding decisions,*

6

7 *(iv) risk management practices.*

8

9 And, Commissioner, I pause there to note that you can

1. see what provision is being engaged in the terms of
2. reference and there's a definite focus on these particular
3. provisions in the way the terms of reference are focused.

13

1. Continuing on to subparagraph (d), and this too is an
2. important feature of this particular inquiry:

16

1. *(d) Councils should have regard to*
2. *achieving intergenerational equity,*
3. *including ensuring the following —*

20

1. *(i) policy decisions are made after*
2. *considering their financial effects on*
3. *future generations,*

24

1. *(ii) the current generation funds the cost*
2. *of its services.*

27

1. More generally, section 8A provides, amongst other
2. things - if that could be brought up, please -
3. subparagraph (1)(a):

31

1. *(a) Councils should provide strong and*
2. *effective representation, leadership,*
3. *planning and decision-making.*

35

1. *(b) Councils should carry out functions in*
2. *a way that provides the best possible value*
3. *for residents and ratepayers.*

39

1. *(c) Councils should plan strategically,*
2. *using the integrated planning and reporting*
3. *framework, for the provision of effective*
4. *and efficient services and regulation to*
5. *meet the diverse needs of the local*
6. *community.*

46

47 *...*

1

1. *(e) Councils should work co-operatively*
2. *with other councils and the State*
3. *Government to achieve desired outcomes for*
4. *the local community.*

6

1. For "State Government" in this case read "Commonwealth
2. Government". There's a provision in the Act that would
3. indicate that that's the way it ought be read.

10

1. *(f) Councils should manage lands and other*
2. *assets so that current and future local*
3. *community needs can be met in an affordable*
4. *way.*

15

1. Sections 21 to 23 and 24 of the Act referred to in the
2. terms of reference describe the functions of council.
3. Under section 23 of the Act, the following chart appears
4. which best describes the functions of a council.

20

1. If we go, please, to the chart at the end of 23. You
2. will see there a basic summary of the way in which local
3. government councils are structured in terms of their
4. various responsibilities.

25

1. Given the terms of reference, the principal focus of
2. this inquiry is limited to the effectiveness of
3. decision-making of the council and its governing body in
4. areas of financial and asset management and whether there
5. has been compliance with the relevant provisions of the
6. Local Government Act.

32

1. Central to the transition from the Norfolk Island
2. administration to the Norfolk Island Regional Council were
3. the transfer of the assets and liabilities along with a
4. large number of existing staff. As far as the senior staff
5. were concerned, the former Executive Director of Norfolk
6. Island, Mr Peter Gesling, did not take up the role of
7. general manager of the new council. The new general
8. manager was Ms Lotta Jackson who commenced on 1 April 2016.
9. Ms Jackson will give evidence in the Sydney hearings next
10. week, as too will Mr Peter Gesling.

43

1. It ought to be noted that the government's finance and
2. budget manager who had been retained through to September
3. to complete the administration's 2015/2016 financial
4. statements resigned on 30 June 2016, leaving council staff
5. to complete the accounts of the former entity. This aspect
6. of the transition and its impact on the future financial
7. performance of the council going forward will be examined
8. in due course when Mr Gesling and Ms Jackson give evidence
9. next week.

6

1. I should add that Ms Jackson remained in the position
2. of general manager until her resignation in September 2019,
3. at which point she was replaced on an interim basis by
4. Mr Bruce Taylor until the appointment of the current
5. general manager, Mr Andrew Roach, in January 2020. We will
6. shortly hear from Mr Roach and after lunch today we'll hear
7. from Mr Taylor.

14

1. If we could please bring up document
2. NIRC.PUB.0001.0089 at page 14. If that box could be
3. highlighted, thank you. This document is a reconciliation
4. of the starting position of the council carried out for the
5. purposes of a council audit meeting in May 2017 by which
6. time the council had carried out a re-valuation of the
7. assets it had inherited. The following features need to be
8. noted.

23

1. See under line 5(a), cash transferred was just over
2. $9.4 million. Line 6(a), the land and buildings
3. transferred were estimated as being worth around
4. $25 million. The property, plant and equipment in lines
5. 6(b) and (c), which seem to be combined for some reason,
6. whilst valued by the previous administration at around
7. $34 million, had by then been revalued at almost
8. $102 million.

32

1. Can I begin by way of background to address the
2. financial performance of the council since 1 July 2016 by
3. focusing on the income statement. Could we bring up,
4. please, NIRC.PUB.0001.0135\_118. This is the income
5. statement for the first year. So, this is 12 months after
6. transition, 30 June 2014. We see four principal forms of
7. income: rates and annual charges of $1.153 million, user
8. charges and fees of $12.241 million, other income of
9. $4.570 million, and grant and other contributions of just
10. over $4 million.

43

1. If we could go to page 0133, you will see there that
2. the rates and annual charges are broken up into four
3. categories: residential, farm land, business and the
4. absentee landowners levy, and two categories of other

1 charges, waste and sewerage.

2

1. If we go then, please, to the next page, page 134, you
2. will see there that user charges are many and varied as the
3. break-up of the $12.4 million figure demonstrates. There's
4. a couple of terms there that some people may not be
5. familiar with - I'm not there talking about people on
6. Norfolk Island for whom these terms will be very familiar -
7. but "lighterage" is an important term and it's an important
8. cultural aspect of the Island, it refers to the fees
9. charged by council to effect the transfer of imports from
10. vessels anchored off the Island to the two docks. It is
11. the way in which, leaving aside air cargo, everything comes
12. onto this Island.

15

1. If we could go, please, to page 136, you will see
2. there the break-up of Commonwealth grants in that
3. first year, the substantial income being $1.966 million
4. referable to the Commonwealth service delivery agreement
5. which provides a formula for payment to council in respect
6. of the state-based services delivered by the council.
7. They're delivered on a fee-for-service basis and they're
8. the fees or they're the activities which were outlined in
9. the table I referred to earlier.

25

1. If we go to page 135, this is the other revenue, the
2. third category of revenue that I previously referred to;
3. that's a figure of $4,570,000. You will see there that the
4. most significant feature of the other income is the liquor
5. bond, council effectively having a monopoly on the
6. importation of liquor to the Island.

32

1. "Tanalith services", another term that perhaps people
2. on the mainland may find confusing, it refers to a form of
3. wood treatment used on the Island. The KAVHA is a
4. reference to the Kingston and Arthur's Vale Historic Area,
5. which is the World Heritage site located substantially on
6. the southeast corner of the Island.

39

1. If we could turn to page 137, and here we will see the
2. expenses from continuing operations, and we see there that
3. the largest expense of the council are the salaries and
4. wages of its employees, their leave entitlements and
5. superannuation as well as raw materials.

45

1. Significantly, for the year ended 30 June 2017,
2. despite a budget estimate which predicted a $4.2 million

1 deficit, the end result was a loss of only $139,000.

2

1. If the table could then be displayed. Let me explain
2. what this table is. What I have just done is taken you,
3. Commissioner, through the figures for 2017 to give you an
4. idea of where the income comes from and where the
5. expenditure goes. These figures record the performance,
6. both actual and the annual budget, over the next three

9 years: 2018, 2019 and 2020.

10

1. The following points emerge from these figures, all of
2. which come from the audited accounts of the council for
3. those years, together with the draft statements for 2020.
4. The 2020 figures have not yet been audited.

15

1. The first thing to note, if you go to the top
2. right-hand corner of the page, there is a significant drop
3. off in the 2020 revenue associated with the impact of the
4. Covid-19 pandemic. Is there a way in which we can focus on
5. the top, the four ochre-coloured boxes at the top? I'm
6. hoping people can read that. For those that can't read it,
7. let me assist. We slide across so that we can get the top
8. right-hand section. Is that capable of being read? Can
9. you read that? We'll try and get that a little bit larger,
10. if we can, and slide across. How about that? Okay, have
11. you got that? Good.

27

1. There was a significant drop in actual rates and
2. annual charges from 2019 to 2020, a drop of nearly $300,000
3. in the actual figures. There was a difference with the
4. 2020 budget, as you can see, between $1.75 million and
5. $1.381 million.

33

1. There was a similar but even more concerning drop in
2. the other revenue for the user charges and fees. You will
3. recall that in 2017 that was around $12 million. By 2019
4. it had reached $13.9 million. The budget, curiously and
5. we'll find out why, predicted $17 million for that year but
6. when COVID had its impact commencing in February 2020 the
7. final figure was around $12.279 million.

41

1. The other revenue elements, if we could perhaps go
2. back out, you will see there that the 2020 figure was about
3. $4.566 million as against a budget of $5.3 million, but
4. largely the other income remained relatively stable over
5. the four years that are recorded. Operating grant income
6. reflected the budget; you will see that in what's being
7. highlighted there. So, the budget for operating grants was
8. $8 million and that's what was delivered.

3

1. There is though a point of some significance in that
2. figure of $8 million. Commissioner, you will recall that
3. in 2017 that Commonwealth grant revenue was around
4. $4 million, so over four years the operating grant revenue
5. from the Commonwealth has nearly doubled. The reason why
6. will be something that we explore during these hearings and
7. will be something that we will discuss with Mr Roach
8. shortly.

12

1. Thirdly, the capital grants from the Commonwealth vary
2. from year-to-year and differ markedly from the budget for
3. each year. Of the roughly $54 million in capital grants
4. over the four years, $43 million was for the resurfacing of
5. the airport runway; the remainder included grants through
6. the Building Better Regions Fund, including for
7. telecommunications projects. I'll come back to the airport
8. grant and the issues surrounding the airport shortly.

21

1. Before doing so we wish to address the cash position
2. of the council over time. In this respect it is to be
3. recalled that on 1 July council had cash or cash
4. equivalents in investments of about $9 million. By the end
5. of that year the figure had increased to around
6. $13.2 million. By the end of 2019 the figure had increased
7. to $17.8 million. Finally, at the end of 2020, the figure
8. had reached $25.3 million. Those figures, however, hide a
9. disturbing truth about the cash reserves of council. Those
10. reserves have gone through at the broadest level of
11. generality a significant and rapid decline in the years
12. leading up to 30 June 2020.

34

1. If we draw a line in the sand at the end of the 2020
2. financial year the picture painted by the accounts was
3. concerning to say the least. Although at that point
4. council held $25.3 million in cash investments, the vast
5. bulk of the funds were restricted and committed to specific
6. projects and liabilities. In fact, the accounts
7. demonstrate that the cash available to fund council's
8. day-to-day operations had been reduced to only $646,000.

43

1. Let me say something about what it means to have a
2. restriction on the cash available to council. There are
3. essentially two types of restrictions: firstly, at that
4. time $12.6 million was externally restricted, it
5. represented unspent Commonwealth grant funding for the
6. airport pavement repair and resurfacing project, some work
7. on a desalination plant, a hospital generator and airport
8. security equipment. That money could only be used for that
9. purpose.

6

1. Secondly, internal restrictions applied to
2. $12.1 million of the council's cash and investments. These
3. restrictions concerned unpaid employee leave entitlements
4. and other monies for which the council was contractually
5. bound, including $4.2 million to complete the airport
6. pavement repair and resurfacing project. Pausing there,
7. this was the council's contribution to the cost of that
8. project. The Commonwealth grant of $43 million, you will
9. hear shortly, was not enough to complete that project.
10. Council had to dip into its cash reserves to pay for that
11. project.

18

1. There was also $3.9 million for which the council was
2. bound in respect of roadworks that were carried out in
3. conjunction with the airport project by the same
4. contractor, Boral. Finally, $734,000 was set aside for the
5. future proofing telecommunications project.

24

1. Pausing there, it's to be recalled, and I've said it
2. already twice but it's important to note that council held
3. unrestricted cash and investments of $9.1 million when it
4. was created. A year later it had increased to
5. $12.425 million. By 30 June that figure was $10.5 million.
6. On 30 June 2019 the figure was $11.47 million. So, over
7. the 12 months to 30 June 2020 effectively all of the
8. unrestricted cash reserves of the council were virtually
9. depleted. That result is reflected in this table and graph
10. prepared by Nexia who were tasked with conducting a
11. performance audit of the council including that of the
12. council's financial performance for the period 1 July 2016

37 to 30 June 2020.

38

1. If we could bring up that document, and if we go to
2. exhibits 10 and 11, if we could highlight those.
3. Commissioner, there you can see in stark terms the
4. evaporation of the unrestricted cash position of council,
5. so that by 2021 there is effectively only a minimal amount
6. of cash available. How council got to that position is a
7. major focus of this inquiry. The position was so dire that
8. the Commonwealth was forced to make a one-off cash grant of
9. $3 million in December 2020.

1

* 1. I now wish to turn to council's management of its
  2. non-cash assets: the buildings, infrastructure, airport,
  3. roads, telecommunications systems, sewerage, sewerage and
  4. waste management system, water, and electricity.

6

1. Each of these assets had, prior to the establishment
2. of the council, been purchased, maintained and operated by
3. the administration of Norfolk Island, with the maintenance
4. of the airport in part funded through an earlier loan by
5. the Australian Government in 2003. This council has a
6. broad area of responsibility and a wide asset base. It is
7. tasked with delivering the majority of the government
8. services required by all of the residents.

15

1. When, on 1 July 2016, they became the assets of the
2. council almost all were primarily in poor or fair
3. condition, with most having a remaining useful life of only
4. one to two years. The state of the telecommunication and
5. electricity assets in particular were in need of critical
6. investment. There was also already an identified need to
7. invest in new assets, in particular relating to sewerage
8. and waste management to improve sustainability.

24

1. A report by Preston Rowe Paterson commissioned and
2. prepared during the transition period found that as at
3. 30 June 2015 the value of the administration's assets were
4. $63,702,000. That's the figure that was contained in the
5. table I showed you earlier. That report also referred to a
6. replacement cost of around $246 million.

31

1. A subsequent report prepared by Australis that was
2. commissioned by the council at the end of 2016 and came in
3. in May 2017 revalued the assets so that as at 30 June 2016
4. they were ascribed a value of around $110,950,000. Despite
5. that increase in their value the cost of replacement
6. actually went down to $193 million.

38

1. A further report was recently undertaken by Australis
2. issued in January 2021 which found that the asset value as
3. at 30 June 2020 was $153,540,000. The increase from
4. $110 million was largely attributable to the increased
5. value of the airport infrastructure. The estimated
6. replacement cost was $241,979,000.

45

1. In the face of that sort of set of numbers council was
2. from the start faced with three alternatives: (1) it could
3. spend large sums to replace the failing or already failed
4. assets in a short timeframe; (2) it could spend large and
5. increasingly large sums to maintain the assets in their
6. present state for as long as possible; or (3) spending only
7. the funds that were available to it resulting in the
8. further decline of the assets and likely critical failure
9. within a short period.

8

9 It would appear from the documentation, and it will be

1. something that we will explore with the witnesses during
2. the course of this week, that council was aware of the poor
3. state of the assets and of those financial implications and
4. of the limited options available to it.

14

1. Staff who had previously been involved in the
2. administration continued to be involved in the governance
3. of Norfolk Island as part of the council and therefore
4. brought with them some degree of corporate knowledge of the
5. state of the assets.

20

1. The council also inherited from the administration
2. various records relating to asset maintenance and
3. management, including strategic plans which had been
4. prepared to improve waste management and
5. telecommunications.

26

1. More broadly, it would appear there was a general
2. understanding in the community as to the state of the
3. assets of Norfolk Island. One could not have any
4. misapprehension about the state of the roads of Norfolk
5. Island unless one did not leave the house: the roads were
6. in a terrible state of repair.

33

1. Throughout late 2016 and early 2017 the council
2. undertook the task of reviewing its asset base and planning
3. for asset management. You will hear some evidence about
4. the state of the asset management plans at that time. This
5. led to the new asset valuation which I previously referred
6. to; that was prepared in conjunction with the preparation
7. of the long-term financial plan, new asset management
8. plans, and new operational plans as required under the
9. Local Government Act.

43

1. The 10-year asset management plans for the council's
2. assets were finalised by 11 December 2016. These also
3. informed the 10-year long-term financial plan which was
4. adopted by council on 21 December 2016. Both plans
5. recognised that the council assets were in a poor state and
6. that records were limited, potentially increasing council's
7. reliance on grant funding, thereby limiting the capacity of
8. council to manage, maintain and invest in its assets.

5

1. The council's long-term financial plan further
2. recognised that, without urgent and significant investment,
3. the capital required to renew and replace assets would
4. continue to grow and the reliability and functionality of
5. the critical assets would in the meantime continue to
6. decline.

12

1. The strategy adopted in the light of this by council
2. in late 2016 was to seek Commonwealth assistance by way of
3. capital grants to short track funding for the urgent needs
4. of the Island, and to seek Commonwealth assistance by way
5. of an increase in the annual financial assistance grants to
6. fund ongoing operational and maintenance expenses
7. associated with the assets and to adopt a break-even
8. position for the core business services associated with
9. critical assets.

22

1. Under the adopted fully costed plan the council
2. envisaged a small surplus in the operating result for
3. each year and a build up of cash reserves which could
4. subsequently be used to fund future large-scale asset
5. projects including the foreshadowed airport project then
6. projected to be required in 2020/2021.

29

1. Despite resolving to adopt that 10-year fully costed
2. plan, there was an almost immediate departure from those
3. plans in the budget adopted for 2017/2018. In addition,
4. the level of grant funding, both operational and capital
5. which the 10-year plan was premised upon the council
6. receiving was not received and in some cases had not even
7. been applied for in financial years ending 30 June 2017 and
8. 2018. This resulted in a significant shortfall between the
9. budgeted and actual outcome.

39

1. Although grant applications were made by the council
2. for telecommunications and waste management assets, the
3. telecommunications grant was not approved until late 2018,
4. and the waste management application was refused and is yet
5. to be funded. The absence of a risk management process and
6. alternative steps and/or ability to raise revenue had the
7. consequence that, without a successful grant, the council
8. could not fund assets properly both in terms of maintenance

1 and replacement.

2

1. In the meantime, the failure of certain critical
2. assets and the obligations imposed on the council to meet
3. certain Australian Standards required unbudgeted capital
4. expenditure. This included, for example, the purchase of
5. three new generators and tenders for composting and bale
6. solutions. These expenses further reduced the cash
7. reserves and available income of the council.

10

1. In addition, the own source revenue by which the
2. budgets were premised on was not received in full by the
3. council, in part due to decisions that were made not to
4. increase the costs of those services and in part due to the
5. overestimation of the value of that revenue. Further,
6. there were unforeseen circumstances and there was a failure
7. to recover unpaid service charges.

18

1. Together, all of these departures from the long-term
2. financial plans had the consequence that council's cash
3. reserves did not increase in the manner foreseen and the
4. investment in asset renewal, replacement and maintenance
5. did not take place. Two critical exceptions to this are
6. the airport runway project and the additional road
7. surfacing works in 2020 and 2021 which were effectively
8. funded from cash reserves.

27

1. The situation in 2021 therefore is that the assets
2. largely remain in a fair condition although fewer are in a
3. poor state and urgent asset renewals remain a priority.
4. Without substantial capital investment and ongoing
5. consistent sources of funding, whether through own source
6. revenue or otherwise to meet maintenance and operational
7. costs, the asset position of Norfolk Island will continue
8. to decline and improvements will be made only at the point
9. of critical and emergent failure.

37

1. In these hearings a major focus of the evidence will
2. be about uncovering evidence relevant to how council came
3. to be in that position. The answer to that question, we
4. submit, is likely to reveal important aspects of how the
5. council and the governing body approached their
6. responsibilities under the Act.

44

1. I now turn to the Norfolk Island Airport and related
2. matters. If there is one asset the recent history of which
3. touches and concerns nearly all aspects of Norfolk Island's
4. financial position it is the Norfolk Island Airport.
5. Following a request from the US Army Air Force in August
6. 1942 for an aerodrome upon which heavy bombers could land,
7. the New South Wales Civil Constructional Corps, assisted by
8. Island residents, completed the first east-west runway by
9. the end of that year. That enabled Royal New Zealand Air
10. Force planes to land there, the first of those was on
11. Christmas Day 1942. That was a very quick turnaround for
12. such an important project. By February 1943, the second
13. runway was completed.

11

1. Fast-forward to 2017, the Civil Aviation Safety
2. Authority determined that there were deformities in the
3. runway of the Norfolk Island Airport that meant that both
4. runways required resurfacing.

16

1. On 13 February 2019, the Commonwealth issued
2. guidelines for a one-off grant program for this project.
3. The grant opportunity was expressed to provide up to
4. $43 million over three years to resurface the runway and
5. apron and so as to address the relevant safety observations
6. identified by CASA in 2017.

23

1. I note the cap of $43 million. We wish to explore how
2. it came to be that that cap was $43 million because, as
3. events transpired, the cost of attending to these matters
4. was, at least from the council's perspective, and it's
5. significant in that respect because the council had to bear
6. that excess, substantially more than that.

30

1. In terms of the grant guidelines stated that the
2. maximum amount of the grant and the proportion of eligible
3. expenditure covered by the grant, known as the grant
4. percentage, were of the order indicated previously. The
5. grants went on to state:

36

1. *We will not exceed the maximum amount of*
2. *the grant under any circumstances. If you*
3. *incur extra costs you must meet them*
4. *yourself.*

41

1. The "you" in that document or in that phraseology is
2. the council. Only the council could apply for this grant,
3. only the council could be paid this grant, it was the
4. council's responsibility to pay the contractor. The grant
5. agreement provided that the total amount of the grant was
6. $43 million and that it would provide up to 96.73% of
7. eligible expenditure. So, the Commonwealth was effectively
8. leaving it to the council to pay for just over 3% of the
9. eligible expenditure that was indicated at that time. The
10. agreement stipulated the total eligible expenditure was
11. $44,619,450. So right from the start, at the very least,
12. council was liable for $1.6 million.

7

1. Tenders were called for. In November 2018 Boral
2. Resources Queensland Pty Ltd submitted a tender to the
3. council covering two options when it came to the sourcing
4. of the aggregate that were required to complete the
5. project. Option 1 assumed aggregate being sourced on
6. Norfolk Island, whereas Option 2 involved imported crushed
7. aggregate. The tender price for Option 2 was
8. $4.898 million.

16

1. In the case of Option 1, Boral had this to say under
2. the heading, "On Island rock":

19

1. *Boral is Australia's largest quarry*
2. *operator and has the resources and*
3. *experience to implement an on Island rock*
4. *solution utilising the Cascade Quarry.*
5. *Boral would assist with obtaining the*
6. *development approval by the council. In*
7. *the interim Boral will properly investigate*
8. *the geology and prepare a professional mine*
9. *development plan in preparation for*
10. *developing the quarry.*

30

1. *This option would not only save a*
2. *considerable amount of money but leave*
3. *Norfolk Island Regional Council with a*
4. *useful, commercially viable working asset*
5. *to continue with Island infrastructure*
6. *works and community development. The full*
7. *savings of this option will be determined*
8. *after investigations were completed but*
9. *would be in the order of $1.7 million and*
10. *potentially up to $5.9 million depending*
11. *upon the biosecurity requirements for the*
12. *import of rock.*

43

1. In the case of Option 2, significant because that is
2. the option that was implemented, Boral qualified the tender
3. by indicating that, in the case of biosecurity for the
4. aggregate and sand sourced from the mainland, it estimated
5. that the price of sterilising, bagging and importing
6. aggregate and sand was a further $4.2 million.

3

4 It stated:

5

1. *There is no price for any biosecurity*
2. *compliance for quarry products and natural*
3. *sand on Boral's conforming offer. When*
4. *biosecurity compliance requirements are*
5. *fully known this will be assessed and*
6. *priced as a variation.*

12

13

1. Subsequently, on 20 February 2019, council considered
2. the project and passed a resolution that appeared to accept
3. the Boral tender subject to certain conditions. The
4. resolution was in these terms: council accepted that Boral
5. be awarded the contract as the single source supplier to
6. the Norfolk Island Regional Council for the airport
7. pavement repair and reconstruction project on the condition
8. that the option to use local rock is fully explored by
9. Boral, that council seeks ministerial approval to expedite
10. extractive industries at the existing Cascade Reserve and
11. Youngs Road Quarry site, and that, if the expedited
12. ministerial approval cannot be obtained by 31 March 2019,
13. then the recommended tender will proceed.

27

1. Finally, council resolved to contribute any shortfall
2. of funding for the project over and above the funding
3. provided by the Commonwealth of Australia. Then these
4. words appear:

32

1. *... by way of a loan from the Norfolk*
2. *Island International Airport government*
3. *business enterprise.*

36

1. That's a matter we will be raising with the witnesses
2. during the course of this week because it does not appear
3. that any such loan was ever entered into; it does not
4. appear that the Norfolk Island International Airport
5. government business enterprise had any separate legal
6. entity or had any separate access to funds or cash reserves
7. to provide a loan in those terms.

44

1. At the same meeting council received two of the
2. regular monthly investment reports from its financial
3. officers: one for December 2018 and one for January 2019.
4. They indicated that, as at 31 December, council held
5. $16.3 million in cash or term investments, that only
6. $9.6 million of that was unrestricted. By 31 January, the
7. unrestricted figure had grown to just over $10 million.

5

1. Moving ahead to June 2019, Boral reported that
2. following its investigation into the source aggregate on
3. Norfolk Island stated that testing had indicated that the
4. material in the target area, the existing Cascade Quarry,
5. failed to meet the standard for manufacturing asphalt for
6. airport purposes.

12

1. The end result was Option 2, meaning all aggregate for
2. the project had to come from the mainland, none of the
3. savings associated with quarrying on the Island could be
4. achieved, and by 20 February 2020 the estimated total
5. expenditure on the project had grown to $48,568,000. This
6. meant in short that the council was required to fund
7. $5.5 million to complete the airport resurfacing.

20

1. It should, however, be pointed out in this respect
2. that there was a significant liquidated damages claim made
3. by Boral in respect of delays caused by the COVID pandemic
4. of the order of $1 million which in the circumstances was
5. unavoidable.

26

1. There was, however, a further matter that also weighed
2. heavily on the cash position of the council. Operating in
3. parallel with the airport contract was a second contract
4. whereby the presence on the Island of Boral was seen as an
5. opportunity to carry out long overdue road repairs.

32

1. If we could perhaps display NIRC.PUB.0001.0227\_0022,
2. and we go to Resolution 141, please. There's the
3. resolution. You will note the reference to
4. section 55(3)(i) of the Local Government Act, I'll come to
5. that in a minute, but this was approval of expenditure of
6. $5,065,000 in two budget years from existing cash
7. reserves - so, it's expressly referred to the cash position
8. of council - to reseal just over 9 kilometres of roads
9. using Boral's asphalt plant while it was on the Island and
10. the particular roads to be resurfaced were indicated.

43

1. Subject to section 55(3), section 55(1) of the Local
2. Government Act requires council to invite tenders before
3. entering into a contract for the provision of services to
4. the council, such as this contract. There was no tender in

1 the present instance.

2

1. Further, the resolution would seem to suggest that, in
2. not calling for tenders, council placed reliance on
3. section 3(1). That subsection affords of an exception
4. where there are extenuating circumstances of remoteness of
5. locality and:

8

1. *... a council decides by resolution (which*
2. *states the reasons for the decision) that a*
3. *satisfactory result would not be achieved*
4. *by inviting tenders.*

13

1. There does not appear to have been any such resolution
2. nor any indication of the reasons for the decision.

16

1. If we could please bring up NIRC.011.002 -
2. Commissioner, we won't deal with that particular
3. document now, I understand there's an issue about whether
4. it should be a public exhibit or not. We will come back to
5. that I think in due course.

22

1. At the end of the day, however, the Norfolk Island
2. Regional Council's commitment to the airport and road
3. contracts with Boral meant that the council had only
4. minimal and clearly inadequate cash reserves at the end of
5. those two projects.

28

1. Rates and annual charges represent between 5 and 6% of
2. the total income of the council, which ultimately means
3. that the council is heavily dependent upon operating grants
4. from the Commonwealth.

33

1. In the face of the need for more revenue the council
2. has deliberately chosen not to increase rates and various
3. other user charges that we'll be exploring as a means of
4. raising revenue.

38

1. It should, however, be observed that increasing the
2. rates in the rating model of itself will not be enough to
3. solve the challenge of funding the operations of this
4. council.

43

1. Commissioner, we look forward to assisting you
2. discharge your important task. The citizens of Norfolk
3. Island are entitled to be fully informed about how their
4. local government operates and what is needed for this

1 Island to achieve some measure of financial sustainability.

2

3 Commissioner, that is our opening

4

5 THE COMMISSIONER: Thank you, Mr Bolster.

6

1. MR BOLSTER: Commissioner, I'm ready to proceed with
2. Mr Roach, if that's appropriate?

9

1. THE COMMISSIONER: That's fine, we'll have a break at
2. about 11.30, in an hour.

12

13 MR BOLSTER: Thank you. I call Andrew Roach.

14

# 15 <ANDREW BLAIR ROACH, sworn: [10.33 am]

16

# 17 <EXAMINED BY MR BOLSTER:

18

1. MR BOLSTER: Q. Do you have a glass of water there,
2. Mr Roach?
3. A. No.

22

1. Q. I think, perhaps if we could get Mr Roach a bottle of
2. water. If you could perhaps just lean a little closer to
3. that microphone. Your full name is Andrew Blair Roach?
4. A. Yes.

27

1. Q. You are currently employed as the general manager of
2. Norfolk Island Regional Council?
3. A. I am.

31

1. Q. You have prepared a statement dated 24 May 2021?
2. A. Yes.

34

1. Q. There are various documents attached to that
2. statement?
3. A. Many.

38

1. Q. Are the contents of that statement true and correct to
2. the best of your knowledge, information and belief?
3. A. Yes, they are.

42

1. MR BOLSTER: Commissioner, if Mr Roach's statement could
2. be displayed.

45

1. Q. You'll see in front of you a copy of your statement?
2. A. Yes.

1

1. Q. You've got a hard copy as well in case you need to
2. refer to it?
3. A. Yes.

5

1. MR BOLSTER: Might Mr Roach's statement and the annexures
2. to it be tendered as Exhibit 2? Thank you, Commissioner.

8

# 9 #EXHIBIT 2 - MR ROACH'S STATEMENT AND ANNEXURES.

10

1. Q. Mr Roach, you were appointed in January of last year,
2. on 6 January to be precise?
3. A. That's correct.

14

1. Q. You have a 3-year term as general manager?
2. A. I do.

17

1. Q. When you arrived, or before you arrived, was there a
2. process for the handover of the job to you by either your
3. predecessor or anyone else associated with the council?
4. A. There was no handover from my predecessor. There was
5. some basic induction that was provided by HR, but it was
6. reliant upon myself to get to know the business as I
7. arrived.

25

1. Q. When you were recruited, were you interviewed by
2. anyone from the council?
3. A. Yeah, it was a full council interview. I came to the
4. Island I think in October or November I think the
5. previous year, and we went through an interview process
6. that consisted of two interviews: there was a formal
7. interview in the morning of about an hour, and then we had
8. to return in the afternoon to do a presentation on some of
9. the skills that we could bring to the position.

35

1. Q. When you say "we", you mean, that's the Royal "we"?
2. A. Yeah, that's right, but there was a number of
3. candidates that were interviewed, I think. I'm unaware of
4. the number, but I was aware that there were others.

40

1. Q. When you were interviewed, did the councillors who
2. conducted that process give you any indication of their
3. vision for the council? Did they talk to you about what
4. they wanted to achieve on Norfolk Island?
5. A. No, not really, the interview was more about them
6. finding out about me, and the second part of the interview
7. in the afternoon was more about - probably more about my

1 vision of what I could bring to the Island.

2

1. Q. What was the vision that you communicated to them
2. before you arrived on the Island to take up the position?
3. A. It was based on my experience over 29 years in local
4. government at that stage, nearly 30 now, of bringing a
5. sound governance and financial management to the
6. organisation which has been my strength over the last
7. few years, but also to be involved in trying to improve
8. many of the things that I had seen during my short visit
9. that time, and the state of the roads and supply of goods
10. to the Island and those sorts of things is what we spoke
11. about, but the thing that interested me the most was how
12. different the council was to a normal local government
13. authority which was based around having electricity,
14. telecom, the liquor bond, being involved with an
15. international airport, all those things were interesting to
16. me.

19

1. Q. When you then arrive on 6 January, what was the state
2. of council? What stood out to you as a general manager
3. taking up the role, what stood out to you as being the
4. status of the council itself?
5. A. There was a lot of challenges that lay before the
6. council itself. There was a number of contracts that had
7. been entered into that needed to be delivered, a lot of
8. commitments that needed to be done in a short period of
9. time, and that would have required significant amount of
10. management to ensure that we can meet our obligations
11. through those contracts, whether it was for the airport,
12. for the roads, the telecom upgrade to the 3G/4G and a
13. number of other small tasks that lay before it. So, I saw
14. a significant challenge and one also to work out how best
15. to deliver that from the model that we had before us.

35

1. Q. Were you familiar with the recent history of the
2. Island and the background to the transition to the council
3. when you arrived?
4. A. I was - I had some knowledge, obviously, doing some
5. research myself before I took the job on, but it was best
6. to say that the first few months that I was skilled in by
7. locals about what had transpired over the previous three to
8. four years.

44

1. Q. Perhaps we'll come to that in a moment. You say in
2. paragraph 19 of your statement that you developed a good
3. understanding of council's operations. When do you think
4. you obtained that good understanding?
5. A. Probably within the first few months, it would have
6. been mid-February. I spent a lot of time reading existing
7. reports and I met with all of the elected members in the
8. first few weeks that I was here to get their views on
9. things. I also met with all the senior staff and we headed
10. towards, I suppose, middle of February where I sat down
11. with council to develop an action plan as such to say what
12. we would do for the next three years of my tenure.

10

1. Q. At paragraph 123, you refer to a 5 February workshop
2. with councillors; was that a workshop that you called to
3. talk to them?
4. A. Yes, it was.

15

1. Q. What was the purpose of that workshop? Was there
2. something that you'd identified that you felt that you
3. needed to communicate with them, or was that more of
4. establishing some sort of collaborative process for working
5. together in the future?
6. A. It was probably a bit of both. It was what I
7. distilled in all of the meetings that I'd had to date and
8. applying my local government experience to work towards a
9. collaborative approach that I could work with the elected
10. members to say, this should be our focus for the next three
11. years, and we came up with a nine-point plan.

27

1. Q. By that stage were you on top of the council's
2. financial position?
3. A. I wouldn't say on top of; I was starting to become
4. aware of some of the challenges that sat within the
5. financial system.

33

1. Q. What were the impediments for you getting an
2. understanding to the council's finances in that sort of
3. first month-to-month and a half? What was the office of
4. the council accounts, to put it in general terms, what was
5. that office like, how was it operating?
6. A. At that stage it was quite disorganised when I arrived
7. because the CFO that was in place resigned within the first
8. week of me commencing at council, and with that there was
9. a, best to say, a vacuum of knowledge for quite a period of
10. time until we could bring in some resource to actually
11. start to pull together the information I needed to
12. understand where the council stood.

46

47 Q. The cash position's critical: when did you find out

1. what the cash position of the council was, do you think?
2. A. Probably wasn't until towards the end of April when I
3. brought on Island - a financial resource to assist me in
4. pulling all that information together where, following his
5. analysis and working with me, that we found out that our
6. position was starting - was dire.

7

1. Q. Can I ask why it took that long? What was the problem
2. with the records? I mean, there was a computer system in
3. place that should have been able to indicate where you
4. were; why did it take till April?
5. A. An interesting point, that I bought a financial
6. resource onto the Island in February to help pull together
7. the first quarterly budget review - sorry, the second
8. quarterly budget review which was December, and when he
9. arrived we couldn't find an electronic copy of the first
10. quarterly budget review which was done by the former CFO,
11. it wasn't in council's records anywhere, so for the first
12. week that resource had to reconstruct the quarterly budget
13. review which was September 19, and then he had to do
14. the December quarterly review.

22

1. So, it was trying to piece together information that
2. wasn't there that should have been there. If you're in any
3. other local government organisation you could walk in and
4. be given a set of statements or a set - you know, a set of
5. financial records and it was quite easily or readily
6. available, but it wasn't here so I required some people to
7. come in and help pull that together.

30

1. Q. From your experience, how unusual or usual is that
2. result? Is that something you were expecting when you
3. landed on 6 January?
4. A. No, it was not, highly unusual, and it certainly made
5. my task extremely difficult.

36

1. Q. So, if my memory serves me, the December quarter
2. budget review was only made available in March; that sounds
3. about right, doesn't it?
4. A. That's correct.

41

1. Q. Ordinarily, you'd expect that in at the end
2. of January?
3. A. No later than the middle of February, so six weeks.

45

1. Q. And you'd report to council the result of that for the
2. end of February meeting?

|  |  |  |
| --- | --- | --- |
| 1 | A. | Yes. |
| 2 |  |  |
| 3 | Q. | You hadn't had the first quarter at all? |
| 4 | A. | Couldn't find it. |
| 5 |  |  |
| 6 | Q. | And you had to do that again, assuming it had been |
| 7 | done | before, but we don't know? |
| 8 | A. | It was presented to council but we had to reconstruct |

9 it in the electronic records.

10

1. Q. What was the feature that stood out to you when you
2. got the half-yearly in March?
3. A. Significant commitments for council that were heading
4. in a particular direction to say, you know, we were
5. spending all of our cash, our unrestricted cash.

16

1. Q. Let's just pause there and go back to early February.
2. You signed a contract with Boral for the roads project.
3. How was that issue relayed to you by your staff? How did
4. you come to sign that contract, is effectively what I'm
5. asking?
6. A. Yes. One, there was a Council resolution to head down
7. that way, and you'd understand that my role as general
8. manager is to enact Council resolutions, so that was the
9. obvious underlying commitment there.

26

1. Secondly, I was given a semblance of confidence that
2. council committing towards this project was covered within
3. existing frameworks - of existing funding frameworks of
4. council.

31

1. Q. It's implicit though, from what you've said, that you
2. didn't know what the cash position was?
3. A. No.

35

1. Q. You understood that you were bound to sign the
2. contract. Did that make you feel uneasy?
3. A. Yes, it did. Yes.

39

1. Q. Did you raise that with the councillors?
2. A. Not directly. We had several conversations about our
3. commitments around the airport - was primarily the
4. commitments over and above the grant amount but not
5. necessarily the roads. We probably had more conversations
6. about the roads later in the fact, more as a result of
7. COVID and the pressures that came from that.

47

1. Q. So, when you say "later in the fact", we're talking
2. about a conversation about the roads well
3. after February/March?
4. A. April/May.

5

1. Q. April/May, all right. I take it that, when you signed
2. the roads contract, you knew how the airport contract was
3. tracking?
4. A. Yes, at that stage that was all pre-COVID and
5. everything was sailing along nicely as far as the delivery
6. of that commitment.

12

1. Q. When it was put to you by your staff that, well,
2. last year in July Boral spoke to us, said look, while we've
3. got the machinery and the equipment here we can resurface
4. the roads. They gave a tender; you saw that, I take it?
5. A. A price, not a tender; it didn't go through a tender
6. process.

19

1. Q. No, correct.
2. A. That's right.

22

1. Q. I stand corrected. They gave you a price of around
2. $5.3 million; that's the price that was embedded in the
3. contract, and the works were carried out in 2020 and 2021
4. split between the two years; correct?
5. A. I think most of the works were completed in 2020.

28

29 Q. In 2020?

1. A. Yeah, because they he - they demobbed or debunked from
2. the Island in October.

32

1. Q. In October. Had they started any of the road work
2. before the contract was signed?
3. A. No, not to my knowledge.

36

1. Q. In your statement you refer to being given a tour of
2. all the assets by the staff, other general managers?
3. A. Yep.

40

1. Q. We'll come back to all the other assets in due course,
2. but when it came to the roads did you do the drive around
3. the Island?
4. A. I did.

45

1. Q. Having been involved in local government on the
2. mainland, what was the impression that you took away from
3. that when you saw the roads?
4. A. I hadn't seen such a poor state of road network, for a
5. complete network, anywhere else that I'd worked previously,
6. and I did say that during my interview process and I think
7. a tongue-in-cheek comment was, "That's some of the charm of
8. the Island", but I went - I just didn't agree. They were
9. very poor state of roads.

8

1. Q. So you could understand why council wanted to do
2. something about the roads?
3. A. Yes.

12

1. Q. So, at the time you signed the contract to do
2. something about the roads, what was your understanding
3. about the cash shortfall on the airport runway itself? Was
4. that something that was known to the corporate and
5. financial team within council?
6. A. Yeah, so as soon as council committed those funds to
7. it I understood that their commitment was $49 million,
8. which included some grant funding, so I was aware of that
9. from the process, but at the same time the signing of the
10. contract in February was all pre-COVID, so it was all prior
11. to changes that were coming towards the council in loss of
12. revenue.

25

1. So, it would have been tight, but it's always
2. manageable, and I've been in many similar circumstances in
3. councils across Australia where you need to - you need this
4. particular asset so things are going to be tight for a
5. number of years, so I was aware that I was giving myself a
6. challenge for the next three years of keeping things tight.

32

1. Q. The resolution made very clear that the road project
2. would be funded out of cash reserves of council; correct?
3. A. Yes.

36

1. Q. The airport contract made it clear that council would
2. have to fund the shortfall around five, potentially six,
3. even more, million dollars from cash reserves; correct?
4. A. Correct.

41

1. Q. Do I take it, you knew that the unrestricted cash
2. reserves as at 30 June 2019 were of the order of
3. $11 million?
4. A. I did.

46

47 Q. Did you form the view that that was potentially

1. sailing close to the wind?
2. A. I did.

3

1. Q. Did you provide any formal warning to the councillors
2. about the risk of that or did you take the view that you
3. were effectively bound to proceed with the road contract?
4. A. The latter.

8

1. Q. Thank you. Things had changed by 23 June, hadn't
2. they?
3. A. They certainly have.

12

1. Q. Let's pause at 23 June. I choose that date because
2. it's the day before a council meeting where a formal
3. resolution was passed concerning audits being obtained.
4. You recall that?
5. A. Mmm-hmm.

18

1. Q. The day before you had a meeting with councillors. I
2. take it staff weren't in the room, it was just you and
3. councillors?
4. A. I'd say, yes.

23

1. Q. What was the purpose of that meeting? What was the
2. message that you sought to convey to councillors?
3. A. I don't have my notes here in front of me for 23 June.

27

1. Q. Had you prepared notes?
2. A. No, no, but I take notes of all my meetings that I've
3. had with council, so could you remind me again what words
4. you're looking for there?

32

1. Q. Well, this is the day before council passed
2. resolutions to appoint Nexia and Grassroots effectively to
3. come in and carry out, in the case of Grassroots, a full
4. governance audit, and in the case of Nexia a full
5. accounting audit. So, a significant step, not something
6. that general managers of council ordinarily do, can I
7. suggest; I would suggest you've never had to do that
8. before?
9. A. Yes, that would be correct.

42

1. Q. And, in doing that, you were seeking to invoke powers
2. under the Local Government Act; it was a statutory audit,
3. wasn't it?
4. A. Yeah. It's --

47

1. Q. When you had the meeting with councillors and said,
2. look, this is what I propose, what did you tell them?
3. A. Look, that day would have been a combination of
4. several meetings that we'd had for quite a few weeks
5. before, and probably a rolling list of issues that had come
6. to the council from the moment the Island was locked down
7. in April. We had regular meetings throughout that time
8. because I was here on Island for a continuing 14 weeks
9. from, say, the middle of March --

10

1. Q. Lockdown.
2. A. Lockdown, and I safely worked nearly every weekend I
3. think during that 14 weeks because I was here and probably
4. met with either the Mayor or Mayor and councillors quite
5. regularly on weekends all the way through that period where
6. we were discussing our ever-changing position of the
7. council, and it was a wide-ranging number of topics, but
8. eventually we got to that point where the council
9. themselves were the ones calling for the external audit
10. based around a number of challenges the council had faced;
11. so, whether it was governance or finance, but that's where
12. we got to that point.

23

1. Q. If we could bring up, please, paragraphs 22 and 23 of
2. your statement, this may help you.

26

1. *On 23 June 2020 I held a meeting with the*
2. *Mayor and councillors recommending [it was*
3. *your recommendation] that an independent*
4. *external audit into council's operations be*
5. *conducted.*

32

1. My question is, why? Why did you tell councillors,
2. before the meeting the following day, that that's what you
3. wanted to do? What had you seen/discovered/uncovered that
4. lead to that action?
5. A. I suppose the paragraph above highlights kind of why I
6. recommended to councillors following the audits conduct
7. they found 113 improvements that were required, so these
8. are quite varied; but, why did I do that? Because we'd had
9. a number of conversations over a period of time beforehand
10. that we wanted to fix the council, you know, we wanted to
11. fix how the council operated in its governance framework so
12. that we could get better outcomes and better decisions
13. around either financials or all those sorts of things.

46

47 Q. What was the number one thing that you thought was

1. broken that led you to call for that inquiry or for those
2. reports? What was the most significant thing that needed
3. to be fixed?
4. A. Our financial position.

5

1. Q. What was it about the financial position on 23 June
2. that needed to be fixed?
3. A. I had a very good feeling that we would run out of
4. cash.

10

1. Q. Where did that feeling come from?
2. A. From a discussion I had with the council around the
3. cash position. If we continued on the current trajectory
4. we would be minus $7 million in cash by 30 June 21. We had
5. to correct our position at that point right there and then
6. to make significant cuts to services and changes to revenue
7. streams so that we could bring the budget back into a zero
8. balance.

19

1. Q. What do you recall was the reaction of the councillors
2. when you conveyed that to them on 23 June?
3. A. Significant concern, worry, and in the end I can say
4. that they were all on board in that path to try and fix the
5. council's financial position.

25

1. Q. When you say that you've told them that the council
2. could run out of money, did you give them an indication of
3. what the figure was, how it had been derived and what it
4. meant?
5. A. Yeah, I got on a whiteboard and I put up all of the
6. figures across - basically, it was a projected cashflow,
7. and saying that this is our existing commitments, employee
8. costs et cetera, pretty much what you did this morning, and
9. showed them on the whiteboard and I said, "This is what it
10. needs to be." So, if they continued on this existing path
11. we'd have minus $7 million in the bank.

37

1. Q. But you saw what Nexia had to say about the cash
2. position?
3. A. Yes.

41

1. Q. And you don't take any issue with that?
2. A. No, I do not.

44

1. Q. When did that position first become apparent to you?
2. Am I right in thinking that you had a fair idea that that
3. was the position when you spoke to councillors on 23 June?

|  |  |  |
| --- | --- | --- |
| 1 | A. | Absolutely. |
| 2 |  |  |
| 3 | Q. | When do you think you first became aware of that? |
| 4 | A. | It was probably towards the end of May, and it was |

1. reconciling that with my staff first and then having a
2. number of conversations with councillors that led to the
3. 23 June meeting.

8

1. Q. The staff that you talked to and who were on board
2. with that, who were they?
3. A. At that stage it was primarily a contract accountant,
4. Roger Neilsen, and that's probably about it, was basically
5. between Roger and myself. The other managers were all
6. involved and were aware, but primarily the financial
7. conversations were between Roger and I.

16

1. Q. When did you communicate the cash shortfall with the
2. staff? Did you discuss that with them - with your managers
3. I mean - did you discuss it with them before you spoke to
4. councillors?
5. A. Yes, to ensure that the position I distilled with
6. Roger was accurate before I took it to council. So, we'd
7. have weekly management meetings and, I can't remember the
8. exact date, but it would have been sometime during May that
9. we started to talk.

26

1. Q. And I take it, one of the issues that you needed to
2. talk to your managers about was that this was going to mean
3. loss of employment in the council?
4. A. Yes.

31

1. Q. Was that raised early on before you spoke to
2. councillors?
3. A. Yes, we started speaking about that quite early in the
4. piece, in May.

36

1. Q. When do you think that was?
2. A. It would have been early May that we started, because
3. I - you know, not knowing the organisation, only being
4. there three or four months, not knowing it as well as my
5. managers who had been there several years, I had to engage
6. with them to start finding parts of the organisation that
7. we could do without.

44

1. Q. When did Mr Neilsen come onto the Island?
2. A. It's mid-April, I believe.

47

|  |  |  |
| --- | --- | --- |
| 1 | Q. | How long did he stay in the position? |
| 2 | A. | His first stint was eight weeks - I'd have to check. |
| 3 |  |  |
| 4 | Q. | And, effectively, that role was reconstituting the |

1. accounts, was it?
2. A. Yeah, and finding the cash position because I had a,
3. yeah, pretty strong feeling by that stage that we were
4. headed in the wrong direction.

9

1. Q. The cash position is - not being an accountant, and I
2. do apologise if I get this wrong - the cash position is
3. really derived by what you've got in the bank and what
4. you're bound by?
5. A. As simple as that, so --

15

1. Q. And, why was something as simple as that as hard as
2. you're indicating to ascertain?
3. A. So, our financial systems are not particularly good
4. here at council. We're currently working on trying to fix
5. that right now, we have a number of contractors on Island
6. trying to fix things as simple as our ledger, but we have
7. difficulty pulling information out and them balancing, so
8. things that you would rely upon in other council
9. jurisdictions, you just can't rely upon here.

25

1. Q. In other jurisdictions, you're the general manager and
2. you walk to your corporate and accounts section; is it a
3. matter of them going to a computer to identify the cash
4. position on a particular day? Is that the way it is
5. normally?
6. A. Pretty much. You can rely upon at least having by the
7. end close of day - if you requested something by close of
8. day you would have your cash position.

34

1. Q. The general manager role typically, does that involve
2. a regular, whether it's daily, weekly, fortnightly
3. reporting of cash position?
4. A. Not normally. You know, you have chief financial
5. officers and finance managers for those sorts of things,
6. that's what you engaged, but this council has had a number
7. of CFOs in a very short period of time, so high turnover;
8. extremely high turnover in financial staff, so there's a
9. lack of corporate knowledge and that required probably more
10. involvement or more oversight from me than I would have
11. done in any other previous general manager role.

46

47 Q. When the resolution was moved at council - it was

1. obviously moved by council, it was not by yourself - for
2. the investigation by Nexia and Grassroots, it was passed
3. unanimously?
4. A. It was.

5

1. Q. Was there debate that you recall about it?
2. A. Yeah, there was debate to the extent that each
3. councillor spoke to the subject, but they were all in
4. general agreement.

10

1. Q. Is there anything that stands out from that debate,
2. sitting there now?
3. A. No.

14

1. Q. Was there any opposition to what was being proposed?
2. A. No.

17

1. Q. Do I take it that, when you briefed councillors the
2. day before, you also addressed the issue about council's
3. income position?
4. A. I did.

22

1. Q. And the breadth of that income base?
2. A. They were fully aware.

25

1. Q. Do I take it, that would have been one of the other
2. significant matters that you raised with them?
3. A. Yes.

29

1. Q. What were the concerns about the breadth of the income
2. base on 23 June that you recall conveying to councillors?
3. A. There was often strong reliance upon external funding
4. and the fact that our fees and charges which are reliant
5. upon the travelling public had decreased and that was the
6. acknowledgment.

36

1. Q. Let's break up the areas of funding, let's talk about
2. the service delivery agreement. Were you concerned about
3. whether council was getting value under that agreement in
4. terms of a financial return for the services being
5. provided?
6. A. The services we provide were fully funded and a small
7. amount remained with the council to help pay for components
8. of, say, my salary and some of my managers, so I was
9. comfortable that the SDA is more than sufficient to deliver
10. the state services.

47

1. Q. So, that's the Commonwealth buying services from you.
2. What about other services provided by the council? What
3. about the airport? Obviously its revenue is from passenger
4. movement charges and landing charges; they had taken a hit
5. from COVID?
6. A. Yes.

7

1. Q. But there was little scope to increase them, was
2. there, or not?
3. A. Those fees are quite high now, they're in excess of
4. $100 per passenger, so the movement charge is quite high.
5. There was a good example during COVID where the emergency
6. management process wanted a permit system, and you would
7. have filled that permit out to come to the Island the last
8. couple of times.

16

1. Q. Yes.
2. A. Well, that permit system cost $65,000 and when council
3. purchased that originally we were going to put another $25
4. fee on top of that permit - so, for that permit, which is
5. on top of the landing fees you already pay, and it went
6. through a process and the council adopted to put that in
7. place but there was some community backlash and that was
8. reversed. So, we lost that funding straight away.

25

1. Q. Let's just take that apart and do that step-by-step.
2. So, it was a proposal from staff and yourself to the
3. council to increase that fee by $25 per head: how much
4. would that have pulled in in terms of extra revenue, do you
5. think?
6. A. It would have covered the cost of the software, which
7. was $65,000, and a small amount more which was, from memory
8. it was about $80,000.

34

1. Q. So, when that was put forward to council, what was the
2. result on the floor of council?
3. A. Originally it was adopted to go on public submission
4. for 28 days, and so it was supported, but towards the end
5. of that 28 day period their position had changed.

40

1. Q. What was the principle behind the decision not to
2. proceed with that, what was the argument that you were made
3. aware of?
4. A. It was strong community feedback that said - and it
5. was primarily from the tourism side of things - that they'd
6. already paid their fee, you know, they'd paid their landing
7. fee which is in excess of $100, and we're now asking the
8. travellers to put another $25 on a different credit card
9. transaction and it was making things more complicated and
10. could have been prohibitive to bring people to the Island.

4

1. Q. And when was this, when was this decision made?
2. A. So, the permit system I think was in place by - I
3. think we re-opened in June, 6 June or something like that
4. from memory. It was around that time and I think we were
5. trying to have the permit system in place by July. The
6. permit system was in place but the charge was not. I bring
7. that up just because we're paying in excess of $100 and an
8. additional $25 on top was quite a high fee.

13

1. But, to answer your earlier question is, we went from
2. having six flights a week to the Island to two, and that's
3. why we saw the revenue streams decimated.

17

|  |  |  |
| --- | --- | --- |
| 18 | Q. | That was six flights pre-COVID? |
| 19 | A. | Yes. |
| 20 |  |  |
| 21 | Q. | Two flights during COVID. Pretty empty, I expect? |
| 22 | A. | Yeah, I was on one flight that had about eight people. |
| 23 |  |  |
| 24 | Q. | And then, when borders re-opened around June, how many |

1. flights returned?
2. A. There's still only two, pretty much through
3. till October.

28

1. Q. Two from?
2. A. One from Sydney, one from Auckland.

31

1. Q. One from Sydney?
2. A. Yeah, two flights a week, and that was until I
3. think September, I'd have to check.

35

1. Q. Until September?
2. A. Yeah, I'd have to check.

38

1. Q. Let's talk about other areas where the income could
2. have been increased, let's talk about rates. I take it,
3. you're familiar with the history of arguing for rate
4. increases with the council by your predecessors?
5. A. I am.

44

1. Q. We won't go into that, that's something we'll deal
2. with at a later time with other witnesses. You formed a
3. view that the rating model needed revision, do I take it,
4. when you arrived?
5. A. I did. It was actually raised during my interview
6. process.

4

1. Q. How was that issue raised in your interview?
2. A. It was raised by a couple of councillors that, you
3. know, rates was not seen as the correct method for raising
4. revenue on the Island.

9

1. Q. Who said that?
2. A. It was said in a roundabout way by Councillor Snell
3. and Councillor McCoy during my interview process. I was
4. given a heads-up by a consultant as well to be aware of a
5. question along those lines, but yeah. So, I was aware of
6. the history operating before I came here and it's not hard
7. to see when you arrive on the Island, there's still cars
8. with posters in the back windows saying "No Land Rates."

18

1. Q. What did Mr Snell say to you about rates? I think the
2. words you used before, and I want to get it as accurately
3. as you can recall it: "Rates aren't seen as the way to
4. raise money"; was that what you indicated?
5. A. Yeah, so --

24

1. Q. What were his words?
2. A. I can't recall his words exactly, but there was a
3. feeling that rates are not the best method of raising
4. revenue here from Norfolk Island and, you know, we needed
5. to look at some other revenue-raising method to put in
6. place, so whether that was a GST-type taxation to be put in
7. place. That was often raised to me by the councillors to
8. say they raised $7 million in the past, whereas rates are
9. only now raising $1 million, so that in itself is a gap for
10. the government here on Island. So, they were not
11. supporters of the way rates are levied in other
12. jurisdictions.

37

1. Q. Despite that, when it comes to the budget for
2. 2020/2021 you put forward a rating increase. Let's go back
3. a step. Can you tell the Commissioner, how are rates set
4. currently on Norfolk Island?
5. A. So, there's three categories of rates here at the
6. moment: residential, farm land and commercial. There's no
7. mining rate on the Island. The rate is set through two
8. parts: a base rate, which is very similar to most other New
9. South Wales areas, it's either a base rate or a minimum,
10. they're the two you can use, but here you use a base rate,

1 and then on top of that is an (indistinct) rate.

2

1. In my experience the rates are quite low. We're
2. currently raising about $1.2 million from rates here on the
3. Island, which is 5% to 6% of our total revenue, and with
4. that, that doesn't even cover basic operational costs of
5. the council. So, if you looked at trying to find core
6. costs of council, generally you try and align a taxation
7. base with your core costs of the council, so that in tough
8. times, rainy day when you need the cookie jar, you're core
9. taxation can meet your core service delivery.

12

1. Q. Tell me about the homeowners. When people are away,
2. absent homeowners levy; is that still in operation?
3. A. I don't think so. It was taken out a year or so ago,
4. I think, prior to me commencing here.

17

1. Q. Are you familiar with how that particular rate
2. operated?
3. A. No, I didn't look into that, but I'm sure that some of
4. my staff could answer that.

22

1. Q. Was that ever raised by councillors as an option to
2. broaden the rate base?
3. A. Not during my time.

26

1. Q. Was that something that had been raised by your staff
2. with you when you were thinking through options to be
3. brought in place?
4. A. No, that hasn't been brought up.

31

1. Q. What was the practical effect of the rate increase
2. that you were proposing for 2020/2021?

34 A. Yep, 21/22?

35

1. Q. No, no, as you approached 30 June 2020, having had the
2. meeting on the 23rd, you put forward changes to the rates
3. to meet the pressing cash position, the cash position that
4. had led councillors to move for a full audit and a
5. governance audit, what was the practical effect of the
6. rating change that you put forward?
7. A. So, it was still quite conservative what we put
8. forward; prior to that the council had been generally
9. focused on about 1.5% rate rises. We called for a slightly
10. larger one which was 2.5% from memory.

46

47 Q. How would that have played out for a typical person on

|  |  |  |
| --- | --- | --- |
| 1 | the | Island? |
| 2 | A. | It was quite small, I think it was - from memory it |
| 3 | was | a few dollars extra per rate notice. So, 10% is -- |
| 4 |  |  |
| 5 | Q. | What's your average rate notice for residential? |
| 6 | A. | About $500. |
| 7 |  |  |
| 8 | Q. | $500, so if it's a 2% increase -- |
| 9 | A. | We're talking dollars here. |
| 10 |  |  |
| 11 | Q. | -- $15, $20, under $20? |
| 12 | A. | Yeah. |
| 13 |  |  |
| 14 | Q. | How much would that have raised? |
| 15 | A. | So, 10%'s $120,000 more, so 1%, which is only 1% more |
| 16 | than | what they'd been raising, 1.5%, it's only - what's |

1. that, 12 grand, so it's not a lot of money extra. The
2. rating base is quite small, and any movement, any sort of
3. significant movement just can't fix some of the financial
4. challenges that we face. So, we're proposing the
5. current year a 10% rate rise which is currently on public
6. exhibition, and it's going to raise an additional $120,000,
7. so that's a staff member.

24

1. Q. And it's a drop in the ocean compared to the actual
2. deficit that you face?
3. A. Yeah. So, the interim administrator has given me a
4. task to present a budget to him shortly of at least a half
5. a million dollars surplus as a basis to try and restore our
6. cash position.

31

1. Q. I just want to focus now about what happened in the
2. lead-up to 30 June. There was an issue about electricity
3. fees in that budget; correct?
4. A. There was.

36

1. Q. If we could just pause there and talk for a minute
2. about what you observed about the electricity assets on the
3. Island when you had your tour. What was the feature about
4. how electricity - perhaps you could give us a narrative of
5. how electricity operates on Norfolk Island, because
6. probably nowhere else that it operates this way. How does
7. it work?
8. A. So, council controls generation and distribution. So,
9. generation is about 70% from diesel electricity and 30%
10. from solar, and it comes into our network and flows on an
11. old system.

1

1. Q. What do you mean by "an old system"?
2. A. An old system so that, even those houses with solar,
3. the meters are old meters where they flow both ways. So,
4. when you draw down, you know, we get a record of what
5. you're consuming, but if you're creating it, it turns the
6. meter back, so you're getting it in the same sense
7. basically for generation as you are from purchase.

9

1. On top of that we have a really old network, you've
2. got old transformers and old wires and --

12

1. Q. How old?
2. A. A fair age. So, transformers that I was shown, you
3. know, 70s, they're quite aged. My father worked in the
4. electricity industry for a while and said to me that he
5. hadn't seen a transformer like that since the 70s, I don't
6. think they're made any more, so that's one of the
7. challenges that we have. But the actual generation is
8. quite modern, the diesel generation power station is very
9. clean, very modern, very well run by our team; it's just
10. very expensive because you're buying diesel at quite a high
11. price, having to import it, and a high consumer of it.

24

|  |  |  |
| --- | --- | --- |
| 25 | Q. | The diesel comes in a barge, what, once a month or? |
| 26 | A. | Ship delivery to Ball Bay. |
| 27 |  |  |
| 28 | Q. | And it's piped on shore? |
| 29  30  31 | A. Piped onto shore into holding tanks that are owned by council but operated by a private contractor. | |
| 32 | Q. | What's the sort of price premium on the fuel that goes |
| 33 | into | generating the electricity? |
| 34 | A. | I'd have to check -- |
| 35 |  |  |
| 36 | Q. | That's information you can give us? |
| 37 | A. | Yeah, I can give you later, but yeah, it's $1.50, |
| 38 $1.60 type stuff.  39 | | |

1. Q. In terms of the cost of running the system, what was
2. the annual cost when you're coming to approach the budget

42 for 2020/2021?

1. A. So that, that year, if we left everything as is at
2. 70 cents a kilowatt sale price --

45

1. Q. 70 cents a kilowatt?
2. A. 70 cents a kilowatt, the electricity business unit

1 would have lost money that year.

2

1. Q. How much?
2. A. From memory, it was about $250,000 I think if we left
3. it at that level. So, we proposed to put the charge rate
4. up to 74 cents a kilowatt. Now, that's quite high. I
5. don't know if you've looked at your bills back home, but
6. you're probably paying somewhere between 15 and 20 cents,
7. and ours was being proposed at 74 cents, so that's quite
8. high and so it's a high cost of living for anybody. And
9. so, that was the proposal to bring the electricity business
10. itself back to zero.

13

1. Q. How was that issue resolved on the floor of council?
2. A. When it went to council for public exhibition there
3. was little debate, it went out on public exhibition, but we
4. had a number of informal workshops - because I was still on
5. Island and we were meeting quite regularly with the
6. councillors, at least fortnightly - and at that stage they
7. did say that they were going to have a conversation about
8. that when it came back to council at that meeting.

22

1. Q. And?
2. A. At that meeting they moved that the electricity charge
3. remain at 70 cents rather than being 74, and were about to
4. move and adopt that position until I interjected and said,
5. "Do you want to know what that cost will be prior to
6. adopting?"

29

1. Q. Who responded?
2. A. The Mayor said, "Well, please go ahead", and I then
3. informed them that that change would put our balance budget
4. that we had on public exhibition into a deficit position.

34

35 Q. By how much?

36 A. $250,000.

37

1. Q. The position about funding the electricity assets: to
2. what extent does the need to maintain those assets get
3. honoured had it been delivered and were the assets being
4. maintained to the proper degree that you could ascertain
5. when you came to prepare that budget?
6. A. I think the assets are being maintained well enough to
7. provide delivery or service to the Island, but knowing that
8. they're doing so with - you know, on the smell of an oily
9. rag; they are delivering it just to make sure we keep the
10. lights on, and they do an exceptional job of being able to
11. do that and finding the easiest way to deliver these
12. things, but there's no ability for us to find significant
13. money to invest capital correctly that you would in any
14. other jurisdiction.

5

1. Q. Am I right in thinking that that loss on the revenue
2. side was really an operational loss and it didn't deal with
3. funding the cost of depreciation on the power assets?
4. A. That's correct.

10

1. Q. What would you need - we'll come back to this in
2. detail after the break - did you work out the cost to the
3. budget of properly meeting the depreciation costs of the
4. power system?
5. A. Not at that time.

16

1. MR BOLSTER: That's probably a convenient time,
2. Commissioner, to take the morning tea adjournment.

19

1. THE COMMISSIONER: Okay, we will take a morning tea
2. adjournment for about 20 minutes. Please adjourn the
3. inquiry.

23

# 24 SHORT ADJOURNMENT

25

1. MR BOLSTER: Commissioner, if the witness could be shown a
2. copy of this document, and I have a copy for you.

28

29 THE COMMISSIONER: Mr Bolster.

30

1. MR BOLSTER: Commissioner, I have a document to be shown
2. to the witness and I have a copy for you.

33

1. Q. During the adjournment were you able to obtain a note
2. from your computer of your meeting with the councillors on
3. 17 June last year?
4. A. I was.

38

1. Q. That's a shorthand note of the conversation; correct?
2. A. Yes, that's a brief overview of what I discussed with
3. the council.

42

1. MR BOLSTER: I tender that document, Commissioner. Might
2. it be marked as Exhibit 3, please?

45

# #EXHIBIT 3 - SHORTHAND NOTE OF CONVERSATION MR ROACH HAD

1. **WITH COUNCIL**LORS.

1

1. Q. Having looked at that, does that refresh your memory
2. of the conversation you had with the councillors?
3. A. Yes, it certainly does, and it probably aggregates a
4. number of discussions that we had over a few weeks that led
5. to that question of an external audit.

7

8 Q. In the first dot point it says:

9

1. *Financial audit, maybe full forensic audit?*
2. *Boral costs.*

12

1. Is that both the airport and the road costs?
2. A. Yes, it's both, and it was a conversation that we had
3. with the councillors around whether it would potentially be
4. a full forensic audit as compared to just a financial
5. audit, so it was a wide-ranging discussion, obviously,
6. there with council.

19

1. Q. Why was there discussion about a forensic audit? What
2. was the trigger in your mind for a potential forensic
3. audit?
4. A. I think I was personally leaning more towards a
5. financial audit. A forensic audit is probably more around,
6. you know, poor decisions or some maladministration, and I
7. didn't believe that was the case, but it was read - it was
8. raised by councillors as a forensic audit and I think it
9. was their understanding of what that meant as compared to
10. what I believed it would be.

30

1. Q. Let me be clear about this. Any discussion about a
2. forensic audit, who initiated that? Was that initiated by
3. you or by the councillors?
4. A. It wasn't by me.

35

1. Q. Which council member raised the prospect of a forensic
2. audit?
3. A. It was, I think, discussed by a number of them, by at
4. least three of the councillors.

40

1. Q. Which three do you think raised that or discussed
2. that?
3. A. The Mayor, Councillor Snell, and I'm unsure of the
4. third one.

45

1. Q. What was the language that you can recall that was
2. used about why a forensic audit might be needed?
3. A. It was, we need to look at what's transpired with the
4. Boral costs primarily around the biosecurity costs which
5. were in addition or at council's expense.

4

1. Q. Let me see if I understand this correctly. The three
2. councillors who raised this were suggesting that there
3. needed to be a forensic audit about the extent of the
4. biosecurity costs?
5. A. Yes.

10

1. Q. What was their concern about those costs?
2. A. Were they actual costs or not; I think that was - it
3. was a real general thing to say, was this actually a
4. biosecurity cost or was this a Boral cost.

15

1. Q. Was any aspect of the forensic audit discussion about
2. the roads contract?
3. A. Not from me, no.

19

1. Q. Was it raised in connection with the roads contract?
2. A. Not that I recall.

22

1. Q. The second dot point says "Raised with administrator."
2. That presumably means Mr Hutchinson?
3. A. Yes, the Island administrator.

26

1. Q. And, was that something you were going to raise with
2. him?
3. A. Yes, the Mayor and I met fortnightly with the Island
4. administrator to brief him on council issues.

31

1. Q. Do I take it that, by 17 June 2020, you had not raised
2. with the administrator your concerns about the cash
3. position?
4. A. No, I had been briefing him generally from the time of
5. about April when we started to discover it ourselves.

37

1. Q. So, you think that he may already have been aware of
2. the disastrous cash position?
3. A. Yes, because we were - at this point in time we were
4. heading towards - we had put a budget out we said to reduce
5. numbers, and also, the - I think you made mention in your
6. earlier statement about a COVID additional cost by Boral,
7. so that --

45

1. Q. Liquidated damages for the --
2. A. Yeah, it was affecting our ability to pay.

1

1. Q. Was that something that the councillors wanted to have
2. investigated, the liquidated damages?
3. A. No, it was primarily biosecurity costs.

5

1. Q. Was the issue that was to be raised with the
2. administrator the need for a full audit?
3. A. Yes.

9

10 Q. The third dot point, help me with this, says:

11

1. *Agree to audit, but get a trade-off for*
2. *Island. Game changer for the Island.*
3. *Voluntary administration? Get preamble*
4. *into legislation.*

16

1. Now, there's a number of concepts there, but the first
2. two lines "Agree to audit, but get a trade-off for Island",
3. what was the discussion there, what was said about that?
4. A. Is that, if we were heading down this path of an
5. external audit, we wanted to make sure we could get the
6. best possible outcomes for the Island. Being a game
7. changer is, if there was any potential to have assets fixed
8. out of this process so that, whether it was, say, the
9. electricity grid, you know, the potential to lower the cost
10. of living here on the Island.

27

1. Another thing that was thrown in as a game changer
2. would have been the development of a port facility for sea
3. freight, because that's obviously a significant challenge
4. for the Island, so that's the sort of stuff that they were
5. talking about there.

33

34 One of the things that was raised - sorry?

35

1. Q. You keep going, sorry.
2. A. One of the things that was raised with them was that,
3. if we went down this path, we did discuss voluntary
4. administration at this point with the councillors.

40

1. Q. Who raised that?
2. A. I did.

43

1. Q. What did you say?
2. A. I said that it was a difficult circumstance to find
3. the council asking the Commonwealth for money and still
4. believing that we could continue in an elected members
5. mode, having worked in previous councils that had been in
6. similar sorts of financial circumstances, that had been - I
7. had seen that before as an alternative to getting an
8. outcome.

5

1. Q. Do I take it the use of the words "voluntary
2. administration", that to lawyers has a meaning associated
3. with the Corporations Act, slightly different?
4. A. Very different.

10

1. Q. Were you intending to talk about the sort of events
2. that actually occurred, that is, the appointment of an
3. administrator, the suspension of the council?
4. A. Yeah, there was - there was - because the council
5. itself is quite immature and doesn't understand local
6. government as well, we'd often have conversations about
7. local government in general, and what are the potential
8. avenues that we could end up in. And so, I tried to
9. explain what administration meant to the councillors
10. through this process so that they were aware or they were
11. fully informed that, if they were making decisions to head
12. down this path, it could potentially lead to this.

23

1. Q. What did you tell them administration would mean for
2. them?
3. A. Exactly what's transpired, is that, they would be
4. either suspended or dismissed and the council would be run
5. as an administration for a period of time depending on, you
6. know, a decision made by the Minister, so it was quite a
7. general and wide-ranging conversation, that part.

31

1. Q. What did the councillors say in response? Do you
2. recall any particular response to this third dot point
3. about agreeing to the audit but get a trade-off for the
4. Island, game changer for the Island, voluntary
5. administration, et cetera; what did they say?
6. A. I think it was a pretty robust conversation with the
7. councillors.

39

1. Q. What do you mean by that?
2. A. Everybody was involved and everybody had their say on
3. each of those things, and I'd say there was differing
4. opinions.

44

1. Q. What were the differing opinions and who expressed
2. them?
3. A. I think they were probably all aligned for game
4. changer as far as, you know, things that was really
5. required for the Island.

3

1. Q. By that, what do you mean by that? Did they say that
2. a game changer was needed for the Island?
3. A. Absolutely.

7

1. Q. Who said that?
2. A. I would say all, all would agree that any one of those
3. game changers would be good for the Island, right, and, you
4. know, each of them had, say, a pet: so, one would be very
5. supportive of, say, like, Councillor McCoy was very
6. supportive of sea freight, a sea freight solution, and the
7. others would be stronger in any one of the others, but
8. that's an example of.

16

1. Q. Let me suggest to you some ideas.
2. A. Yes.

19

1. Q. Councillor Snell may have suggested to you a
2. discussion about rates and GST?
3. A. That definitely came up during these conversations.

23

1. Q. Who raised that, was that Councillor Snell or someone
2. else?
3. A. To be fair, it was probably at least two of them, it
4. was Councillor McCoy and Councillor Snell that would be
5. strong on those conversations.

29

1. Q. What did each of the councillors have to say, and
2. let's deal with it one-by-one, about the prospect of
3. voluntary administration? Each of them?
4. A. It was probably a "no" from Councillor Snell.

34

|  |  |  |
| --- | --- | --- |
| 35 | Q. | When you say "no"? |
| 36 | A. | As in -- |
| 37 |  |  |
| 38 | Q. | He didn't want it? |
| 39 | A. | He didn't want administration; the same with |

1. Councillor McCoy and Councillor Adams. Councillor Buffett
2. was probably sitting on the fence with that side of things,
3. and to some extent Councillor Porter could see the reasons
4. why we were discussing it because it was almost heading
5. that way, and he was probably - he - he was the most
6. experienced of my councillors having been a councillor in
7. another jurisdiction.

47

1. Q. Councillor Buffett had been on the audit committee at
2. council?
3. A. He had.

4

1. Q. That committee involves him sitting with two experts,
2. independent experts, and their job is effectively to review
3. the accounts on a quarterly basis; correct?
4. A. That's correct.

9

1. Q. Did you, in your experience of Councillor Buffett,
2. discern a difference of approach when it came to accounts
3. and accounting issues compared to the other four
4. councillors?
5. A. No, I think they were all equal in their understanding
6. of the council's finances.

16

1. Q. Let's go back to the issue of voluntary
2. administration. Did any of them reject the idea
3. completely, say "that's not gonna happen", "we're not in
4. that position"?
5. A. Yes, the majority.

22

1. Q. The fourth dot point, set council up properly for
2. finance, fleet purchasing, records management, licensing
3. permits, legislation, regulation. Do I take it, that's a
4. reference to a discussion about all of the deficiencies
5. that you'd found up to that point in time?
6. A. Yes, and something that we'd had spoken about
7. regularly from the advent of COVID, that each time - I used
8. to tell a story that each time I picked up a rock large
9. spiders ran out from underneath, and so, that was a
10. compilation of the challenges that we saw prior to an
11. external audit starting.

34

1. Q. The last dot point, the fifth, was about meeting with
2. the Minister to discuss these issues.
3. A. Yeah.

38

1. Q. Were you proposing effectively a mea culpa meeting to
2. the Minister to say, effectively, this is what has
3. happened: help?
4. A. I think, to the best of my memory, I believe all
5. councillors got to this point to say that, given our
6. circumstances, that we needed to reach out to the
7. Minister's office and have that conversation.

46

47 Q. But who initiated that? Was that you suggesting that

1. to the councillors and them agreeing, or was that something
2. that they proposed?
3. A. Hard to recall given the amount of conversations that
4. we had whether it was me at that meeting or not.

5

1. Q. What happened in respect of that last dot point; was
2. there such a meeting?
3. A. I don't believe there was, but we did meet quite
4. quickly then, I believe, with the administrator who's the
5. Minister's representative on Island.

11

1. Q. Do I take it, you conveyed to him all of your
2. concerns?
3. A. Definitely.

15

1. Q. But you say you had been filling him in on, what, a
2. fortnightly basis?
3. A. Yes, fortnightly before that.

19

1. Q. When do you think you first raised with him concerns
2. about the overall cash position?
3. A. It was probably early May.

23

1. THE COMMISSIONER: Mr Bolster, I might ask a couple of
2. questions on that topic, if that's okay?

26

27 MR BOLSTER: Yes, thank you.

28

1. THE COMMISSIONER: Mr Roach, one of the things you talked
2. about was the idea of an audit. Were other options
3. considered such as actually going to the department and
4. talking through with them - I know there are regular
5. meetings with the department - around what other options
6. there might be?
7. A. There were several different conversations. At that
8. stage I would say that there wasn't the openness or the
9. willingness to work collaboratively with us until probably
10. later in 2020. Earlier in the piece it was more about a
11. dual responsibility and we need to find a way, but I
12. suppose they were willing to listen to the concerns that we
13. had and list them, and I think I've detailed that in my
14. submission where I emailed the department as early as
15. 14 April and explained our financial position as early as
16. that. And I suppose, eventually as our position worsened,
17. there was more collaboration in June more towards an
18. external audit rather than trying to provide resourcing to
19. fix specific problems which we're doing now as an outcome

1 of the audit.

2

1. Q. So, when you decided to go ahead with the audit, was
2. there things that you as the general manager, not the
3. council but yourself, expected that you would get out of
4. the audit that you don't think you would have got if you
5. hadn't undertaken the audit?
6. A. I think the audit gave us a - I hope I'm using the
7. right word here - an imprimatur to actually make change and
8. lock in a blueprint, because up until then I had witnessed
9. change was hard and difficult to occur here because they
10. were still applying new methods or practices or procedures
11. from a former self-administration model which weren't more
12. aligned with a local government outcome.

15

1. A good example of that is the fact that the payroll
2. system didn't work when I first got here and a lot of
3. simple things like that, whereas if they had applied normal
4. local government practices we'd find the way out. So, an
5. audit was more about creating a pathway forward for change
6. and being quite open and transparent about it to the local
7. community.

23

24 THE COMMISSIONER: Okay, thanks.

25

1. MR BOLSTER: Q. Just in terms of the software of the
2. systems, Civica. Can you tell us, what is Civica? It's a
3. four letter word wherever I read it. They don't like it:
4. why don't they like it?
5. A. Look, it's a bit unfair on Civica. Civica is one of
6. two major local government software suppliers in Australia.
7. At one stage I think they had over half the local
8. governments in Australia providing, and it's just basically
9. your enterprise system; so it's your ledger, it's your
10. payroll, your creditors, plant, all your foundational
11. systems to run a normal local government authority.

37

1. Q. Did it work when you came on board?
2. A. Um, does it still work? There's lots of flaws still
3. in place with Civica now, but it was installed quite
4. quickly I think in the beginning, and there was training
5. I'm sure provided - I wasn't here, but I'm sure there was
6. training provided at the beginning, but because of the high
7. turnover rate that this council has seen in four years,
8. it's higher than I've seen in other council areas, then you
9. lose institutional memory quite quickly, and procedure and
10. process are the first things to suffer, and so, there's a

1 lot of systems within Civica we pay for that we don't use.

2

1. Q. Would those systems have been of assistance in keeping
2. a more rigorous track of the cash position generally?
3. A. Absolutely. You know, there's a very simple system
4. within Civica called bank reconciliation, most
5. organisations have it, but when I had an accounting
6. contractor come in and review it there were considerable
7. errors in that system where, as simple as bank fees were
8. being put to bank income, and bank income was being put to
9. bank expenditure, so it was putting it out a long way, and
10. they're only small amounts, but they were simple processes
11. that any other organisation would get right.

14

1. Q. And that was Mr Neilsen who came in and fixed that?
2. A. Yes.

17

1. Q. Can we go back to the budget for 2020/2021. We've
2. dealt with electricity increases, rates increases, were
3. there any other budgetry measures that you put forward in
4. that context?
5. A. That were changed? I suppose the biggest change to
6. that budget was a reduction in expenditure. So, we saw a
7. redundancy program that was put in place of 20 positions
8. that were nominated, so that was probably the largest. The
9. revenue changes that we put in place were small but
10. required, and electricity was spoken about, but another
11. simple one was the cattle tag process.

29

1. Q. We'll come back to the cattle tag in a minute.
2. A. Yep, there were just small ones.

32

1. Q. So, you had small increases in revenue which, correct
2. me if I'm wrong, were each knocked back?
3. A. There was two or three that were knocked back, from
4. memory.

37

1. Q. Which ones got through? Did anything get through?
2. A. The rate increase of 2.5%.

40

1. Q. Was anything else, did anything else get through?
2. A. There were a few, but they were probably not high
3. profile user charges, you know, they were just probably
4. some run-of-the-mill adjustments that were required.

45

1. Q. So, fairly standard year-on-year entry fee permits
2. and --
3. A. CPI increases and those sorts of things, they all went
4. through.

3

1. Q. Lighterage, does that go up?
2. A. Yeah, lighterage goes up a lot every year and
3. that's --

7

1. Q. Does it?
2. A. -- and that's primarily driven by cost of delivery.

10

1. Q. The price of lighterage is the price of the labour?
2. A. Yes.

13

1. Q. And that price is generally something that is paid to
2. members of the community?
3. A. Yeah, so --

17

1. Q. And it has a significant community connection or link,
2. doesn't it?
3. A. It does, yeah, and so there's the two groups: there's
4. stevedores that are on the boat, that's not within
5. council's control; but then there's lighterage teams which
6. is ship to shore, and that's what we're in charge of.

24

1. Q. Just so that the Commissioner understands the process,
2. how is that organised? When a vessel in a week, two weeks,
3. hopefully longer in advance when a vessel's coming, how is
4. the lighterage organised on Norfolk?
5. A. It's through management services looks after that at
6. the moment and he has a team and team leaders that are all
7. prepared and they all know their tasks extremely well.
8. It's a site to see for an outsider such as myself and you
9. go and watch how they move cargo in these precarious
10. situations and they do an amazing job, but they're a team
11. in itself and they know how to organise all of that.

36

1. Q. What drives that cost? Is that a cost paid by
2. council?
3. A. Yeah, it's cost - so, it will primarily be the labour
4. costs and also the boats and the lifeboats and all the
5. additional services that are required for that.

42

1. Q. That is an expense that - have you tried to control
2. that expense or reduce that expense?
3. A. You can't really control it because it's bums on
4. seats, it's --

47

1. Q. I think that's my point.
2. A. That's your point, yeah.

3

1. Q. You can't drop control of that expense.
2. A. No, and it's a vital thing for the operation of the
3. Island, so as people's wages go up and as costs of fuel
4. goes up, that all pre-determines what people pay on top of
5. the cost of buying the good that they want to bring to the
6. Island as that last little step that they also have to pay
7. for.

11

1. Q. I take it, council endorsed the retrenchment plan for
2. staff in that budget?
3. A. They did.

15

1. Q. And that obviously had a very significant effect on a
2. number of people on the Island?
3. A. It did.

19

1. Q. Can we turn then to - I think earlier on we talked
2. about your two of the assets and I want to go back to the
3. assets. We've dealt with electricity and we've dealt with
4. the roads. The next asset that I wanted to talk about was
5. the water supply.
6. A. Wastewater.

26

1. Q. Sorry, the wastewater. Tell us what you were able to
2. glean from the quality and the standard of that
3. infrastructure from the beginning when you arrived in

30 January last year?

1. A. It was one of the first reports I read that the
2. council had signed off, I think in November or December 19
3. before I started, was a Balmoral Report which identified a
4. replacement program for wastewater assets across the
5. Island.

36

1. Q. When was that report?
2. A. I believe it was adopted in November or December 19.
3. It obviously took a number of months beforehand, but that
4. report identified a replacement value of $17,500,000 for
5. the wastewater treatment works which is next to the
6. airport. If you went to see it, you'd see how desperately
7. that asset replacement is required because --

44

1. Q. If we read the Balmoral Report we will see the history
2. of that particular facility and how long it's been there?
3. A. Yes.

1

1. Q. How old are the component elements of that?
2. A. I couldn't tell you that, one of my staff members
3. could tell you that; probably PJ Wilson will be the best to
4. answer that, but it's old; I haven't seen anything like
5. that in other jurisdictions I've worked at.

7

1. Q. Have you developed a budget for maintenance that deals
2. with the ongoing depreciation of that asset?
3. A. We have now; at that point we hadn't.

11

1. Q. When were you able to do that?
2. A. Probably only in the last three months that we've
3. landed at a --

15

1. Q. Can I ask why it took that long?
2. A. Because there was no asset management - accurate asset
3. management schedules that we could rely upon. A good
4. example is, all the roads on the Island, we don't have any
5. centreline data for at all.

21

1. Q. Explain to me the significance of centreline data for
2. someone who knows nothing about it?
3. A. It's very important to put into your computer systems
4. to have centreline data as a baseline of simple data so
5. that you can then build three schedules, and those are
6. really important in asset management, are your depreciation
7. schedule and your accuracy of that; your maintenance
8. schedules, that's the second most important, and then the
9. last one is your capital works programs or your replacement
10. programs that you can run out of that. We didn't have any
11. of those.

33

1. When I arrived here I didn't - I asked for them and I
2. couldn't see them. We had a spreadsheet that ran
3. depreciation and it was signed off, it was to a level, but
4. it didn't produce asset data like I'd seen in any other
5. council area.

39

1. Just before I came here I worked at the City of Darwin
2. and they engaged me to do exactly that, was to build their
3. asset management plans for the city that they had lost all
4. their data for, so I had to rebuild that and when I arrived
5. here I looked at it and couldn't find any of those sorts of
6. things.

46

47 Q. In your statement you say, we still don't know what

1. the budget is for proper and adequate maintenance of --
2. A. We do.

3

1. Q. Do I take it, there are elements of the asset base
2. that you do know about but that you're working through to
3. get the whole picture?
4. A. Yes, that's right. So, to set the systems up properly
5. so that you can then feed that data into a 10-year
6. financial plan so that you can then set expected revenue
7. streams and all those sorts of things, you need to have
8. these systems in place.

12

1. Q. Going back then to the wastewater system, what does it
2. need?
3. A. Complete replacement, urgently.

16

1. Q. Where does the wastewater go? Which side of the
2. airport is it on? I'm not entirely familiar with this
3. particular location.
4. A. It flows towards Headstone.

21

1. Q. To Headstone, yes, okay. And so, wastewater, are we
2. talking about sewerage or just stormwater runoff here?
3. A. Sewerage.

25

1. Q. And stormwater runoff?
2. A. Well, to a lesser extent stormwater; it's unlike other
3. things, but it's primarily sewerage, but it would collect
4. water in the catchments that would flow around it where it
5. flows down from, where it discharges from.

31

1. Q. And presumably it flows down one of the natural
2. watercourses on the Island?
3. A. It does.

35

1. Q. The wastewater or sewerage, that is treated or
2. untreated or partially treated?
3. A. Partially treated.

39

1. Q. Why is that the case, because the facility has an
2. upper limit that it just simply cannot meet?
3. A. I suspect it's past its used by date.

43

1. Q. Let's talk about internet services and communication,
2. the phones system, which obviously is incredibly important
3. as time passes. What was the state of those facilities
4. when you arrived on the Island?
5. A. I raised in my interview with the councillors,
6. in October or November 19, the poor quality of
7. communications, primarily because my wife is a travel agent
8. and we'd spent $200 here on Island for three days and she
9. couldn't connect with any of her clients. So, I was very
10. honest in the interview and I said, "My wife is not moving
11. to the Island" because her business was at that time - it's
12. not any more - but her business at that time was important
13. to us, so communications were bad.

10

1. Q. What was the basic problem there, what's the nub of
2. the issue with communications?
3. A. Look, the nub of the issue is the fact that we run on
4. satellite and we have this limiting factor, it's here:
5. that's the in and out of the Island that is limited by how
6. much you buy in satellite bandwidth. So, that's our
7. challenge. We've got pretty good systems on the Island,
8. there's a lot of optic fibre on the Island connecting all
9. the major employment venues, but at the end of the day
10. we're still limited by the width of our satellite on and
11. off the Island.

22

1. The Island did have an undersea cable back in - up
2. till the 80s which was put in in 1900-and-something and it
3. was pulled out in the 80s and the undersea cable came into
4. a facility called LandScan at the north part of the Island,
5. which is the Australia, New Zealand, Canada undersea cable,
6. and once that was pulled out and we went to satellite, then
7. they've had their challenges ever since.

30

1. We've been fortunate enough to get a government grant
2. to do the upgrade for the mobile telecommunications from 3G
3. to 4G. Why? Because the 2G network was at least 20 years
4. old and it was still operational on 11 January this year.
5. There's not many places in the world that had 2G on January
6. 2021, but we've now upgraded it but we're still a long way
7. from making that effective for not only our locals but for
8. visiting public right now. So, we are still yet to
9. finalise roaming with other carriers around the world, and
10. so, when you turn up here your Telstra phone or your
11. Vodafone phone won't work. So, we're a long way behind
12. other parts of the world. You know, you could be in - I
13. think I was in Russia and my Telstra phone worked no
14. problems at all.

45

1. Q. The budget for the telecommunications operation of
2. council, is that something that is in deficit?
3. A. There's parts of it that are in deficit. So, the data
4. services that we run, I think for the last two years have
5. been struggling to make money, and that's because we
6. compete with NBN who's a private provider, and it's
7. probably at the point now where the council has to make the
8. decision to say, no longer do that any more.

7

1. Q. What's the five to 10-year plan then for data? Now
2. that NBN is here, you would think - what are council's
3. investigations or projections suggesting?
4. A. So, that was one of the things that was found in the
5. external audit, is that we need to review our telecom
6. services and the provision of such and work out what's
7. required or what can be delivered differently. Council's
8. also made a pretty substantial submission to the Joint
9. Standing Committee, a Commonwealth process which I think is
10. coming to the Island in July about an undersea cable and
11. potentially looking into a new service that's running
12. between Australia and Chile, and so, we're hoping that that
13. could be the saviour of our communication problems but
14. that's still a few years away.

22

1. Q. To what extent though does the rest of the budget have
2. to subsidise or fund the communication problems that you've
3. been speaking about?
4. A. At the moment it's probably one of the better business
5. enterprises as a whole, it's probably close to being
6. self-funding even with the overrun in, say, with the data
7. service, but you know, you should be making a lot more
8. money out of that to subsidise across council. I think
9. that's a simple fact.

32

1. Q. The other business that seems to be making money is
2. the liquor bond and probably will continue to make money
3. indefinitely; what does it contribute to the budget bottom
4. line?
5. A. Net, just about $2 million, $2.5 million every year,
6. so it's something that the council just couldn't do
7. without.

40

1. Q. In the ordinary sense, the airport would provide a
2. significant amount of income as well?
3. A. Yeah, so we are quite reliant upon landing fees as
4. well, so the two major contributors or cross-subsidisers I
5. suppose for the organisation is the airport and the liquor
6. bond.

47

1. Q. But all of those government business enterprises all
2. depend - I withdraw that, I'll move on to another topic:
3. risk management. You mentioned the poor state of the asset
4. depreciation and capital expenditure schedules/plans, what
5. have you: what was the risk management plan like at the
6. time you commenced work at council?
7. A. We had one, it was very basic, and it didn't have any
8. sort of maturity around regular compliance checks or review
9. processes, but there was one there in particular.

10

1. Q. Was the staff position vacant or filled for the risk
2. and audit officer when you arrived?
3. A. We had a person across a couple of tasks and risk was
4. one of those that that person held, but it had remained
5. vacant for a long time and this person was in the role for
6. maybe 12 months.

17

1. Q. Ideally the risk and audit role needs to marry up with
2. the financial position in an ideal world, doesn't it?
3. A. Yeah, well, they integrate with one another on a
4. regular basis to ensure there's touch points across each of
5. the things.

23

1. Q. I want to suggest to you that there was a
2. dysfunctional situation in February exemplified by the
3. roads contract.
4. A. Yes.

28

1. Q. No element of risk would seem to have been conveyed to
2. you about the financial implications of that contract by
3. anyone.
4. A. No, and that was also due to the CFO who had resigned.

33

1. Q. So, the CFO resigned in the first week you were there;
2. how long had that CFO been in that position?
3. A. I think he was the longest of them; 18 months maybe,
4. two years.

38

1. Q. Was a reason given for why he left?
2. A. Yeah, there was a number of issues, but I think in the
3. end it was a personal choice for him to move on.

42

1. Q. One of the members, I think the Chair - correct me if
2. I'm wrong - of the audit committee is a risk management
3. specialist. What have you observed about the work that's
4. been done on risk management since you've arrived?
5. A. What I observed was the audit and risk committee were

1 not being engaged correctly at all; they weren't using --

2

1. Q. What was the process when you arrived for engaging
2. with them?
3. A. There was a quarterly meeting that regurgitated a
4. number of reports that had been up several times. A good
5. example was, I think, the risk management plan that had
6. been to the audit committee at least twice but never
7. adopted, and that came down to the fact that there wasn't
8. the skill there within the staff base to push these things
9. along and utilise external people who were giving up their
10. time to be on these committees, and our Chair is incredibly
11. well qualified in risk but she was not engaged at all, and
12. neither was the external finance person that was on that.
13. And I do believe, and again before my time, but they raised
14. with me how they hadn't been engaged and, when they did
15. raise questions of concern before, that they were brushed
16. aside.

19

1. Q. Who were they brushed aside by?
2. A. By the management of council, I believe, and they made
3. that point to me early in the piece, in February when I
4. started that we wanted engagement. So, we've just - to let
5. the Commission know, we've just revitalised our committee
6. and we've brought on two financial external experts now and
7. they were on Island last week for the first time and we had
8. a completely different engagement already with our staff
9. and our staff are conversing more regularly with those
10. audit committee members and calling upon their expertise to
11. help them out in areas that they don't know.

31

1. Q. In paragraph 24 of your statement you refer to being
2. provided with the draft copies of the Nexia and Grassroots
3. reports in October last year and the final reports
4. in November. Were there any material changes to either
5. report from draft to final copy, do you recall?
6. A. Not that I recall.

38

1. Q. Resolutions have been passed by council to effectively
2. implement all of the recommendations. Most of the
3. recommendations call for reviews and reassessment of
4. policies and things like that. What's the process in place
5. between you and your staff and the administrator for
6. developing and keeping track of that process?
7. A. We've now, in February we adopted all 113 external
8. audit findings, and we're to move away from
9. recommendations, because recommendations - yeah, so they're
10. locked in. So, they've now been distributed to each of my
11. managers within council and we now have a report card that
12. will be reported to the council - the first one went up
13. in April, and you'll have every three months an audit
14. performance report card on the EAS and how we're tracking
15. in achieving those goals that we've set. We realigned some
16. of them to say short-term now is the first 12 months,
17. medium term is one to two years, and longer term is
18. two-plus years. We've placed all 113 into each of those
19. categories, we've given them to managers, we've assigned
20. staff to them and they will report on a quarterly basis on
21. the performance card.

13

1. Q. Has any even preliminary costing been worked upon?
2. A. Yes. My original submission to the department
3. in November was based on very loose estimates but it was in
4. excess of $44 million.

18

1. Q. Finally, February of this year $3 million was provided
2. by the Commonwealth: was that as a one-off payment?
3. A. It was December.

22

1. Q. December, sorry.
2. A. December we received a one-off payment and it wasn't
3. linked to any of our other payments. So, without the
4. $3 million we would have --

27

1. Q. What would have happened?
2. A. We definitely would have been insolvent.

30

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

33

1. THE COMMISSIONER: Okay, I've got a couple. Sorry,
2. Mr Roach, we'll just keep you a few more minutes.

36

1. Q. I just want to go back to the signing of the Boral
2. contract which you started talking about earlier this
3. morning. You said that you signed that Boral contract for
4. two reasons: one, if I recall, was that there was a Council
5. resolution to proceed with the contract.
6. A. Yep.

43

1. Q. And the other was that you received some degree of
2. comfort from the council staff. Can you sort of elaborate
3. as to what that degree of comfort was or how you got that?
4. A. It was simply, at the time there was I think an
5. investment report that was up at council that showed
6. unrestricted cash that was there. I think it's fair to say
7. that the decision of signing that basically put me on
8. notice that, you know, things were going to be tight moving
9. forward but in normal circumstances they would have been
10. manageable based on a normal council operation, but since
11. been disproved.

8

1. Q. Did you give any thought to deferring that? Like, was
2. there some kind of reason why it had to happen then and
3. there until you got your head across the financial position
4. in more detail?
5. A. Yeah, one of the difficulties was that council had
6. indicated their commitment to that, to Boral, and Boral had
7. already brought all of the supplies to Island in the barge
8. movements that happened during the year for the airport
9. upgrade, so there was - from memory there was about
10. 45,000 tonne of rock, cement, asphalt, all of these other
11. things that had already arrived on Island, and so, council
12. was pretty much committed to that process.

21

1. Q. So, the things that were brought to Island were
2. brought in to resurface the airport runway and there was an
3. opportunity because of the resurfacing of the runway to
4. actually do the roads?
5. A. Yes.

27

1. Q. So the things that were brought in, were they brought
2. in specifically to do the roads on top of the runway or -
3. because I know the scalpings from the runway were basically
4. to be used for the road; or was it more of a case of, if
5. you didn't move ahead with the Boral contract it would be a
6. missed opportunity?
7. A. It was probably twofold there. Definitely a missed
8. opportunity and that was being pushed quite strongly by a
9. number of councillors, you know, and you can't deny them
10. that, the roads were in desperate need, so that was a good
11. outcome. But secondly, there were materials that were
12. brought in for that process because it was indicated quite
13. early to them. Scalpings only produced a percentage of the
14. mixture, not all of the mixture.

42

1. Q. Okay.
2. A. So it was a percentage of.

45

1. Q. So they were brought in largely without a contract
2. being in place, so really Boral was carrying that risk at

|  |  |  |
| --- | --- | --- |
| 1 | that | time? |
| 2 | A. | They were. |
| 3 |  |  |
| 4 | Q. | But with some sort of verbal undertakings probably |
| 5 | from | the council? |
| 6 | A. | As I understand it, yes. |
| 7 |  |  |
| 8 | Q. | You also just mentioned that it'll take around |

1. $44 million to fully implement all 113 recommendations; is
2. that correct?
3. A. Look, that's a really rough estimate. The vast
4. majority of that $44 million is $20 million for the
5. wastewater treatment plant. So, the reason it's
6. $20 million and not 17 and a half as I said earlier is
7. because that was the price back in 2019, so by the time we
8. get around to doing it I made an estimate of $20 million to
9. fix those problems.

18

1. Q. So, the council's made another decision - the decision
2. was made to implement 113 recommendations, but again,
3. there's not a budget to do that; is that right?
4. A. Yeah, so we're not committed to those things. The
5. $44 million was developed for the department to give them
6. an indicator of the challenges that lay ahead to implement
7. the 113, all of its findings.

26

1. Q. So, there will be a carve out of some recommendations
2. if funds aren't made available?
3. A. I think it's definitely contingent on whether we can
4. get funding for it because, like most other jurisdictions,
5. wastewater is not 100% met by its local community, I think
6. it's a third/a third/a third normally between each of the
7. government levels, and it would be very difficult for this
8. community to find $20 million to only really service about
9. 300 properties.

36

1. Q. So, with the 113 recommendations, is it fair to say
2. that there's a number that will get to the effect of
3. running an administration of the organisation and then
4. others are about servicing the community: do you have a
5. ballpark idea about how much it's going to cost to get the
6. administration up to speed in respect of those
7. recommendations?
8. A. Probably about a third.

45

1. Q. About a third?
2. A. About a third.

1

1. Q. And again, you don't have all that money?
2. A. No.

4

1. Q. So, what really is happening, is it true, that you can
2. only implement the recommendations as far as you've got the
3. funds?
4. A. That's 100% correct.

9

1. Q. So, although you've got a lot of good intent, you may
2. be hampered by inability to put those recommendations in
3. place if you haven't got the funding?
4. A. That's right.

14

1. MR BOLSTER: Commissioner (indistinct), that I neglected
2. to raise with Mr Roach.

17

18 THE COMMISSIONER: Yes.

19

1. MR BOLSTER: Q. The cattle tag: what was the purpose of
2. proposing the cattle tag measure in the 2020/2021 budget?
3. A. As I understand it, and you're probably best to check
4. with the manager of services when he comes with the
5. details, but the increases that we were looking to put on
6. the cattle tags was to pay for the repair or replacement of
7. the cattle grids around the main part of town, I think
8. there's five, maybe six cattle grids that need replacing,
9. and it's also, there was water troughs that were put in
10. place late last year during the drought circumstance, so we

|  |  |  |
| --- | --- | --- |
| 30  31  32 | were looking to recoup money for that.  Q. So, the cattle on Norfolk Island are effectively free | |
| 33 | to | roam the streets? |
| 34 | A. | A certain number are. |
| 35 |  |  |
| 36 | Q. | A certain number. |
| 37  38  39 | A. There's 180-something or 190, again, the manager of services will have to tell you that, but there's -- | |
| 40 | Q. | And what's the fee for doing that? |
| 41 | A. | From the top of my memory, about $125 I think. |
| 42 |  |  |
| 43 | Q. | A head? |
| 44 | A. | Per head. |
| 45 |  |  |
| 46 | Q. | And what was the proposed increase? |
| 47 | A. | Five or $6 I think. |

1

1. Q. And that was knocked back by council?
2. A. Yes.

4

1. Q. Do you understand the reason why or was that
2. articulated to you by any members of council?
3. A. No.

8

1. Q. Finally, in the 2020 draft financial accounts, there's
2. a net loss from the disposal of assets of $10,067,000 which
3. is obviously a significant draw on the budget. When you go
4. to the notes it's not well explained. Are you able to
5. explain it?
6. A. I can't. I can follow that up and provide you an
7. answer for that.

16

1. Q. Perhaps, if Mr Ernest Walker's here, he can take it on
2. notice that --
3. A. Absolutely, that you will ask him that when he comes.

20

1. Q. When will the 30 June 2020 accounts be audited?
2. A. Good question. So, we've been in a long dialogue with
3. our external auditors who are Pitcher Partners. We believe
4. we're now at the point where they've now issued a draft
5. audit certificate, it will be a qualified audit for
6. this year.

27

1. Q. What do the qualifications go to?
2. A. The qualification goes to the fact that the auditor
3. was unable to be on Island on 30 June to complete the
4. stocktake, and that's a significant thing because of our
5. large stock that we carry, like the bond and also in our
6. stores, so he's qualified the audit on that basis. He's
7. raised a number of adverse findings around going concern,
8. but that's not a qualification, and we're hoping that we
9. can have an extraordinary meeting on 7 June to adopt the
10. financials and then we'll have an audit certificate issued
11. that afternoon.

39

1. Q. That afternoon, okay, and we'll be provided with that
2. in due course?
3. A. Yes.

43

1. Q. Just to be fair to you, having said in your statement
2. that you think the meeting with councillors was on 23 June,
3. and having seen that note being on a slightly earlier date,
4. do you think there was a meeting on the 23rd the day before
5. the council meeting as well?
6. A. I'm just checking, getting my diary checked, and I'll
7. come back to provide that to you.

4

1. Q. Can you take it on notice that we will want any notes
2. of any meetings between you and councillors from that
3. period from February through till 31 June 2020?
4. A. Happy to provide it.

9

1. MR BOLSTER: Thank you very much. On that basis,
2. Commissioner, I have no further questions. If Mr Roach
3. could not at this stage be excused, there's a possibility
4. he may need to be recalled on Friday depending upon the
5. evidence of other witnesses in fairness to him. I
6. discussed that with his representatives. We're talking
7. about a way around that and we'll let you know about it as
8. soon as we resolve anything.

18

19 THE COMMISSIONER: Okay, thanks, Mr Bolster.

20

1. MR BOLSTER: I think my learned friend wishes to raise
2. something, perhaps if I could have one minute.

23

1. I think my learned friend wishes to clarify something
2. concerning the Boral road contract. I think, in fairness,
3. he should be entitled to do that very briefly,
4. Commissioner.

28

# 29 <EXAMINED BY MR WEBSTER:

30

1. MR WEBSTER: Thank you Commissioner, it's really just one
2. question.

33

1. Q. Mr Roach, you were asked some questions about entering
2. into the road contract with Boral in February and you were
3. asked a question about whether you gave any formal warning
4. to the councillors about the risk of the cash position at
5. the time of entry into that contract, and my note was, your
6. answer was you didn't give them a formal warning at that
7. time. I just wanted to clarify with you the reasons that
8. you didn't and what changed subsequently?
9. A. Best - the answer to that is quite simple, that at the
10. time of February, it was pre-COVID and it was following the
11. changes that happened in March, that's when our cash
12. position changed quickly, and it was probably mid-April
13. that I started having the cash conversations with the
14. council, from that point forward.

1

2 MR WEBSTER: Thank you. Nothing further, Commissioner.

3

1. THE COMMISSIONER: Okay, thank you. Thank you for your
2. evidence today, Mr Roach, that's been really helpful.
3. We'll say whether we need you later again in the week.
4. A. Thanks very much.

8

1. THE COMMISSIONER: We'll take a recess now and we'll come
2. back at about 2 o'clock. Thanks everyone.

11

# 12 <THE WITNESS WITHDREW

13

# 14 LUNCHEON ADJOURNMENT

15

1. MR BOLSTER: Thank you, Commissioner, the next witness is
2. Mr Bruce Taylor. Ms Morris will be dealing with Mr Taylor
3. in relation to asset management and I will then ask some
4. questions about the airport, but I hand over to Ms Morris.

20

# 21 <BRUCE GLOCESTER TAYLOR, sworn: [2.01 pm]

22

# 23 <EXAMINED BY MS MORRIS:

24

1. MS MORRIS: Q. Thank you, Mr Taylor. I think there's a
2. fresh bottle of water there if you do need it and, if at
3. any time you can't hear me properly, let me know and I'll
4. speak up. Your full fame is Bruce Glocester Taylor?
5. A. Yes.

30

1. Q. And you're currently service manager of the council?
2. A. Correct.

33

1. Q. You've been involved in the council since its
2. inception, from 1 July 2016?
3. A. Correct.

37

1. Q. And in that role as group services manager with a
2. brief few months as interim general manager?
3. A. Yes.

41

1. Q. Prior to the council you were involved with the
2. administration also?
3. A. Yes.

45

1. Q. Including as deputy CEO of the administration?
2. A. Yes.

|  |  |  |
| --- | --- | --- |
| 1 |  | |
| 2 | Q. | And roles on and from 2003 including financial roles |
| 3 | and | asset-related roles? |
| 4 | A. | Yes. |
| 5 |  |  |
| 6 | Q. | I want to explore with you briefly what that period |

1. looked like between administration to when the council came
2. in on 1 July 2016 --
3. A. The one year between?

10

1. Q. That one year and just general of how it operated, so
2. as a day-to-day measure did you notice any particular
3. changes from administration to council in terms of how the
4. staff operated, for example?
5. A. There were differences in the functions that were
6. carried out. At the end of that one year period the
7. school, the hospital, the police, social services,
8. healthcare, those things that did operate in the old
9. administration were no longer the responsibility of
10. council. In terms of that 12 months between there being no
11. Legislative Assembly and the commencement of the council,
12. it was a period of steady as she goes. I guess it was not
13. a great period of change from an operational point of view.

24

1. Q. And operationally, leaving to one side the change in
2. some of the services that were provided under the
3. administration versus council; operationally, for example
4. assets, was there a process of change of how you'd fix a
5. budget for an asset under the administration versus under
6. the council?
7. A. No, there was no - no great change, it was still the
8. same, keeping things going with the very poor quality of
9. assets that we had generally.

34

1. Q. You were, for example, involved in the asset
2. management plans under the new council?
3. A. Yes, as they are, yes.

38

1. Q. What information did you use when you were preparing
2. those plans?
3. A. If you read those plans, they're quite basic because
4. we didn't have asset registers, but also it's difficult to
5. develop a 10-year plan when most of your assets, a large
6. percentage of your assets are in very poor condition, so
7. the staff are more realistically waiting for the next thing
8. to break down rather than being in a position to develop a
9. preventive maintenance program, for example; you really
10. needed an asset replacement program to get assets to a
11. level where you could have what would be considered normal
12. maintenance programs, preventative maintenance programs,
13. replacement programs. For example, even the budget that
14. we're doing just now, the question that was asked of my
15. guys that I asked is, what are you going to tag out in the
16. next 18 months? That was your driving force behind what
17. your asset replacement program was; it was not a, when
18. they're getting towards end of life, they are already there
19. in a large number of cases.

11

1. Q. And that attitude of, what's going to tag out in the
2. next 18 months, would you say that's typical of how things
3. have worked with the council and, before that, the
4. administration, the last 5, 10, 15, 20 years?
5. A. Yeah, it was very reactive, yes.

17

1. Q. One of the other plans that was done at the same time
2. as the asset management plan was that long-term financial
3. plan, the 10-year, which had three different models: do you
4. recall those models that were being put forward at that
5. time?
6. A. Not in any detail, no.

24

1. Q. So, were you asked to contribute to any of those
2. models?
3. A. Again, as I recall, not in any detail; that was more
4. of a finance/GM function, yep.

29

1. Q. Part of what the finance plans drew upon was saying
2. what you've mentioned, that there wasn't information
3. available for asset management, but the financial plan
4. planned on having the assets being self-funding so that the
5. income from their revenue would offset the expenses. Do
6. you remember something to that effect being discussed with
7. you at that time?
8. A. Yes, I remember that sort of approach, yep, the same
9. as the operational budget was to be a balanced budget, yep.

39

1. Q. In your view, was that something that was feasible for
2. the council as at 2016?
3. A. Not if you wanted to improve your asset base to any
4. great degree. As the GM mentioned earlier, the roads are
5. in the condition that you see and that includes the recent
6. replacement of about 9 kilometres. Yeah, the other assets
7. like the electricity assets, yeah, three generators were
8. replaced three years ago now because the ones that were
9. there had been refurbished so many times they were no
10. longer able to be refurbished again.

3

1. Q. My understanding was that, in the lead-up to 2016,
2. there was often a deficit in how those, say, business
3. enterprises were operating; so, the user charges and the
4. revenue coming in, for example, for electricity's operation
5. didn't cover the costs of it being run; is that correct?
6. A. Correct, yes.

10

1. Q. And part of the planning that was done in 2016 was an
2. idea of moving from that model where the user charges
3. wouldn't cover the costs, to one where the user charges
4. would cover the costs?
5. A. That was one of the intentions, yes.

16

1. Q. How was that shift intended to be funded?
2. A. Again, as a user pays system, using electricity as the
3. example, finding out what the real cost was and I'm sure
4. the Hydro Tasmania Report's one of the reports in your
5. bundle and it was - I think 89 cents was the cost of
6. production across the Island including photovoltaic and
7. $1.17 was the cost to the consumer if you fully recovered
8. costs now. So, at the moment 70 cents is a lot more than
9. anywhere in mainland Australia I'm sure, and the Hydro
10. Tasmania Report suggested that $1.17 per kilowatt hour was
11. the correct tariff if you wanted to run the electricity
12. business --

29

1. Q. So, do I take it from that, that in your view it never
2. would be able to really sustainably self-fund given the
3. cost it would be for the community?
4. A. Yep, correct, and going a step further if I may, there
5. was work done, and I think again in the Hydro Tasmania
6. Report, other islands around the mainland, 35 cents is a
7. fairly high rate, I think there was one in the 40s, and a
8. number of those are subsidised particularly by state
9. governments.

39

1. Q. Just staying on electricity, there were over the last
2. five years a few resolutions or suggestions to increase the
3. tariff, as I understand it?
4. A. Yes.

44

1. Q. In particular, in 2017 you were involved in putting
2. forward a proposal to increase from 62 cents to 68 cents?
3. A. I can't remember exactly, but it's highly likely, yes.

1

1. Q. What was the attitude amongst council staff as to the
2. need or likelihood of achieving that change?
3. A. From council staff? It was a necessary step if you
4. wanted to get progressively to a stage of having the
5. revenue that you needed to finance the operation if you
6. were to run it as a business.

8

1. Q. Did you have ongoing discussions with the councillors
2. about that ongoing need?
3. A. Not with councillors in the last five years apart from
4. putting business papers to council meetings.

13

1. Q. So, you did put a business paper for that?
2. A. In - well, the last one was the operational plan
3. 12 months ago.

17

1. Q. And I've seen ones as well earlier where there's been
2. putting forth proposals. When you put those forward what
3. was the response when they were put forward?
4. A. The community can't afford to pay the additional
5. costs, as a general comment, yeah.

23

1. Q. Were you able to have a chance to respond to that
2. comment, as to why it was being put forward and why it was
3. necessary despite the affordability issues?
4. A. I don't think I did in the presentation. As the
5. general manager said earlier, he commented at the end of -
6. in the business paper 12 months ago when that 4 cents was
7. rejected he asked if they wished to know the quantum of
8. that decision, yep.

32

1. Q. Was that then a discussion that, after it was
2. rejected, you had a meeting with, for example, finance to
3. work out how to finance the electricity without the
4. increase?
5. A. It was put through as a deficit in the budget.

38

1. Q. But there wasn't an ongoing information-sharing
2. between yourself and the CFO, for example?
3. A. No, not as such, no, I can't recall.

42

1. Q. More broadly in your role as service manager, what
2. access did you have to the financials?
3. A. Access to the Civica system which is not ideal from a
4. management point of view, long way from it. That was - I
5. went back and looked and that was identified - are you

1 happy with an explanation?

2

1. Q. Yes.
2. A. As group managers we had six-monthly performance
3. appraisals and one in December - I wrote it down to help
4. me, my memory - in December 17 and then June 18. My report
5. was that Civica was the biggest single problem that we had
6. in that you could not get information out of it simply.
7. I've been around a long time and a simple actual budget
8. variance month and year-to-date, single page, is a really
9. good tool to talk with team leaders.

12

1. Q. And do I take from that, that that tool is not
2. available to you in Civica?
3. A. Not without work and it's also muddied a little bit by
4. the accounting things that team leaders, section leaders
5. can't control such as overhead allocations and depreciation
6. and things.

19

1. Q. By saying you can't control, do you mean you don't
2. have control of the input into the system or you don't have
3. control over how those prices are fixed, for example?
4. A. I don't - shouldn't have any control over the input to
5. the system in terms of what's paid and those sorts of
6. things, it's more the output, that there was not a simple
7. reporting tool, as I said, that just had actual budget
8. variance. I could get that information out of the raw data
9. but it took time and it was at a point in time, so yeah,
10. that was a simple example of the system not providing what
11. you needed as a management tool.

31

1. Q. And you needed to go out and get that information
2. yourself as opposed to, for example, the CFO or finance
3. team regularly reporting to you?
4. A. Yeah, correct.

36

1. Q. When you were going throughout the year for asset
2. management, for example, were you given updates to know how
3. you were tracking in terms of money available for
4. maintenance options?
5. A. I did it myself because it wasn't available generally,
6. so you went in and you investigated the system and did it
7. yourself there.

44

1. Q. And you were able to do it yourself because of your
2. own financial background?
3. A. I guess so, yeah.

1

1. Q. But the systems weren't there otherwise?
2. A. No, but for somebody without any financial background
3. it would have been much more difficult.

5

1. THE COMMISSIONER: Q. Mr Taylor, in respect of your
2. performance discussions, who did you have those with?
3. A. The general manager.

9

1. Q. When you raised the issues around Civica being the
2. major impediment to being able to do your job, what was the
3. response?
4. A. It was taken not particularly seriously, it was "work
5. it out with the CFO", yep.

15

1. Q. It was downplayed?
2. A. Yes, yep.

18

19 THE COMMISSIONER: Okay, thanks.

20

1. MS MORRIS: Q. To clarify, when you speak of those
2. discussions, that was under Lotta Jackson as the general
3. manager?
4. A. Yes.

25

1. Q. Has that attitude shifted with the change in general
2. manager?
3. A. Well, firstly, we don't do the same performance
4. appraisals as under the group manager system and, yes, the
5. current general manager - well, when he arrived he
6. recognised the deficiencies in Civica and I think one of
7. his first instructions was "Don't pay that bill until it
8. gets sorted out."

34

1. Q. I'm not sure if you were here this morning when
2. Mr Roach was giving his evidence, but he commented there's
3. still some difficulties with Civica today; is that correct?
4. A. Yes.

39

1. Q. Is there, however, a greater ability to access the
2. information by council staff or by yourself than there was
3. previously?
4. A. Somewhat but there's still not my ideal of, push a
5. button and get a report that you can use, but it is
6. improved, yes.

46

47 Q. And there's steps attempting to be taken at least to

1. continue to improve?
2. A. Yes.

3

1. Q. Were there any other substantial changes of that
2. nature that you noticed between the previous general
3. manager and under the current general manager?
4. A. Totally different personality, that's an observation.
5. Yes, the focus has changed to getting things done, where
6. Lotta was very process-focused.

10

1. Q. Is there more regular meetings, for example, between
2. yourself and general manager or more regular reporting
3. lines?
4. A. Yeah, we have - the management group has a meeting
5. every Tuesday morning. With the previous general manager
6. we also had those, but with Andrew there's more a two-way
7. traffic of information.

18

1. Q. When you say "more two-way traffic", you mean that
2. Andrew's responding to you more and providing you more
3. information?
4. A. And, but also accepts - is much more readily accepting
5. of listening to what you need, yep.

24

1. Q. Does that feed through to the councillors themselves?
2. Was there a difference in information flow-through between
3. Lotta and Andrew in information pathways?
4. A. From what I've seen, yes; yes, Andrew 's style is much
5. more communicative of information.

30

1. Q. As I understand it, you have attended most of the
2. council meetings over the last five years?
3. A. In the first three, four years particularly, yep.
4. Less since Andrew's been there because he's more focused on
5. getting us out doing our job and he's across pretty much
6. everything that goes to council; he just instructs, if
7. you've got a specific business paper that he's not
8. 100 per cent over the top of maybe then you go to the
9. council meeting, but otherwise your time is spent doing
10. your job at the manager level.

41

1. Q. What were your observations then previously when you
2. were attending meetings more frequently as to the level of
3. reporting going to the council on issues such as asset
4. management and financial management?
5. A. It was, there were investment reports came up, which
6. again we relied on to make some of our decisions which in
7. hindsight possibly weren't as informative as they should
8. have been, and that obviously created difficulties with the
9. elected members and, frankly, Lotta didn't like to take a
10. lot of questions, it was a very strict approach from her.

5

1. And, can I say, very few of us had any experience in
2. local government: Lotta did and one of the other managers
3. did, but the rest of us were brand new to the local
4. government structure, so that made a difference I think.

10

1. Q. Just going back to one point you just said in your
2. answer there. You talked about the investment policies and
3. in hindsight some issues in the sufficiency of information.
4. Do you recall when exactly or what decisions you're
5. thinking about when you said that?
6. A. If you look at the situation we're in now, then with
7. more information maybe we would have made possibly
8. different decisions with the capital projects that were
9. talked about earlier today. The road one for example in
10. terms of finances but in terms of needing to provide a safe
11. road for people to drive on, it's two sides of the coin but
12. they're very, very linked.

23

1. Q. Do I take it from that though, that when the road
2. project, for example, was made back at the time it was
3. made, that you didn't have the same understanding of the
4. finances as you do now?
5. A. Well, after what's happened and a year of less income
6. with COVID and things, yes, if you could have predicted all
7. those, yes; but when you looked at the investment reports
8. of those times, we had the cash to do it, and talking to
9. the CFO of the day, yes, there was available cash.

33

1. Q. Were you told at that time about the available cash of
2. restrictions on the cash position?
3. A. Yeah, the monthly investment report has restricted and
4. unrestricted, yep.

38

1. Q. From the reports I have seen there wasn't necessarily
2. accounting of, for example, the airport additional funds
3. within the restrictions; do you recall that?
4. A. I'd have to look back, but I don't recall the
5. restricted being itemised to that degree, but I'd have to
6. look again.

45

1. Q. What was the process in which the roads' additional
2. works came to your attention first?

1 A. Sorry, could you repeat the question?

2

1. Q. The additional roadworks done by Boral, when do you
2. recall that first coming to your attention as a
3. possibility? Were you approached, how did that occur?
4. A. Yeah, it came as a, I believe, a draft proposal from
5. Boral but there had been some work done by my
6. infrastructure manager to go and identify roads that were
7. suitable to be put in the list of work to be done, and I'd
8. have to look at notes but obviously before it went to
9. council, you know --

12

1. Q. But your recollection is not - that it wasn't in the
2. budget or a forward plan by council, it was an approach
3. made to you by Boral?
4. A. Yes.

17

1. Q. And so, when that approach was made, was there then
2. discussions between yourself and the CFO about it?
3. A. Yes.

21

1. Q. What information were you told at that time?
2. A. He provided the advice that the funds were available
3. from a combination of, we were budgeting to spend
4. $2 million a year on roads, so $2 million could come out of
5. the current year, $2 million out of the next year and we
6. could afford the additional million.

28

1. Q. Was there identification of where that additional
2. million would be sourced from?
3. A. I don't recall, no.

32

1. Q. In your answer you've identified that $5 million was
2. going to come, $2 million already budgeted for roads in
3. one year, $2 million for the next, and $1 million other
4. sources. The resolution that was put to the council
5. identifies the $5 million coming from cash reserves; is
6. that what you mean by the $2 million, $2 million, 5, or did
7. you have a different understanding to that?
8. A. No, it obviously would come from cash reserves but it
9. was a timing issue of what year those funds came out of in
10. terms of the spending of money. It was due to be done
11. June, July, August 2020, so some could have come out of
12. 19/20 and some out of 20/21 was the way it was presented.

45

1. Q. And was that matched with expected income in 2019/2020
2. from particular sources that were going to, for example,
3. increase the cash reserves?
4. A. That was my recollection of the 10-year plan, yes.

3

1. Q. And, as we spoke about earlier, the 10-year plan was
2. partly based on services, the main business enterprises
3. being self-funding?
4. A. Yep.

8

1. Q. Which at that time you were aware wasn't taking place,
2. there'd still been deficits for some of those?
3. A. Yeah, some were making surpluses and some were making
4. deficits, but overall the budget was that they broke even
5. as a group in those early times, yep.

14

1. Q. You've mentioned, for example, the generator purchases
2. that occurred a few years back; those were, as I
3. understand, an emergency purchase, a non-budget purchase
4. when they were made; is that correct?
5. A. Yes.

20

1. Q. What was the mechanism used for funding those?
2. A. A report went to council to get approval for roughly
3. $1 million for three generators and to look to ask the
4. military to fly them to the Island because they weighed
5. 15 tonne or 16 tonne or something like that, so couldn't be
6. brought in using conventional methods.

27

1. Q. But in terms of the source of funding itself, was that
2. again budgeted out of cash reserves or was there a plan to
3. fund them through other sources?
4. A. From memory, it would be out of cash reserves, yep.

32

1. THE COMMISSIONER: Q. Mr Taylor, you talked about
2. $2 million being allocated in the budget each year as an
3. amount that could be available for roads. Was the
4. $2 million spent in previous years as well or was it just
5. to start in 19/20?
6. A. Again, from memory, it had been budgeted in
7. previous years but, no, it had not been spent partly
8. because we didn't have the resources to spend it in those
9. earlier years.

42

1. Q. Okay. How many kilometres of road are there?
2. A. 78, roughly, depending whether you're counting sealed
3. roads, unsealed roads, but roughly 78.

46

47 Q. And how much of that 78 approximately would you say

1. was in extremely poor condition versus, sort of, poor to
2. fair condition?
3. A. As a guess, half would be in poor condition.

4

1. Q. And so, if you're spending $2 million a year, how much
2. could you fix a year? Not many kilometres.
3. A. To chip seal a road that's in reasonable condition
4. costs $120,000, $150,000 a kilometre, so working that to
5. its end, what's that, 8 kilometres per million dollars if
6. that's all that was wrong with it, but we have a culvert
7. replacement program that we're partway through, but again
8. we've been taken from that to do other things, and there
9. were 100 culverts identified as needing replacement, some
10. are built with 44 gallon drums. So, what we had to do was,
11. with the Boral project particularly was transfer your
12. efforts to make sure underneath the road that Boral was
13. going to seal that we made those culverts good before that
14. happened and then the guys had been taken off those
15. projects. We get grants, so you do that project rather
16. than your normal maintenance program; it's a --

21

1. Q. It was really a long-term plan to be able to fix,
2. like, you're looking you know a couple of decades really
3. almost to get --
4. A. Yep, $2 million.

26

1. Q. So, the Boral opportunity that they put to you seemed
2. like an opportunity to get a good headstart on something;
3. is that a fair assumption?
4. A. Yes, because asphalt is a much better product than the
5. chip seal that we can do, so to take it one step further we
6. revisited the roads that were to be asphalted and changed
7. some of them, so now you'll notice that they're the heavy
8. use areas where the fuel truck goes taking the most
9. advantage of asphalt which is a much better finished
10. product. So, as you say, then if you spend $2 million
11. a year for 20 years, you'll be back painting the Harbour
12. Bridge again, you'll be in the cycle if you can spend the
13. $2 million and have the rock and get the emulsion here.

40

1. Q. So, just another question. The $2 million each year,
2. putting in place infrastructure requires a lot of effort
3. and resources; does that mean that, because you haven't got
4. certainty of being able to spend that money each year, that
5. you've got a sort of a stop/start approach?
6. A. Yes, yep, and also our equipment: if you go back to
7. the WorleyParsons 2015 road report, they identified the
8. equipment we needed and the worst spots in terms of
9. possibility of accidents and what needed to be done, and we
10. have a reasonable amount of that equipment now, some thanks
11. to the Boral project where we were able to buy their
12. equipment rather than them take it back, and we've built up
13. some equipment, but rock's an issue and now importing of
14. emulsion's also an issue.

8

1. Q. So, the legacy of buying the equipment, was that
2. equipment cost on top of the $5 million, or how much did
3. you have to pay for that equipment?
4. A. That was not included in the $5 million, and to finish
5. that section it actually cost us $4.2 million, not
6. $5 million. The $5 million quote was based on a tonnage of
7. asphalt and they used less in what they produced, so they
8. only charged us about 4.2 rather than 5, but that equipment
9. was purchased separately out of capital budget.

18

1. Q. Okay, and how much was that equipment?
2. A. There was a screener which was about $300,000, a tar
3. truck fitting a couple of Bobcats, a couple of vehicles; I
4. don't know, half a million dollars maybe.

23

1. Q. And so, whose decision was it to buy that? I'm not
2. saying it was a good or a bad decision, but whose decision
3. was it to buy that equipment? Was that a councillors'
4. decision or was that a council staff decision? Like, does
5. the staff have that kind of delegation?
6. A. Some of it was included in the runway costing and
7. others such as the screener went to council as a business
8. paper because our limit is $150,000 in spending on any
9. capital without approval of the elected members.

33

1. THE COMMISSIONER: Okay. All right, thanks. Ms Morris,
2. thank you.

36

1. MS MORRIS: Q. Touching on what you've just exchanged
2. with the Commissioner, the roads when the council started
3. were in a very poor state?
4. A. Yep.

41

1. Q. And it had been a long-term plan to slowly improve the
2. state of all those roads?
3. A. Yes, yep.

45

1. Q. For the first few budgets there were line items put
2. aside with the idea of spending money on roads but that
3. money wasn't in fact spent in the first few years?
4. A. No, not in total, no.

3

1. Q. And that was despite there being some cash reserves
2. available through that time?
3. A. Yeah.

7

1. Q. So, what changed in your 2019/2020 time that meant
2. that the money was spent at that point when had it hadn't
3. been in the previous few years?
4. A. You mean, the $5 million?

12

1. Q. The $5 million with Boral.
2. A. Again, the opportunity was there on that side of it;
3. the next runway reseal will be 15 years away, so that
4. equipment won't be back on Island realistically for another
5. 15 years. Your question of why: as I said, in that
6. justification from the CFO there was $2 million one year,
7. $2 million in the next year, and we could afford $1 million
8. more.

21

1. Q. But there'd similarly been money in the budget in the
2. previous years but it wasn't spent.
3. A. Yep, because physically we were not able to do those
4. things because we didn't have the equipment, the rock, the
5. resources, to spend that $2 million.

27

1. Q. Was there, for example, a cross-comparison done of the
2. costs of asking Boral to do it at that point in time versus
3. a few years down the track if they'd already left of what
4. that cost would be?
5. A. Asphalt is a considerably more expensive product, but
6. based on our history a few years down the track we may well
7. still have been planning to do things rather than having
8. actually done that 9 kilometres. As we say, just doing
9. basic work you'd get 8 kilometres for $1 million, so doing
10. the heavy work that Boral did, questionable whether you'd
11. get that work done given the resources that we have.

39

1. Q. Has any further roadwork been done since the Boral
2. works were done?
3. A. We're working on Prince Phillip Drive at the moment.
4. Again, because of that Boral work there was a lot of
5. ancillary work doing the edges after Boral had been
6. through, and now our focus is on completing the footpath
7. from the airport into town which is part of the economic
8. stimulus project, including a roundabout at the corner up

1 by the hospital included in that footpath funded project.

2

1. Q. Is that using the equipment that was purchased from
2. Boral for that work?
3. A. Some of it, yes, yep.

6

1. Q. But some of that equipment hasn't been used for the
2. roadworks yet?
3. A. Well, the screen has been used a lot, just the screen
4. rock in the different products. Other equipment like
5. Bobcats and vehicles and everything just became part of the
6. fleet that get used as needed.

13

1. Q. One of the other things that you mentioned doing there
2. was the grants funding, and there's been for assets as a
3. whole as the council, as I understand, and many budgets
4. have been based on receiving grants, whether capital grants
5. or operating costs grants, to be able to fund that budget:
6. yes?
7. A. Yeah, and that was part of the design in the
8. early years, was that council should apply for grants and
9. get a percentage of their money through the grant system.

23

1. Q. What steps were taken when there were, for example,
2. the lags in receiving those grants? Was it that the works
3. just weren't done, or was there ways of getting that money
4. if there wasn't the grants?
5. A. In the earlier times it was establishing what grants
6. we were and were not entitled to, and there was a long list
7. of grants that we weren't entitled to because we weren't a
8. New South Wales council, we weren't this, we didn't tick
9. this box: there's a list of quite a few that we weren't.

33

1. Building Better Region Fund for the telecommunications
2. one, yeah, they seemed to always take a lot longer than
3. they predict to issues monies and, in terms of the timing
4. and things, at the risk of passing the buck, Alistair
5. Innes-Walker who's on next is more across that than I am,
6. so if I can pass the buck you'll get a much better answer
7. from him than you'll get from me.

41

1. Q. I'm sure he'll be happy to hear that.
2. A. Sorry, mate.

44

1. Q. If we take, for example, the telecommunications grant,
2. the grant was received and confirmed in late 2018 but it
3. had been forming part of the budget since 2016, so in that
4. two-year period was there any investment being done in
5. assets or was it a case of wait and see if the grant came?
6. A. Generally it was wait and see, yep.

4

1. Q. Now - sorry?
2. A. Can I say, council started from nothing, so a year was
3. not a very long time. The roads had been owned by the
4. Commonwealth until the council started but the
5. administration was responsible for maintaining them. With
6. the change to the council the roads' ownership moved from
7. the Commonwealth to the council but we were still
8. responsible for maintaining them, so it's areas like that.

13

1. And, as I said, those grants, as you say, can take a
2. long time for them to process a grant. We were starting
3. from absolutely nothing and in great kudos for the first
4. general manager, she got a council meeting established
5. within three weeks of the council starting, from nothing.
6. So, I don't mean to get defensive --

20

1. Q. No.
2. A. -- but it's putting in context a lot of what we're
3. talking about.

24

1. Q. When you say "start from nothing" though, there were
2. quite a number of staff that were there pre-council and
3. stayed on with the council?
4. A. Yes.

29

1. Q. Including yourself?
2. A. Yep.

32

1. Q. You had access to the records and the documents that
2. the administration had?
3. A. Yep.

36

1. Q. So, what was it that you were missing that you hadn't
2. been given from the administration that you needed, or that
3. didn't exist?
4. A. The payroll system was transferred directly from the
5. old system, so you had employees on relatively low wages
6. now being taxed: okay, not a massive amount of tax, but
7. being taxed. It took over 12 months to get an enterprise
8. agreement in place, so there were a lot of issues that you
9. had to deal with outside these wonderful things like asset
10. management and things; your day-to-day was considerable in
11. keeping things going. Yeah, you started off with employees
12. and old assets and other things, but it was a different
13. structure.

3

1. The system didn't help. Civica was turned on
2. in February 17 and there was no parallel running, no
3. nothing, so from the finance guys' point of view I can
4. understand why there was big turnover when you started a
5. new system and then eight months in you changed your
6. accounting system.

10

1. There was the transfer of assets from the old system
2. to the new. You had ANAO doing the audit for the
3. administration system which took a long time. Our auditors
4. didn't get started for about 11 months into it

15

1. Q. And so, that process delayed on a practical level
2. being able to do projects or being able to make those sorts
3. of decisions for asset maintenance?
4. A. You've only got so much resources and people can't do
5. three things at once.

21

1. Q. You're aware of as well the service delivery agreement
2. where there's the state equivalent?
3. A. (No audible answer.)

25

1. Q. To your understanding, is there asset management or
2. asset maintenance requirements with things connected with
3. this service delivery agreement?
4. A. Yeah, under the service delivery agreement that does
5. not own assets, so the lighters and launchers, for example,
6. for ship to shore, the crane, all those things in that
7. operation under the SDA council leases that equipment to
8. the SDA for the period of time it's needed, yep.

34

1. Q. Does that leasing arrangement cover the costs of
2. maintaining and purchasing those assets that you need to
3. provide those services?
4. A. The launchers are 25 and 35 years old; the lighters
5. are five, six, seven years old; the crane cost $660,000
6. roughly. I think the figures, I'd have to go back and
7. check again, but the figures are reasonable, yes, in terms
8. of charge-out rates for the use of that equipment, yep.
9. What happens when we need a new $400,000 launch next year
10. is a conversation yet to be had.

45

1. Q. So there haven't yet been conversations yet of that
2. nature?
3. A. No, we're still trying to source what is the most
4. suitable, yeah.

3

4 THE COMMISSIONER: Can I just ask a question?

5

6 MS MORRIS: Yes, Commissioner.

7

1. THE COMMISSIONER: Q. Mr Taylor, you mentioned in
2. passing that the Commonwealth owned the roads prior to the
3. council being established; is that basically the
4. Commonwealth in terms of through the then self-government
5. arrangement, or is there some nuance there I'm not quite
6. understanding?
7. A. The owner of the road reserve was the Commonwealth up
8. until 30 June 2016, similarly as they owned other pieces of
9. land.

17

1. Q. Was the governing body then responsible for the
2. maintenance of a Commonwealth-owned asset?
3. A. Correct.

21

1. Q. So, when the transfer took place, were there any
2. discussions that you were either involved in or aware of
3. around what was being transferred and the state of the
4. Commonwealth transferring an asset in a certain condition
5. but no funding to take that on?
6. A. There wasn't any conversation that I was aware of, no.

28

1. Q. So, basically there was a decision to set up a new
2. governance arrangement for the Island and those decisions
3. were taken more at a higher level in terms of just getting
4. the process set up rather than fully understanding the
5. implications, in your experience?
6. A. In my opinion, yes.

35

36 THE COMMISSIONER: Okay, thanks.

37

1. MS MORRIS: Thank you, Commissioner. Mr Bolster is going
2. to ask some questions.

40

1. MR BOLSTER: Thank you, Commissioner, I'll be relatively
2. brief in the light of some of Mr Taylor's answers to
3. questions by my learned friend. Can I begin though,
4. Commissioner, by tendering the electronic tender bundle for
5. the airport contract; that should be Exhibit 4.

46

# 47 <EXHIBIT #4 - ELECTRONIC TENDER BUNDLE FOR THE AIRPORT

1 **CONTRACT.**

2

1. MR BOLSTER: Can I indicate, Commissioner, for the record
2. that my instructors and those who appear for the council
3. have had some discussions, in consequence of which there
4. are some documents that have been identified as potentially
5. containing content that is confidential.

8

9 For the record I can indicate that you have made a

1. non-publication direction in relation to those documents.
2. That direction permits witnesses to be shown those
3. documents on the screen in front of them but those
4. documents won't be shown up on the screen for public
5. consumption. So, people may, I'm sorry to say this, not be
6. able to see the documents that witnesses are being shown
7. but there's not much we can do about that, I do apologise.

17

18 THE COMMISSIONER: Can I just comment on that, Mr Bolster?

19

20 MR BOLSTER: Yes.

21

1. THE COMMISSIONER: The documents that are not being shown
2. on the big screen really get to the end of workings of the
3. tender documentations, so breakdown in costs around a
4. tender, they don't necessarily get to the overall costs
5. that we are discussing through this particular process.

27

1. MR BOLSTER: No, I think we will be able to expose the
2. overall costs, but the documents - for example, one
3. document which I want to show Mr Taylor, it does have
4. commercially sensitive information about how the tenders
5. were judged, pricing of competing tenders; that material
6. would ordinarily be the subject of a non-publication
7. direction. I won't be taking Mr Taylor to that but I will
8. be taking him and Mr Innes-Walker to some of the
9. surrounding discussion and, if that's satisfactory, I'll
10. proceed.

38

39 THE COMMISSIONER: Okay, thanks, Mr Bolster.

40

# 41 <EXAMINED BY MR BOLSTER: [2.51 pm]

42

1. MR BOLSTER: Q. Mr Taylor, can we begin by having a look
2. at the minute why the council made the decision to proceed
3. with the Boral tender. Now, that is not a confidential
4. document although it was a confidential discussion amongst
5. council at the time and it's in tab 3 of the airport
6. bundle, if we could have up, please, NIRC.PUB.0001.00192,
7. and if we go to page 19.

3

1. On page 19 you will see that the discussion about the
2. tender evaluation moved into confidential session on
3. 20 February. Were you the officer who had carriage of that
4. particular project at the time under the overall direction
5. and control of the general manager?
6. A. Yes, I think the general manager might have put that
7. paper up, but yes.

11

1. Q. And you were there to answer questions of councillors?
2. A. (No audible answer.)

14

1. Q. All right. Typically of other confidential
2. discussions of council, those portions of the meeting are
3. not recorded?
4. A. Correct.

19

1. Q. They obviously are not broadcast. Ordinary meetings
2. are broadcast on the Island, aren't they, on the radio
3. service?
4. A. Yes, but when it moves into confidential the broadcast
5. stops, so the recording is the same method so it stops.

25

1. Q. For anyone who wants to know what was discussed at a
2. council meeting at any time, they can go to the council
3. website and listen to the tape of the full meeting?
4. A. Yes.

30

1. Q. Except for these discussions?
2. A. Correct.

33

1. Q. If we could go, please, down, you will see if we go
2. down the page to the next page, originally Councillor Snell
3. and Councillor Buffett proposed a fairly simple resolution
4. adopting the Boral tender. Do you recall that?
5. A. Yes, that would have been what was presented in the
6. business paper.

40

1. Q. And then there was some discussion and an amendment
2. was moved, and if we could go down a bit further, this form
3. of words was put forward by Councillor Buffett and
4. Councillor McCoy, and this concerned exploring an
5. alternative option raised by Boral that involved the rock
6. or aggregate being sourced on the Island; correct?
7. A. Correct.

1

1. Q. Just pausing there, it's fair to say, isn't it, that
2. the total amount of aggregate needed to do the airport was
3. about 30,000 cubic metres; is that right?
4. A. Yes, tonnes versus cubic metres --

6

1. Q. Tonnes, I'm sorry, tonnes. I do apologise, tonnes.
2. A. Yep.

9

1. Q. That you had a quarry that had approval for 15,000
2. tonnes; that's correct?
3. A. Yep, roughly, yep.

13

1. Q. In order to obtain the necessary Department of
2. Environment consents - and that's the Commonwealth
3. department not something that was in the control of council
4. - you would have had to have approached Canberra about
5. that; correct?
6. A. Correct.

20

1. Q. The process for doing that was anticipated, wasn't it,
2. to be quite a lengthy process?
3. A. Yes.

24

1. Q. Do you recall how long you anticipated it was going to
2. take back in February 2019 when this was discussed?
3. A. I can't recall how long, but this business paper's
4. dated February 19?

29

30 Q. 2019?

1. A. So, if it cannot be obtained by 31 March, then the
2. recommended tender will proceed, so unlikely that you would
3. get ministerial approval for significant development in six
4. weeks or whatever.

35

1. Q. Was that issue discussed, to the best of your
2. recollection, when the matter came before council?
3. A. I can't recall with any certainty, no.

39

1. Q. Did you yourself see the quarry, the Cascade Quarry
2. alternative, as a realistic alternative at that time?
3. A. No.

43

1. Q. Why was that?
2. A. As you've said, we need 30,000 a tonne, and the
3. approval or the expected return from that area was only
4. half that.

1

1. Q. Can I take it that, knowing that at the time, you'd
2. have pointed that out to council members at that time?
3. A. How do I say this simply? In some instances the
4. general manager didn't encourage a lot of talking in these
5. meetings.

7

1. Q. Really? So, do you have a recollection of her giving
2. such a direction in relation to that sort of information
3. that I would have thought would have been the sort of
4. information that councillors needed to know?
5. A. No, I don't have a recollection on that.

13

1. Q. I take it that you don't have a recollection talking
2. about that particular problem with councillors at that
3. time?
4. A. No.

18

1. Q. I want to suggest to you this: if it was something
2. that you were aware of, it would certainly have been
3. something you relayed to the general manager?
4. A. Yes.

23

1. Q. Do you have a recollection of doing that or would you
2. rely on that - your practice and your procedure in briefing
3. the general manager to say that?
4. A. Yep. I recall the discussions, I don't recall whether
5. it was after or before that meeting, where the possibility
6. of obtaining rock locally was remote in terms of the time
7. constraints on having to reseal the runway.

31

1. Q. Once that's understood, the project funding of
2. $43 million fell substantially well short of the likely
3. project cost if you factor in biosecurity, doesn't it?
4. A. Yes, at that stage we may not have known what
5. biosecurity cost was, but Boral had an estimate and it
6. depended on biosecurity's requirements.

38

1. Q. Their estimate proved to be pretty reliable in the
2. end, didn't it?
3. A. Yes.

42

1. Q. Does your recollection extend so far as to whether the
2. Boral extension was made expressly known to councillors
3. when they came to consider this?
4. A. I can't recall with any accuracy, no.

47

1. Q. If we could go down the page, please, to the final
2. resolution that was passed. So, the deadline for
3. ministerial approval for the alternative was 31 March, and
4. council was going to seek ministerial approval to expedite
5. extractive industries at the existing Cascade Reserve and
6. Youngs Road Quarry: we've covered that.

7

1. I want to take you then to paragraph 3. Where did
2. this notion of a loan from the Norfolk Island International
3. Airport Government Business Enterprise come from? Who
4. proposed that?
5. A. I honestly don't know. Was that in the original
6. submission?

14

1. Q. If we could go up the page. Yes, it was. Is that
2. something that came from your hand? It looks like a
3. finance matter.
4. A. I don't believe so and I certainly hope not because
5. the Airport Business Enterprise would be loaning money to
6. the Airport Business Enterprise, which it didn't have
7. because we didn't account for businesses separately to
8. that degree.

23

1. Q. Correct.
2. A. In the old system you had P&L balance sheet by
3. business but not in the council system.

27

1. Q. It's not as though the Norfolk Island Airport had a
2. separate bank account with a pile of cash that it was going
3. to lend to council.
4. A. No.

32

1. Q. I mean, you'd agree with me that that is bordering on
2. a nonsensical notion, isn't it?
3. A. Yes.

36

1. Q. Has that been brought to your attention before? Have
2. you stopped to think about that before, that resolution?
3. A. Whilst nonsensical, the money would have come from
4. council.

41

1. Q. Yes.
2. A. So, yeah, I can't explain it and I certainly hope my
3. name's not on the business paper.

45

1. Q. Subsequently Boral carried out, at council's cost,
2. investigations into the quality of the aggregate, didn't

|  |  |  |
| --- | --- | --- |
| 1 | it? |  |
| 2 | A. | Yes. |
| 3 |  |  |
| 4 | Q. | That was at quite some substantial cost, it was some |

1. nearly $100,000 if my memory serves me. Do you recall how
2. much it cost you to do the drilling to ascertain the
3. quality of the aggregate?
4. A. I don't recall. I would not have thought that the
5. figure that you mentioned was correct, but I don't recall.

10

1. Q. No, it's in the papers, we'll see that in due course.
2. Obviously, we all now know that the aggregate was not of
3. appropriate quality to resurface the runway; correct?
4. A. Correct.

15

1. Q. And again, council was forced to proceed with
2. Option 2. But I just want to go back to that meeting on
3. 20 February. I want to ask you whether you recall, because
4. the meeting was not recorded, if there was any discussion
5. about the potential risks to the council cash position of
6. Option 2 which you understood to be the most likely result
7. from a funding position, whether there was any discussion
8. about the risk to the council budget and cash position at
9. that time?
10. A. I don't recall.

26

1. Q. Was it consistent with the way in which these matters
2. were dealt with on council for the general manager to lead
3. the discussion about these sorts of matters?
4. A. Yes.

31

1. Q. Do you recall making any contribution to the debate on
2. that occasion or answering questions?
3. A. I don't recall, no.

35

1. Q. Is there any practice at all of recording any of the
2. substantive discussion that's to and fro on such an
3. important issue?
4. A. No, confidential matters are only recorded with what
5. you see on the minutes from that meeting.

41

1. Q. The discussion about the roads, the Boral road
2. contract, do you have any recollection of that debate? It
3. was, again, a confidential discussion, was it?
4. A. Just that it was considered as a positive move in
5. terms of the outcome.

47

1. Q. Do you have any recollection of the general manager at
2. the time conveying to council members the potential to the
3. budget or the cash position of council by proceeding with
4. that contract?
5. A. I have no recollection, but I don't believe that type
6. of conversation took place.

7

1. Q. Am I right in thinking that you don't recall that
2. particular contract as having any risk at all?
3. A. No, because the financial implications indicated that
4. it was able to be financed.

12

1. Q. Where did that critical piece of information come
2. from?
3. A. From the CFO.

16

1. Q. And, who was that at that time?
2. A. It was Phil Wilson.

19

1. Q. Was he the CFO when the airport resurfacing contract
2. was considered?
3. A. Excuse me. He was officially CFO from April 2018 and
4. was acting for a few months before that.

24

25 Q. Could you just bear with me, Commissioner.

26

27 THE COMMISSIONER: I might ask a question.

28

1. Q. Mr Taylor, can you tell me who actually negotiated the
2. contract with Boral? Who did the day-to-day negotiations?
3. Was there like a team, the CFO and yourself and others or
4. was it --
5. A. Yeah, there was a group which included the general
6. manager, me, Alistair Innes-Walker, and others, I believe
7. the airport manager of the day was Anthony Allen, possibly
8. Alan Buckley the infrastructure manager; I think that was
9. the group involved in the project.

38

1. Q. Was there any contingency requirements in the tender,
2. call for tenders that went out, or was there any
3. contingency requirements discussed as part of any of those
4. discussions?
5. A. I can't recall with any accuracy, no.

44

1. Q. Have you got any recollection about whether Boral
2. actually raised the need for a contingency within their
3. budget? Boral is a very experienced infrastructure
4. delivery entity and they would be used to such things; can
5. you recall them ever raising the need for a contingency?
6. A. Again, I can't answer with an answer that I could rely
7. on, yeah.

5

6 THE COMMISSIONER: All right, thanks, Mr Bolster.

7

1. MR BOLSTER: Thank you, Commissioner, those are my
2. questions, nothing arising out of that, so Mr Taylor can be
3. excused from further attendance and released from his
4. summons.

12

1. THE COMMISSIONER: Okay, thank you so much for your
2. evidence and for being up-front with us and trying to
3. recall things that happened a while ago, it's been very
4. helpful, thank you.

17

# 18 <THE WITNESS WITHDREW

19

1. THE COMMISSIONER: We might actually just take a 10 minute
2. comfort stop for everyone and we'll come back in
3. 10 minutes.

23

# 24 SHORT ADJOURNMENT

25

1. MR BOLSTER: Commissioner, the next witness is Mr Alistair
2. Innes-Walker, if he could come to the witness stand.

28

# 29 <ALISTAIR RONALD INNES-WALKER, sworn: [3.23 pm]

30

# 31 <EXAMINED BY MR BOLSTER:

32

1. MR BOLSTER: Q. For the record could you state your full
2. name?
3. A. Alistair Ronald Innes-Walker.

36

1. Q. Your current position with Norfolk Island Council is?
2. A. I'm the manager corporate and finance.

39

1. Q. How long have you held that position?
2. A. I was transferred to that role from my previous role
3. on 3 June 2019.

43

1. Q. Before that, what was your position?
2. A. I was the manager commercial services.

46

47 Q. In that role did you have oversight of both the

1. airport and the airport runway contract?
2. A. I had oversight of the airport and as manager of that
3. area I was included in the tender panel and then, after
4. that, I was asked to facilitate the airport contract.

5

1. Q. So that routinely involved you sitting on a steering
2. group?
3. A. That is correct.

9

1. Q. With representatives, other representatives of Boral
2. and the council to oversee the performance of the contract?
3. A. Correct. At the same time as we let the tender for
4. the airport reseal we engaged a project manager,
5. professional project manager, Aileron Edge, who was
6. responsible for the day-to-day interaction with Boral and
7. management of the contract. My role, together with other
8. members of the council, was to participate as you said in
9. steering committee meetings.

19

1. Q. Part of that role involved monthly, was it, or
2. quarterly reports?
3. A. Quarterly reports.

23

1. Q. For --
2. A. They included - sorry, they included members, a
3. representative from the Commonwealth, the funder, and also
4. the administrator.

28

1. Q. Taking you back to the precursor to the contract and
2. this figure of $43 million.
3. A. Yes.

32

1. Q. It seems to have been a hard cap in the Commonwealth's
2. thinking, are you able to assist the Commissioner with
3. where that figure came from in the first place?
4. A. I can't provide the specifics apart from the fact that
5. the technical consultant who was engaged by the council to
6. assess the issue at the airport following the CASA
7. findings, who was recommended because he's a world expert
8. in asphalt and runways, he made an estimate and I believe
9. it was a range of 35 to 43 depending on whether the rock
10. was brought in or not; but definitely he made an estimate
11. and that was the figure that was provided in discussions,
12. which I was not involved with, between I believe the
13. general manager and the Commonwealth.

46

47 Q. Were you involved in the preparation of the papers

1. that went to the council meeting where the tenders were
2. evaluated that we were just discussing before with
3. Mr Taylor? Were you involved in that process?
4. A. I was involved as a member of the evaluation panel.
5. We had engaged - or the council had engaged Regional
6. Procurement to run the tender process, which included
7. probity, and so that organisation and those representatives
8. coordinated the tender and pulled together the evaluation
9. report based on the discussion in the committee, and now
10. I believe the general manager prepared the ultimate paper
11. that went to council for consideration.

12

1. Q. Can I ask you about that third paragraph of the loan
2. from the Airport Government Business Enterprise, which
3. would seem to have been within your area; can you make
4. sense of that particular provision in the resolution?
5. A. The only sense I can make of it is that, as I recall,
6. the CFO at the time made that suggestion or whatever the
7. recommendation was. So, as Mr Taylor has previously
8. explained and as you're alluding to, there was no real
9. business unit, airport business unit, to actually raise a
10. loan to or from.

23

1. Q. Did you question that resolution at the time, the
2. proposed resolution at the time?
3. A. No, ah --

27

1. Q. Or do you not recall?
2. A. No, no, I wouldn't have said anything and, as
3. Mr Taylor indicated, the general manager took
4. responsibility for a lot of the decisions, and in terms of
5. feedback and the like it wasn't a very open environment in
6. that regard; and, to be honest with you, the context of the
7. whole discussion was that the airport had to be fixed,
8. council had agreed or was required under the funding
9. agreement to pay any difference, and so from my perspective
10. as someone at a different level, I didn't really care - I
11. knew the council was going to have to pay for it and
12. whether they want to - whether a person wished to frame it
13. in such a way, I personally didn't really care, we just
14. needed to get the job done.

42

1. Q. Do you recall any discussion about risk to council's
2. cash position in the context of this project?
3. A. No. Again, as the other witnesses have stated, the
4. finance side of things was conducted by the CFO and
5. discussed with the general manager.

1

1. Q. Do you recall being present in any of those
2. discussions and, if so --
3. A. No, I wasn't on the executive group. It was the
4. general manager, the group manager Mr Taylor, and the CFO
5. and the executive manager HR were the executive group where
6. that was discussed.

8

1. Q. If we could have displayed document 42 in the airport
2. tender bundle which I showed you during the break, it's a
3. letter from Boral to you; if that could just come up and
4. this could be displayed publicly, it's not a confidential
5. document, unless someone wants to - no, it's okay.

14

15 MR SIMONE: There's no objection.

16

17 MR BOLSTER: So, if that can be brought up on the screen.

18

1. Q. You are familiar with that letter?
2. A. I am.

21

1. Q. So, we've moved forward basically 12 months to April
2. 2020. COVID has just landed on Norfolk Island - well,
3. thankfully it's never landed on Norfolk Island, but the
4. effects of COVID have definitely landed on Norfolk Island.
5. A. Yep.

27

1. Q. What was the reason for this letter to you from the
2. representative of Boral?
3. A. It was in response --

31

1. Q. Mr Jeffrey.
2. A. Sorry. It was in response to a number of discussions
3. we had had with regard to biosecurity. As the
4. Commissioner's probably aware, at the time the contract was
5. let or the tender was made there was a provision made for
6. $4.2 million for biosecurity. What Boral said at that time
7. is that their price, without the provision for 4.2,
8. included what they thought would be a normal provision for
9. biosecurity based on what they'd done in previous years, so
10. they had actually provided for some biosecurity activity
11. within the core contract. However, due to - and it spells
12. it out in this document - agricultural biosecurity,
13. whatever department is responsible for what would be needed
14. to be done to the rock, we were unable to provide any
15. guidance to Boral and/or the other tenderers as to what the
16. specifics were with regard to the biosecurity requirements.

1

* 1. Again, as you may be aware, at that time there was a
  2. significant concern within the community about importing
  3. rock and the potential for various snakes and other things
  4. that could threaten the environment being imported on the
  5. rock. So, I'm not in a position to say that was part of
  6. the reason why Agriculture took so long to make a decision,
  7. and it was a very long time given what was being required,
  8. and then the very, I guess, extreme measures that they were
  9. required to put through which they advised me anecdotally
  10. informally they couldn't understand why but they did it
  11. because they had to in terms of getting the rock, spraying
  12. it with a certain kind of chemical mix, and they had to
  13. leave the ship in the harbour at Brisbane for three days
  14. because it was too poisonous for people to be on the boat,
  15. so they said they never - and there was a whole number of
  16. other activities that had to be followed.

18

1. So, obviously as the customer, we were concerned about
2. the impact: yes, it was accepted that there was provision
3. for 4.2, but we were always very hopeful that it would come
4. in a lot less than that, as any person in a contract would.
5. And with all these things happening it became increasingly
6. obvious that it was going to head towards the 4.2 and at
7. one stage it looked like it was going to go beyond, so
8. that's when we started asking Boral to please document what
9. their issues were, because we were hearing these
10. anecdotally, and, "Oh we're waiting for this. They haven't
11. got back to us. We can't make a decision. We don't know,
12. we keep asking them", and so, for us to then go, okay, well
13. perhaps we need to talk to the Commonwealth about this,
14. because a number of people saw it as an additional cost
15. imposed by Commonwealth requirement, and so that was the
16. basis of this letter.

35

1. Q. So, was this documentation used? If we could perhaps
2. go down to page 3 of the document, and you'll see the
3. closing three lines which I think probably answer the
4. question, but do you recall the tenor of that? That's the
5. reason for the letter, isn't it?
6. A. Yeah. Again, anecdotally when I spoke to the Boral
7. representative on the Island they couldn't believe that the
8. council was being asked to pay these additional costs for
9. biosecurity when it was a Commonwealth requirement.

45

1. Q. Have subsequent attempts been made to raise this issue
2. with the Commonwealth?
3. A. I did raise it - I can't say what was raised at the
4. general manager level; I can verify that I wrote a series
5. of emails to Tim Cotter who was the DB RF, or Aus industry
6. representative responsible for the project, to say that
7. this is what was happening, would the Commonwealth be open
8. to providing some support for this? And in response,
9. without being able to check all my emails, the emails that
10. I did find and the ones that I provided to the Commission,
11. Tim basically didn't discuss it directly apart from saying
12. that, yes, they were eligible costs and would be considered
13. towards the project if it didn't go over $43 million.

12

1. Q. So, 43 was always just a hard limit for the
2. Commonwealth?
3. A. And it was even harder than that because in the
4. original contract, as Mr Taylor referred to, we purchased
5. some vehicles under the contract, they were going to be
6. used on the project, and then obviously they'd be taken
7. back; it was an opportunity for us to buy equipment to
8. replace equipment that we had that was basically stuffed,
9. so it was a good opportunity to buy that equipment. But
10. when they reviewed that requirement in the contract, the
11. AusIndustry basically cut back the eligible component by
12. the depreciation of the vehicles post-completion of the
13. contract; they said that should not be a cost of the
14. contract, you're getting benefit of that afterwards, so it
15. actually dropped the - I guess the deemed eligible
16. expenditure down by, I can't remember, it might be
17. $300,000. So, the actual figure was 4217.

30

1. Q. So, a further cost?
2. A. Correct, but --

33

1. Q. And council have already committed to buying those
2. vehicles?
3. A. Yeah, it was part of the contract. I guess
4. inexperience from whoever was negotiating was, there was no
5. sort of understanding that it wouldn't be deemed an
6. eligible cost but they ran into it. The reality is, up to
7. the fact that we spent more than the $43 million eligible
8. expenditure, we got the 43 anyway, $43 million.

42

1. Q. When were the significant problems to the cash
2. position first communicated to you?
3. A. Again, in my role as commercial services manager and
4. even during the evaluation of the tender, the financial
5. side of things for the council as a whole wasn't always
6. transparent. For me personally, I first - I guess I first
7. got the idea when - in May, in May last year when the
8. contractor, Roger Neilsen, who had been contracted to do
9. the job of the finance corporate manager, or the CFO and do
10. the budget, we were called in and the budget was discussed
11. and this was the issue and ultimately Andrew Roach,
12. Mr Roach made the decision that, given the seriousness of
13. the issue, he was proposing to make redundant a number of
14. people on staff. So, obviously it got discussed then, why
15. are we doing that, who are the people? So, it was around -
16. I can't tell you exactly, but it was in discussions in May,
17. and then obviously the people made redundant in June and
18. then it was on.

14

1. Q. When was the last payment of cash on the airport and
2. roads contracts made?
3. A. On the airport contract or the roads?

18

1. Q. Well, let's deal with the airport contract first.
2. A. Okay, the last payment was made last month.

21

1. Q. Was that out of internally or externally restricted
2. cash? I'm just wondering how the cash dwindled from April
3. when you found out what was going to happen?
4. A. In that case it wasn't really saying whether it was
5. restricted or unrestricted. It was a component of
6. restricted that, because we had received funding in advance
7. from the Commonwealth, they paid us the $43 million apart
8. from the last tranche of half a million which was the hold
9. on clause until we reported to them, which was last month
10. I believe, but then we knew there was a commitment for the
11. final payment of 700 - whatever it was, $700,000, and that
12. was held off because there was some delays in finalisation
13. of the practical completion, but that was the last payment.
14. And the roads --

36

1. Q. And the roads?
2. A. The roads was, I can't be 100 per cent sure, I think
3. it was October/November.

40

1. Q. Shortly after the works were finished, I expect?
2. A. Yeah, basically the roads offer, in Boral's interest,
3. when they had all their equipment here there was a period
4. of time between when they finished laying the asphalt and
5. when they can start doing the grooving - and that's not all
6. them dancing on the runway, it's, they have to groove into
7. the actual --

1

1. Q. Yes.
2. A. So, there's a period of time in between then when
3. they're waiting, so they came to us and said, oh look while
4. we're doing this - I mean, and this was always further
5. back, but they always knew there was going to be a space
6. between when they finished the work with the asphalt
7. machine and when they finished the grooving, and then when
8. they would leave the Island, so in that time that was when
9. they were proposing back - whenever - so we could do the
10. roads in that time.

12

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

15

16 THE COMMISSIONER: Thanks, Mr Bolster.

17

1. Q. Mr Innes-Walker, can you help me out with a few
2. things, hopefully. So, the consultant said the price of
3. the contract would be between around 35 to 43. Do you
4. think it's interesting that the costs came in at 43, and
5. not 41 or 42 or 40, but 43?
6. A. You mean, the costs that the Commonwealth were
7. prepared to provide?

25

1. Q. Yeah, like, if you're letting a contract and you know
2. you've got a budget of 35 to 43, go out to tender, you know
3. you've got that much and then your contract comes back in
4. and it's at the top end almost to the dollar of the amount
5. you've got available. So, that leads me to the question,
6. was that amount, that estimation amount, public?
7. A. Yes.

33

1. Q. So, one of the things that happens in government is
2. that often there's a lot of argy-bargy around whether you
3. should talk about how much you're making available for
4. roads, and typically the government shies away from talking
5. about such amounts because they don't want to lead the
6. tender process, they want an honest response. Have you got
7. any comments around that?
8. A. It was public knowledge actually, $43 million was what
9. the Federal Government would be providing. But we were -
10. again, we were relying on Mr White, Airport Payment
11. Services, who was a world renowned expert. He'd done work
12. with Boral and all the tenderers I believe around Australia
13. laying airports and checking compliance and seeking advice,
14. being sought for advice and the like. So yeah, you could
15. argue that, yeah, that's a bit of coincidence, but when
16. you've got someone who's got intimate knowledge of the
17. industry and what the normal costs are, I didn't think it
18. was unusual but ...

5

1. Q. But if the contract had come in at, say, 37 or 38 and
2. then there was this extra $4 million on top, you still
3. would have been within that 43 that was available?
4. A. Yeah, but we didn't know what the 40 - we didn't know
5. about the 4.2 at that stage either. The contract was
6. for --

12

1. Q. I mean, as Mr Bolster's highlighted, there seems to be
2. this fixation on the Commonwealth not going over the 43
3. because that was the top end of what the consultant said it
4. should cost, I presume?
5. A. Yep.

18

1. Q. So, if the contract had come in midway in between the
2. 35 to 43, you would have been able to have a more proactive
3. discussion with the Commonwealth because you knew there
4. were funds that you would be discussing?
5. A. Yes, absolutely, and I'm betting they wouldn't have
6. given us the 43 if it came in at 42, so it works both - it
7. doesn't seem to work both ways, but I don't personally see
8. that there was a, you know, a deliberate ploy to say, oh,
9. we know it's 43 we're gonna get, but I'm not an industry
10. expert; the council relied on the expertise. Mr White was
11. on the evaluation panel as was the - you know, the Regional
12. Procurement who were the experts in the probity, and so, we
13. relied on those.

32

1. Q. Was anyone from the Commonwealth on the panel?
2. A. No.

35

1. Q. One of the things I asked earlier was around
2. contingency issues. The Commonwealth Government's very
3. focused on putting contingency into infrastructure
4. contracts and they have a cost estimation system which
5. includes a confidence factor of P50 or P90, and they have a
6. cost estimation process up on the Department of
7. Infrastructure's website which I think started in around

43 2010.

44

1. Are you aware of any discussions that were occurring
2. around the need for some contingency to be built in? And
3. the reason I ask that question is that, apart from the
4. biosecurity issues, it's quite common for infrastructure
5. projects to cost more than originally envisaged due to
6. things like weather, delays in getting materials, changes
7. in the valuation of the dollar, that kind of thing in terms
8. of purchasing materials. Are you aware of any discussions
9. around building in some kind of contingencies?
10. A. There were standard contractual terms around time
11. delays and who would be responsible financially for those
12. and things around, for instance, how quickly that Boral had
13. to close down their operations when a plane was going to
14. land because that would have an economic impact, we
15. couldn't shut down the airport. So, that doesn't answer
16. specifically your question, but there are clauses in the
17. contract that were - liquidated damages, for instance -
18. that were in there to deal with those situations. I can't
19. tell you off the top of my head the specifics.

17

1. There was a provision, for instance, of $300,000 for
2. customer-generated variations. So, there was 300 grand
3. sitting in the office so that, if we wanted - which we
4. used - for various bits and pieces, say for airport
5. furniture or for - not chairs, you know, but various things
6. to go around the airport we could utilise that, so there's
7. 300 grand there, but you know, the percentage of a
8. $43 million contract, that was nothing.

26

1. MR BOLSTER: Just one thing that arises out of that, I
2. just wanted to clarify something about whether there was a
3. representative of the Commonwealth on. Mr Innes-Walker,
4. could you just have a look at this document which is a
5. confidential exhibit, it's a copy of NIRC - don't bring it
6. up, if you could just hand it to him, that's the quickest
7. way: NIRC.020.0001.0002 for the record. You will see there
8. at the foot of the first page and going over to the second
9. page there are eight names. Can you just check that
10. there's no one from the Commonwealth there, without naming
11. the person? That's the list of the tender evaluation.
12. A. No, there was no one from the Commonwealth. The
13. reason why I hesitated when you asked me originally was
14. because Mr Tim Cotter was involved fairly closely with the
15. project, both during and before and after the tender
16. process, so I couldn't quite remember whether he was
17. involved.

44

1. MR BOLSTER: Thank you. Nothing further, Commissioner,
2. and Mr Innes-Walker can be excused from further attendance
3. and be excused from his summons.

1

1. THE COMMISSIONER: Thank you, Mr Innes-Walker, thank you
2. for clarifying some of those issues for us.
3. A. Thank you.

5

1. THE COMMISSIONER: Okay, it looks like we've got an early
2. mark.

8

1. MR BOLSTER: We have an early mark, Commissioner.
2. 10 o'clock tomorrow?

11

1. THE COMMISSIONER: Okay. We'll basically reconvene
2. tomorrow at 10am, so thank you everyone.

14

# AT 3.47PM THE PUBLIC INQUIRY WAS ADJOURNED

1. **TO TUESDAY, 1 JUNE 2021 AT 10.00AM NFT**

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