

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
4 MS PERCOVIC: Public Inquiry into Norfolk Island Regional
5 Council terms of reference:

6
7 *To inquire and report to the Assistant*
8 *Minister for Regional Development and*
9 *Territories with respect to whether, in*
10 *exercising its functions pursuant to*
11 *sections 21, 22, 23 and 24 of the Local*
12 *Government Act 1993 (NSW) (NI) (Act):*

13
14 *The council and its governing body, since*
15 *2016, have managed, and are managing, the*
16 *finances of the NIRC in accordance with the*
17 *guiding principle in section 8B(c) of the*
18 *Act to have effective financial and asset*
19 *management, including sound policies and*
20 *processes for the following:*

21
22 *- performance management and reporting, as*
23 *they relate to effective financial and*
24 *asset management;*

25
26 *- asset maintenance and enhancement, as*
27 *they relate to effective financial and*
28 *asset management;*

29
30 *- funding decisions, as they relate to*
31 *effective financial and asset management;*

32
33 *- risk management practices, as they relate*
34 *to effective financial and asset*
35 *management.*

36
37 *The governing body of the NIRC has, since*
38 *2016, complied with its obligations under*
39 *sections 223(1)(d) and (1), to:*

40
41 *(1)(d) ensure as far as possible that the*
42 *council acts in accordance with the*
43 *principles set out in Chapter 3 and the*
44 *plans, programs, strategies and policies of*
45 *the council, as they relate to effective*
46 *financial and asset management; and*
47

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

5
6 The Commissioner may make findings as the
7 Commissioner sees fit having regard to the
8 terms of reference.

9
10 THE COMMISSIONER: Good morning, everybody. I want to
11 welcome you all here today to the Public Inquiry into the
12 Norfolk Island Regional Council.

13
14 My name is Carolyn McNally. I have the honour and
15 privilege to be the Commissioner of this inquiry, a
16 responsibility I take very seriously.

17
18 I wish to begin by acknowledging the Norfolk Island
19 people, the traditional custodians of this Island.

20
21 My job is to impartially assess and review the
22 evidence before me and report my findings to the Assistant
23 Minister for Regional Development and Territories, The
24 Honourable Nola Marino MP.

25
26 I am supported by a team of lawyers and experts in
27 financial and asset management and expect to deliver my
28 report to the Minister in about six to eight weeks' time.
29 The Minister will likely make the report public soon after
30 this time.

31
32 As many of you know, the public inquiry into the
33 Norfolk Island Regional Council was called in February
34 this year. The terms of reference for this inquiry
35 describe the scope of what I should enquire into. In plain
36 language, the terms of reference direct me to determine
37 whether the Norfolk Island Regional Council and its
38 governing body managed the council's finances according to
39 principles of effective financial and asset management.
40 When I say "Norfolk Island Regional Council", I mean the
41 five elected councillors, including the Mayor, as well as
42 the council's administrative structure.

43
44 The terms of reference are focused on events and
45 decisions made by the council since 1 July 2016 when the
46 council came into effect and commenced its operations.
47 However, I recognise that the council's financial position

1 and the state of its assets at the time of the council's
2 commencement are important factors in understanding its
3 current state.
4

5 Over the next five days we will hear from members of
6 the council and other relevant people who currently reside
7 in Norfolk Island. Next week we will hear from people who
8 don't live on Norfolk Island. The hearing next week will
9 be in Sydney. There are two main reasons for hosting this
10 hearing in Sydney rather than Norfolk Island.
11

12 The first reason relates to the scope of the Local
13 Government Act 1993 (NSW) (NI). When this inquiry was
14 called there were questions as to whether the legislation
15 allowed me to gather information from locations outside of
16 Norfolk Island. This may have meant that I was not allowed
17 to require witnesses to attend or compel the production of
18 documents from people who did not live here. I was very
19 concerned about this.
20

21 I was concerned about not hearing from these people
22 which would mean that I would not have heard the whole
23 story, particularly those that were involved in the running
24 of the council or involved in aspects of committees and
25 things at that period of time.
26

27 That issue has now been resolved. However, within the
28 time available it was not feasible to get all of the Island
29 witnesses here this week. Their evidence will now be heard
30 and considered next week.
31

32 I was also somewhat concerned about the practicalities
33 of bringing a number of witnesses to Norfolk Island with
34 the associated travel, impact on their time requirements
35 and costs.
36

37 Having said this, I think it is critically important
38 that residents of Norfolk Island have open and transparent
39 access to the Sydney-based hearings. We will make a video
40 each day of the Sydney public hearing available on the
41 inquiry's website. The website will also contain
42 transcripts of each day's proceedings.
43

44 There are a number of ways that public inquiries like
45 this one gather information and evidence. Public inquiries
46 have the power to compel people and organisations to
47 provide us with information, these are called summons. In

1 total, we issued more than 25 summons to a range of
2 different people and organisations. In response we
3 received over 2,000 documents.
4

5 Submissions are another important part of the process.
6 We received 77 submissions from different people and
7 organisations. Many submissions attached documents to
8 support the claims they were making. In total we received
9 and reviewed over 600 documents through the submission
10 process.
11

12 The scope and direction of this public hearing has
13 been informed by the documents produced in response to our
14 summons, the submissions, and information in the public
15 domain.
16

17 On a final note, I would like to say a personal thank
18 you to everyone who has engaged with this inquiry and a
19 heartfelt welcome to everyone who has taken the time to be
20 here today. A council fills a vital role in most
21 communities providing much needed services and community
22 support. It is important for me, as I know it is important
23 for you, that this inquiry deliver on its ambition to
24 contribute to the long-term sustainability of Norfolk
25 Island.
26

27 Before we begin, I would like to speak briefly to the
28 order of events over the next five days. After today the
29 hearing will commence each day at 10am. The hearing will
30 conclude between 4 and 5pm on all days except Friday where
31 we expect to finish by around noon.
32

33 Each day the hearing will break for a short recess at
34 around 11.30am and then again at 1pm. This morning will
35 commence with an opening statement by counsel assisting,
36 Mr Bolster, then we will call the first witness. As
37 Mr Bolster will make clear, the opening statement contains
38 no conclusions about any matter still under investigation.
39 It will, however, help to set the context for the evidence
40 heard this week.
41

42 I would like to remind everyone that this public
43 hearing is a formal event. I warmly welcome everyone to
44 attend and observe the proceedings and ask that you respect
45 the customs of a legal setting; this means being quiet when
46 witnesses are being examined and not interfering or
47 interjecting as evidence is being heard.

1
2 Before I ask Mr Bolster to present his opening
3 statement do we have any appearances this morning?
4

5 MR WEBSTER: Madam Commissioner, my name is Webster, I am
6 instructed by Clayton Utz and I seek leave to appear on
7 behalf of Mr Roach while he's giving evidence.
8

9 THE COMMISSIONER: I grant your authorisation, Mr Webster.
10

11 MR SIMONE: Madam Commissioner, Simone, I am instructed by
12 RGS Law and I appear for the balance of councillors and
13 staff past and present as they have been summonsed to
14 appear before the inquiry.
15

16 THE COMMISSIONER: I've already granted your
17 authorisation, but welcome, Mr Simone.
18

19 MR SIMONE: Thank you.
20

21 THE COMMISSIONER: Mr Bolster.
22

23 MR BOLSTER: Thank you, Commissioner. Commissioner, I
24 appear with my learned friend, Ms Kathleen Morris. Each of
25 us has been appointed by the Commonwealth to assist you in
26 this inquiry. We are instructed by Mr Asaf Fisher of
27 HWL Ebsworth lawyers as the solicitor assisting.
28

29 In opening this first public hearing of your inquiry
30 we too wish to begin by acknowledging the Norfolk Island
31 people, the custodians of this Island. On behalf of the
32 inquiry staff we would also like to acknowledge the
33 assistance and cooperation provided to the inquiry by those
34 who have made submissions and those whom we have met and
35 spoken to in the community engagement sessions held earlier
36 in the year.
37

38 This inquiry has been established by the Commonwealth
39 under section 438U of the Local Government Act. That
40 legislation applies to this territory by reason of
41 section 18A of the Norfolk Island Act 1979 and includes a
42 number of modifications made with a view to this particular
43 and special location.
44

45 The inquiry follows the suspension of the council
46 pursuant to section 438I of the Act for a period of
47 three months on 9 February 2021. That suspension has since

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

9
10 In place of the governing body an administrator has
11 been appointed to the council, not to be confused with the
12 administrator of Norfolk Island itself. This administrator
13 effectively stands in the shoes of the five councillors as
14 the governing body of the council.

15
16 The end result of the process that we're going through
17 this week and next week is a report that you'll be asked to
18 provide to the Minister. It should be emphasised to those
19 who may be watching or listening that what happens to the
20 council after that report is delivered to the Minister is
21 entirely a matter for the government.

22
23 I should add that, by amendments made to section 438U
24 of the Act on 12 May 2021, it is expressly stated that your
25 powers and functions as a Commissioner may be exercised and
26 performed both within and outside the territory of Norfolk
27 Island. These amendments confirm your power to sit outside
28 of the territory and to issue summonses to give evidence
29 and to produce documents to people who are located in other
30 parts of the Commonwealth.

31
32 Before I outline the direction of this inquiry and the
33 matters that will be the subject of evidence this week can
34 I formally tender the Norfolk Island Regional Council
35 Public Inquiry tender bundle and suggest that it be marked
36 Exhibit 1 and I'll refer to that bundle in due course in
37 the course of this opening.

38
39 THE COMMISSIONER: Is there any objection?

40
41 MR SIMONE: No objection.

42
43 **#EXHIBIT 1 - NORFOLK ISLAND REGIONAL COUNCIL PUBLIC INQUIRY**
44 **TENDER BUNDLE.**

45
46 MR BOLSTER: Thank you, Commissioner.

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
10 The next inhabitants arrived on 6 March 1788.
11 By February 1814, all had left. Rough seas and suitable
12 landing sites posed difficult difficulties in supplying
13 provisions and communications.

14
15 The Island was reoccupied in 1825 as a penal colony
16 for a second time, with 34 troops, six women and children,
17 and 57 convicts. In 1829, there were 211 convicts, and by
18 1834 this number had grown to around 700. Although free
19 settlers moved to the Island during this period, it
20 continued to be used as a penal colony until the last
21 convicts were removed to Tasmania in 1855.

22
23 Between 1844 and 1856, the Island formed part of the
24 colony that was, until 1856, known as Van Diemen's Land.
25 In 1856, 194 people arrived from Pitcairn Island,
26 descendents of Tahitians and the HMS Bounty mutineers. On
27 1 November 1856, by force of UK legislation known as the
28 Australian Wastelands Act, the islands were constituted as
29 a distinct and separate settlement of the British Crown.
30 They were administered by a Governor of Norfolk Island
31 which office was almost always exercised by the Governor of
32 New South Wales.

33
34 In 1897, the office of the Governor of Norfolk Island
35 was abolished and, although responsibility for the
36 administration of Norfolk Island was vested in the Governor
37 of New South Wales, the Island was not made a part of New
38 South Wales and remained a separate British position.

39
40 On the federation of the Commonwealth in 1901
41 responsibility for the administration of Norfolk Island was
42 vested in the Governor of New South Wales. The first
43 Norfolk Island Act was passed in 1913 and was dependent
44 upon the King transferring the Island to the Commonwealth.
45 That occurred on 30 March 1914 and by a proclamation made
46 on 17 June 1914 the Governor General gave effect to that
47 order from 1 July 1914. From that point in time Norfolk

1 Island has been an external territory of the Commonwealth,
2 a matter that has been confirmed by the High Court in a
3 number of cases.
4

5 Between 1979 and 1 July 2016 Norfolk Island was a
6 self-governing territory of the Commonwealth. Prior to
7 1 July 2016 there had been 12 separate Parliamentary
8 inquiries, a Royal Commission, and more than 20 reports
9 from experts concerning the governance arrangements for
10 Norfolk Island.
11

12 Could we please bring up document ANAO.PUB.0001.0002,
13 page 18, please. The process that I was just referring to
14 culminated in amendments to the Norfolk Island Act in 2015
15 by which the Commonwealth dissolved the Norfolk Island
16 Legislative Assembly effective 30 June 2016. In its place
17 a number of the functions of the Norfolk Island Government
18 and administration were conferred on the new Norfolk Island
19 Regional Council.
20

21 That council, as I previously indicated, was
22 constituted under the Local Government Act 1993 (NSW) (NI).
23 That council, the subject of this inquiry, was established
24 on and from 1 July 2016.
25

26 We produce on the screen, Commissioner, a timeline
27 prepared by the Australian National Audit Office in
28 connection with its 2018 report or audit of the design and
29 implementation of appropriate governance and administration
30 arrangements for the transition and delivery of sustainable
31 reforms to services on Norfolk Island. It's a long title
32 and it's a very important report.
33

34 In the same report the Australian National Audit
35 Office produced a convenient summary of the functions of
36 the former Norfolk Island Government that were transferred
37 to the new council. If we could go, please, to pages 32
38 and 33 of the same report, perhaps bringing up page 32.
39 Commissioner, the chart speaks for itself, but the
40 significance that we rely upon for present purposes are the
41 two columns, the two right-hand columns of the document.
42

43 On the far right-hand column we see a list of
44 traditional local government functions in the top half of
45 that column. In the bottom half of that column we see four
46 government business enterprises that are carried out by the
47 Norfolk Island Regional Council. One would not typically

1 see those functions in any local government structure in
2 the rest of Australia.

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

13
14 All of these services exist for the benefit of the
15 residents of Norfolk Island and as at the last census in
16 2016 - there will of course be a census later this year -
17 the population of the Island was recorded at 1,748.

18
19 In advance of the formal handover on 1 July 2016 the
20 residents of Norfolk Island had the opportunity to elect
21 their representatives on the governing body of the new
22 council. Those elections were held on 28 May 2016 and five
23 councillors were elected: Robin Adams, John McCoy, Rod
24 Buffett, David Porter, and Lisle Snell. Subsequently, the
25 councillors elected Ms Adams and Mr McCoy as, respectively,
26 the Mayor and Deputy Mayor. Since then both have been
27 re-elected to those positions which they held at the time
28 of the suspension of the council.

29
30 Four of the five elected councillors had previously
31 been involved to varying degrees in the previous government
32 of Norfolk Island. Briefly, that experience included Lisle
33 Snell who was Chief Minister and Minister for Tourism in
34 the 14th and last Legislative Assembly. His biography
35 states that he was a member of the 7th, 8th and 9th Norfolk
36 Island councils and the 1st, 12th and 13th legislative
37 assemblies.

38
39 Mayor Adams was speaker of the 13th assembly and was
40 the Minister For Cultural Heritage and Community Services
41 in the 14th assembly, as well as having held various other
42 roles within the Norfolk Island public service since 1967.
43 Deputy Mayor McCoy was a member of the 10th and 11th
44 Legislative Assemblies; David Porter was a member of the
45 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
7 The Norfolk Island Regional Council is the body
8 politic established pursuant to the combined operations of
9 sections 219, 220 and 221 of the Local Government Act.
10 Section 204A provides that a council is constituted by the
11 Local Government Act for the area of Norfolk Island. See,
12 for example, section 219(1). The territory of Norfolk
13 Island is precisely described in geographical terms in the
14 Norfolk Island Act which I won't take you to.

15
16 Section 220 governs the legal status of the council,
17 namely, it's a body politic with perpetual succession and
18 the legal capacity and powers of an individual. It's not a
19 body corporate, which means it's not a corporation. It
20 doesn't have the status, privileges and immunities of the
21 Crown, and is subject to applicable legislation as if it
22 were a corporation. The governing body, distinct from the
23 council itself, is comprised of the councillors and the
24 Mayor; that is, five people.

25
26 If we could perhaps display section 223 of the Local
27 Government Act. Section 223 prescribes a range of
28 obligations that rest with the governing body. Can I
29 highlight six for present purposes.

30
31 Subsection 223(1)(a) requires the governing body to
32 direct and control the affairs of the council in accordance
33 with this Act.

34
35 Subparagraph (1)(c) requires the council to ensure as
36 far as possible the financial sustainability of the
37 council. This will be a most significant obligation as we
38 move through the evidence for reasons that will soon become
39 apparent.

40
41 Subparagraph (1)(d) requires the governing body to
42 ensure as far as possible that the council acts in
43 accordance with the principles set out in Chapter 3 and the
44 plans, programs, strategies and policies of the council.

45
46 Subparagraph (1)(f) requires the council governing
47 body to determine and adopt a rating and revenue policy and

1 operational plans that support the optimal allocation of
2 the council's resources to implement the strategic plans,
3 including the community strategic plan of the council and
4 for the benefit of the local area.

5
6 Subparagraph (1)(g) requires the governing body to
7 keep under review the performance of the council, including
8 service delivery.

9
10 Finally, subparagraph (1)(l) requires the governing
11 body to be responsible for ensuring that the council acts
12 honestly, efficiently and appropriately.

13
14 Chapter 3, referred to in section 223D which I have
15 just read out, establishes a number of principles for local
16 government. The object of those principles being to
17 provide, and I quote:

18
19 *Guidance to enable councils to carry out*
20 *their functions in a way that facilitates*
21 *local communities that are strong, healthy*
22 *and prosperous.*

23
24 Could section 8B be displayed, please. Section 8B
25 sets out the principles of sound financial management that
26 apply to councils, namely, that - and I will read these out
27 because I think it is important that the community
28 understand the significance of what's been prescribed in
29 the Act.

30
31 Subparagraph (a):

32
33 *Council spending should be responsible and*
34 *sustainable, aligning general revenue and*
35 *expenses.*

36
37 *(b) Councils should invest in responsible*
38 *and sustainable infrastructure for the*
39 *benefit of the local community.*

40
41 I emphasise the word "sustainable".

42
43 *(c) Councils should have effective*
44 *financial and asset management, including*
45 *sound policies and processes for the*
46 *following -*

- 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
10 see what provision is being engaged in the terms of
11 reference and there's a definite focus on these particular
12 provisions in the way the terms of reference are focused.
13

14 Continuing on to subparagraph (d), and this too is an
15 important feature of this particular inquiry:
16

17 (d) Councils should have regard to
18 achieving intergenerational equity,
19 including ensuring the following –
20

21 (i) policy decisions are made after
22 considering their financial effects on
23 future generations,
24

25 (ii) the current generation funds the cost
26 of its services.
27

28 More generally, section 8A provides, amongst other
29 things - if that could be brought up, please -
30 subparagraph (1)(a):
31

32 (a) Councils should provide strong and
33 effective representation, leadership,
34 planning and decision-making.
35

36 (b) Councils should carry out functions in
37 a way that provides the best possible value
38 for residents and ratepayers.
39

40 (c) Councils should plan strategically,
41 using the integrated planning and reporting
42 framework, for the provision of effective
43 and efficient services and regulation to
44 meet the diverse needs of the local
45 community.
46

47 ...

1
2 (e) *Councils should work co-operatively*
3 *with other councils and the State*
4 *Government to achieve desired outcomes for*
5 *the local community.*
6

7 For "State Government" in this case read "Commonwealth
8 Government". There's a provision in the Act that would
9 indicate that that's the way it ought be read.
10

11 (f) *Councils should manage lands and other*
12 *assets so that current and future local*
13 *community needs can be met in an affordable*
14 *way.*
15

16 Sections 21 to 23 and 24 of the Act referred to in the
17 terms of reference describe the functions of council.
18 Under section 23 of the Act, the following chart appears
19 which best describes the functions of a council.
20

21 If we go, please, to the chart at the end of 23. You
22 will see there a basic summary of the way in which local
23 government councils are structured in terms of their
24 various responsibilities.
25

26 Given the terms of reference, the principal focus of
27 this inquiry is limited to the effectiveness of
28 decision-making of the council and its governing body in
29 areas of financial and asset management and whether there
30 has been compliance with the relevant provisions of the
31 Local Government Act.
32

33 Central to the transition from the Norfolk Island
34 administration to the Norfolk Island Regional Council were
35 the transfer of the assets and liabilities along with a
36 large number of existing staff. As far as the senior staff
37 were concerned, the former Executive Director of Norfolk
38 Island, Mr Peter Gesling, did not take up the role of
39 general manager of the new council. The new general
40 manager was Ms Lotta Jackson who commenced on 1 April 2016.
41 Ms Jackson will give evidence in the Sydney hearings next
42 week, as too will Mr Peter Gesling.
43

44 It ought to be noted that the government's finance and
45 budget manager who had been retained through to September
46 to complete the administration's 2015/2016 financial
47 statements resigned on 30 June 2016, leaving council staff

1 to complete the accounts of the former entity. This aspect
2 of the transition and its impact on the future financial
3 performance of the council going forward will be examined
4 in due course when Mr Gesling and Ms Jackson give evidence
5 next week.

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

14
15 If we could please bring up document
16 NIRC.PUB.0001.0089 at page 14. If that box could be
17 highlighted, thank you. This document is a reconciliation
18 of the starting position of the council carried out for the
19 purposes of a council audit meeting in May 2017 by which
20 time the council had carried out a re-valuation of the
21 assets it had inherited. The following features need to be
22 noted.

23
24 See under line 5(a), cash transferred was just over
25 \$9.4 million. Line 6(a), the land and buildings
26 transferred were estimated as being worth around
27 \$25 million. The property, plant and equipment in lines
28 6(b) and (c), which seem to be combined for some reason,
29 whilst valued by the previous administration at around
30 \$34 million, had by then been revalued at almost
31 \$102 million.

32
33 Can I begin by way of background to address the
34 financial performance of the council since 1 July 2016 by
35 focusing on the income statement. Could we bring up,
36 please, NIRC.PUB.0001.0135_118. This is the income
37 statement for the first year. So, this is 12 months after
38 transition, 30 June 2014. We see four principal forms of
39 income: rates and annual charges of \$1.153 million, user
40 charges and fees of \$12.241 million, other income of
41 \$4.570 million, and grant and other contributions of just
42 over \$4 million.

43
44 If we could go to page 0133, you will see there that
45 the rates and annual charges are broken up into four
46 categories: residential, farm land, business and the
47 absentee landowners levy, and two categories of other

1 charges, waste and sewerage.

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

15
16 If we could go, please, to page 136, you will see
17 there the break-up of Commonwealth grants in that
18 first year, the substantial income being \$1.966 million
19 referable to the Commonwealth service delivery agreement
20 which provides a formula for payment to council in respect
21 of the state-based services delivered by the council.
22 They're delivered on a fee-for-service basis and they're
23 the fees or they're the activities which were outlined in
24 the table I referred to earlier.

25
26 If we go to page 135, this is the other revenue, the
27 third category of revenue that I previously referred to;
28 that's a figure of \$4,570,000. You will see there that the
29 most significant feature of the other income is the liquor
30 bond, council effectively having a monopoly on the
31 importation of liquor to the Island.

32
33 "Tanalith services", another term that perhaps people
34 on the mainland may find confusing, it refers to a form of
35 wood treatment used on the Island. The KAVHA is a
36 reference to the Kingston and Arthur's Vale Historic Area,
37 which is the World Heritage site located substantially on
38 the southeast corner of the Island.

39
40 If we could turn to page 137, and here we will see the
41 expenses from continuing operations, and we see there that
42 the largest expense of the council are the salaries and
43 wages of its employees, their leave entitlements and
44 superannuation as well as raw materials.

45
46 Significantly, for the year ended 30 June 2017,
47 despite a budget estimate which predicted a \$4.2 million

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

2
3 If the table could then be displayed. Let me explain
4 what this table is. What I have just done is taken you,
5 Commissioner, through the figures for 2017 to give you an
6 idea of where the income comes from and where the
7 expenditure goes. These figures record the performance,
8 both actual and the annual budget, over the next three
9 years: 2018, 2019 and 2020.

10
11 The following points emerge from these figures, all of
12 which come from the audited accounts of the council for
13 those years, together with the draft statements for 2020.
14 The 2020 figures have not yet been audited.

15
16 The first thing to note, if you go to the top
17 right-hand corner of the page, there is a significant drop
18 off in the 2020 revenue associated with the impact of the
19 Covid-19 pandemic. Is there a way in which we can focus on
20 the top, the four ochre-coloured boxes at the top? I'm
21 hoping people can read that. For those that can't read it,
22 let me assist. We slide across so that we can get the top
23 right-hand section. Is that capable of being read? Can
24 you read that? We'll try and get that a little bit larger,
25 if we can, and slide across. How about that? Okay, have
26 you got that? Good.

27
28 There was a significant drop in actual rates and
29 annual charges from 2019 to 2020, a drop of nearly \$300,000
30 in the actual figures. There was a difference with the
31 2020 budget, as you can see, between \$1.75 million and
32 \$1.381 million.

33
34 There was a similar but even more concerning drop in
35 the other revenue for the user charges and fees. You will
36 recall that in 2017 that was around \$12 million. By 2019
37 it had reached \$13.9 million. The budget, curiously and
38 we'll find out why, predicted \$17 million for that year but
39 when COVID had its impact commencing in February 2020 the
40 final figure was around \$12.279 million.

41
42 The other revenue elements, if we could perhaps go
43 back out, you will see there that the 2020 figure was about
44 \$4.566 million as against a budget of \$5.3 million, but
45 largely the other income remained relatively stable over
46 the four years that are recorded. Operating grant income
47 reflected the budget; you will see that in what's being

1 highlighted there. So, the budget for operating grants was
2 \$8 million and that's what was delivered.

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

12
13 Thirdly, the capital grants from the Commonwealth vary
14 from year-to-year and differ markedly from the budget for
15 each year. Of the roughly \$54 million in capital grants
16 over the four years, \$43 million was for the resurfacing of
17 the airport runway; the remainder included grants through
18 the Building Better Regions Fund, including for
19 telecommunications projects. I'll come back to the airport
20 grant and the issues surrounding the airport shortly.

21
22 Before doing so we wish to address the cash position
23 of the council over time. In this respect it is to be
24 recalled that on 1 July council had cash or cash
25 equivalents in investments of about \$9 million. By the end
26 of that year the figure had increased to around
27 \$13.2 million. By the end of 2019 the figure had increased
28 to \$17.8 million. Finally, at the end of 2020, the figure
29 had reached \$25.3 million. Those figures, however, hide a
30 disturbing truth about the cash reserves of council. Those
31 reserves have gone through at the broadest level of
32 generality a significant and rapid decline in the years
33 leading up to 30 June 2020.

34
35 If we draw a line in the sand at the end of the 2020
36 financial year the picture painted by the accounts was
37 concerning to say the least. Although at that point
38 council held \$25.3 million in cash investments, the vast
39 bulk of the funds were restricted and committed to specific
40 projects and liabilities. In fact, the accounts
41 demonstrate that the cash available to fund council's
42 day-to-day operations had been reduced to only \$646,000.

43
44 Let me say something about what it means to have a
45 restriction on the cash available to council. There are
46 essentially two types of restrictions: firstly, at that
47 time \$12.6 million was externally restricted, it

1 represented unspent Commonwealth grant funding for the
2 airport pavement repair and resurfacing project, some work
3 on a desalination plant, a hospital generator and airport
4 security equipment. That money could only be used for that
5 purpose.
6

7 Secondly, internal restrictions applied to
8 \$12.1 million of the council's cash and investments. These
9 restrictions concerned unpaid employee leave entitlements
10 and other monies for which the council was contractually
11 bound, including \$4.2 million to complete the airport
12 pavement repair and resurfacing project. Pausing there,
13 this was the council's contribution to the cost of that
14 project. The Commonwealth grant of \$43 million, you will
15 hear shortly, was not enough to complete that project.
16 Council had to dip into its cash reserves to pay for that
17 project.
18

19 There was also \$3.9 million for which the council was
20 bound in respect of roadworks that were carried out in
21 conjunction with the airport project by the same
22 contractor, Boral. Finally, \$734,000 was set aside for the
23 future proofing telecommunications project.
24

25 Pausing there, it's to be recalled, and I've said it
26 already twice but it's important to note that council held
27 unrestricted cash and investments of \$9.1 million when it
28 was created. A year later it had increased to
29 \$12.425 million. By 30 June that figure was \$10.5 million.
30 On 30 June 2019 the figure was \$11.47 million. So, over
31 the 12 months to 30 June 2020 effectively all of the
32 unrestricted cash reserves of the council were virtually
33 depleted. That result is reflected in this table and graph
34 prepared by Nexia who were tasked with conducting a
35 performance audit of the council including that of the
36 council's financial performance for the period 1 July 2016
37 to 30 June 2020.
38

39 If we could bring up that document, and if we go to
40 exhibits 10 and 11, if we could highlight those.
41 Commissioner, there you can see in stark terms the
42 evaporation of the unrestricted cash position of council,
43 so that by 2021 there is effectively only a minimal amount
44 of cash available. How council got to that position is a
45 major focus of this inquiry. The position was so dire that
46 the Commonwealth was forced to make a one-off cash grant of
47 \$3 million in December 2020.

1
2 I now wish to turn to council's management of its
3 non-cash assets: the buildings, infrastructure, airport,
4 roads, telecommunications systems, sewerage, sewerage and
5 waste management system, water, and electricity.
6

7 Each of these assets had, prior to the establishment
8 of the council, been purchased, maintained and operated by
9 the administration of Norfolk Island, with the maintenance
10 of the airport in part funded through an earlier loan by
11 the Australian Government in 2003. This council has a
12 broad area of responsibility and a wide asset base. It is
13 tasked with delivering the majority of the government
14 services required by all of the residents.
15

16 When, on 1 July 2016, they became the assets of the
17 council almost all were primarily in poor or fair
18 condition, with most having a remaining useful life of only
19 one to two years. The state of the telecommunication and
20 electricity assets in particular were in need of critical
21 investment. There was also already an identified need to
22 invest in new assets, in particular relating to sewerage
23 and waste management to improve sustainability.
24

25 A report by Preston Rowe Paterson commissioned and
26 prepared during the transition period found that as at
27 30 June 2015 the value of the administration's assets were
28 \$63,702,000. That's the figure that was contained in the
29 table I showed you earlier. That report also referred to a
30 replacement cost of around \$246 million.
31

32 A subsequent report prepared by Australis that was
33 commissioned by the council at the end of 2016 and came in
34 in May 2017 revalued the assets so that as at 30 June 2016
35 they were ascribed a value of around \$110,950,000. Despite
36 that increase in their value the cost of replacement
37 actually went down to \$193 million.
38

39 A further report was recently undertaken by Australis
40 issued in January 2021 which found that the asset value as
41 at 30 June 2020 was \$153,540,000. The increase from
42 \$110 million was largely attributable to the increased
43 value of the airport infrastructure. The estimated
44 replacement cost was \$241,979,000.
45

46 In the face of that sort of set of numbers council was
47 from the start faced with three alternatives: (1) it could

1 spend large sums to replace the failing or already failed
2 assets in a short timeframe; (2) it could spend large and
3 increasingly large sums to maintain the assets in their
4 present state for as long as possible; or (3) spending only
5 the funds that were available to it resulting in the
6 further decline of the assets and likely critical failure
7 within a short period.

8
9 It would appear from the documentation, and it will be
10 something that we will explore with the witnesses during
11 the course of this week, that council was aware of the poor
12 state of the assets and of those financial implications and
13 of the limited options available to it.

14
15 Staff who had previously been involved in the
16 administration continued to be involved in the governance
17 of Norfolk Island as part of the council and therefore
18 brought with them some degree of corporate knowledge of the
19 state of the assets.

20
21 The council also inherited from the administration
22 various records relating to asset maintenance and
23 management, including strategic plans which had been
24 prepared to improve waste management and
25 telecommunications.

26
27 More broadly, it would appear there was a general
28 understanding in the community as to the state of the
29 assets of Norfolk Island. One could not have any
30 misapprehension about the state of the roads of Norfolk
31 Island unless one did not leave the house: the roads were
32 in a terrible state of repair.

33
34 Throughout late 2016 and early 2017 the council
35 undertook the task of reviewing its asset base and planning
36 for asset management. You will hear some evidence about
37 the state of the asset management plans at that time. This
38 led to the new asset valuation which I previously referred
39 to; that was prepared in conjunction with the preparation
40 of the long-term financial plan, new asset management
41 plans, and new operational plans as required under the
42 Local Government Act.

43
44 The 10-year asset management plans for the council's
45 assets were finalised by 11 December 2016. These also
46 informed the 10-year long-term financial plan which was
47 adopted by council on 21 December 2016. Both plans

1 recognised that the council assets were in a poor state and
2 that records were limited, potentially increasing council's
3 reliance on grant funding, thereby limiting the capacity of
4 council to manage, maintain and invest in its assets.

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

12
13 The strategy adopted in the light of this by council
14 in late 2016 was to seek Commonwealth assistance by way of
15 capital grants to short track funding for the urgent needs
16 of the Island, and to seek Commonwealth assistance by way
17 of an increase in the annual financial assistance grants to
18 fund ongoing operational and maintenance expenses
19 associated with the assets and to adopt a break-even
20 position for the core business services associated with
21 critical assets.

22
23 Under the adopted fully costed plan the council
24 envisaged a small surplus in the operating result for
25 each year and a build up of cash reserves which could
26 subsequently be used to fund future large-scale asset
27 projects including the foreshadowed airport project then
28 projected to be required in 2020/2021.

29
30 Despite resolving to adopt that 10-year fully costed
31 plan, there was an almost immediate departure from those
32 plans in the budget adopted for 2017/2018. In addition,
33 the level of grant funding, both operational and capital
34 which the 10-year plan was premised upon the council
35 receiving was not received and in some cases had not even
36 been applied for in financial years ending 30 June 2017 and
37 2018. This resulted in a significant shortfall between the
38 budgeted and actual outcome.

39
40 Although grant applications were made by the council
41 for telecommunications and waste management assets, the
42 telecommunications grant was not approved until late 2018,
43 and the waste management application was refused and is yet
44 to be funded. The absence of a risk management process and
45 alternative steps and/or ability to raise revenue had the
46 consequence that, without a successful grant, the council
47 could not fund assets properly both in terms of maintenance

1 and replacement.

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

10
11 In addition, the own source revenue by which the
12 budgets were premised on was not received in full by the
13 council, in part due to decisions that were made not to
14 increase the costs of those services and in part due to the
15 overestimation of the value of that revenue. Further,
16 there were unforeseen circumstances and there was a failure
17 to recover unpaid service charges.

18
19 Together, all of these departures from the long-term
20 financial plans had the consequence that council's cash
21 reserves did not increase in the manner foreseen and the
22 investment in asset renewal, replacement and maintenance
23 did not take place. Two critical exceptions to this are
24 the airport runway project and the additional road
25 surfacing works in 2020 and 2021 which were effectively
26 funded from cash reserves.

27
28 The situation in 2021 therefore is that the assets
29 largely remain in a fair condition although fewer are in a
30 poor state and urgent asset renewals remain a priority.
31 Without substantial capital investment and ongoing
32 consistent sources of funding, whether through own source
33 revenue or otherwise to meet maintenance and operational
34 costs, the asset position of Norfolk Island will continue
35 to decline and improvements will be made only at the point
36 of critical and emergent failure.

37
38 In these hearings a major focus of the evidence will
39 be about uncovering evidence relevant to how council came
40 to be in that position. The answer to that question, we
41 submit, is likely to reveal important aspects of how the
42 council and the governing body approached their
43 responsibilities under the Act.

44
45 I now turn to the Norfolk Island Airport and related
46 matters. If there is one asset the recent history of which
47 touches and concerns nearly all aspects of Norfolk Island's

1 financial position it is the Norfolk Island Airport.
2 Following a request from the US Army Air Force in August
3 1942 for an aerodrome upon which heavy bombers could land,
4 the New South Wales Civil Constructional Corps, assisted by
5 Island residents, completed the first east-west runway by
6 the end of that year. That enabled Royal New Zealand Air
7 Force planes to land there, the first of those was on
8 Christmas Day 1942. That was a very quick turnaround for
9 such an important project. By February 1943, the second
10 runway was completed.

11
12 Fast-forward to 2017, the Civil Aviation Safety
13 Authority determined that there were deformities in the
14 runway of the Norfolk Island Airport that meant that both
15 runways required resurfacing.

16
17 On 13 February 2019, the Commonwealth issued
18 guidelines for a one-off grant program for this project.
19 The grant opportunity was expressed to provide up to
20 \$43 million over three years to resurface the runway and
21 apron and so as to address the relevant safety observations
22 identified by CASA in 2017.

23
24 I note the cap of \$43 million. We wish to explore how
25 it came to be that that cap was \$43 million because, as
26 events transpired, the cost of attending to these matters
27 was, at least from the council's perspective, and it's
28 significant in that respect because the council had to bear
29 that excess, substantially more than that.

30
31 In terms of the grant guidelines stated that the
32 maximum amount of the grant and the proportion of eligible
33 expenditure covered by the grant, known as the grant
34 percentage, were of the order indicated previously. The
35 grants went on to state:

36
37 *We will not exceed the maximum amount of*
38 *the grant under any circumstances. If you*
39 *incur extra costs you must meet them*
40 *yourself.*

41
42 The "you" in that document or in that phraseology is
43 the council. Only the council could apply for this grant,
44 only the council could be paid this grant, it was the
45 council's responsibility to pay the contractor. The grant
46 agreement provided that the total amount of the grant was
47 \$43 million and that it would provide up to 96.73% of

1 eligible expenditure. So, the Commonwealth was effectively
2 leaving it to the council to pay for just over 3% of the
3 eligible expenditure that was indicated at that time. The
4 agreement stipulated the total eligible expenditure was
5 \$44,619,450. So right from the start, at the very least,
6 council was liable for \$1.6 million.

7
8 Tenders were called for. In November 2018 Boral
9 Resources Queensland Pty Ltd submitted a tender to the
10 council covering two options when it came to the sourcing
11 of the aggregate that were required to complete the
12 project. Option 1 assumed aggregate being sourced on
13 Norfolk Island, whereas Option 2 involved imported crushed
14 aggregate. The tender price for Option 2 was
15 \$4.898 million.

16
17 In the case of Option 1, Boral had this to say under
18 the heading, "On Island rock":

19
20 *Boral is Australia's largest quarry*
21 *operator and has the resources and*
22 *experience to implement an on Island rock*
23 *solution utilising the Cascade Quarry.*
24 *Boral would assist with obtaining the*
25 *development approval by the council. In*
26 *the interim Boral will properly investigate*
27 *the geology and prepare a professional mine*
28 *development plan in preparation for*
29 *developing the quarry.*

30
31 *This option would not only save a*
32 *considerable amount of money but leave*
33 *Norfolk Island Regional Council with a*
34 *useful, commercially viable working asset*
35 *to continue with Island infrastructure*
36 *works and community development. The full*
37 *savings of this option will be determined*
38 *after investigations were completed but*
39 *would be in the order of \$1.7 million and*
40 *potentially up to \$5.9 million depending*
41 *upon the biosecurity requirements for the*
42 *import of rock.*

43
44 In the case of Option 2, significant because that is
45 the option that was implemented, Boral qualified the tender
46 by indicating that, in the case of biosecurity for the
47 aggregate and sand sourced from the mainland, it estimated

1 that the price of sterilising, bagging and importing
2 aggregate and sand was a further \$4.2 million.

3
4 It stated:

5
6 *There is no price for any biosecurity*
7 *compliance for quarry products and natural*
8 *sand on Boral's conforming offer. When*
9 *biosecurity compliance requirements are*
10 *fully known this will be assessed and*
11 *priced as a variation.*
12
13

14 Subsequently, on 20 February 2019, council considered
15 the project and passed a resolution that appeared to accept
16 the Boral tender subject to certain conditions. The
17 resolution was in these terms: council accepted that Boral
18 be awarded the contract as the single source supplier to
19 the Norfolk Island Regional Council for the airport
20 pavement repair and reconstruction project on the condition
21 that the option to use local rock is fully explored by
22 Boral, that council seeks ministerial approval to expedite
23 extractive industries at the existing Cascade Reserve and
24 Youngs Road Quarry site, and that, if the expedited
25 ministerial approval cannot be obtained by 31 March 2019,
26 then the recommended tender will proceed.
27

28 Finally, council resolved to contribute any shortfall
29 of funding for the project over and above the funding
30 provided by the Commonwealth of Australia. Then these
31 words appear:

32
33 *... by way of a loan from the Norfolk*
34 *Island International Airport government*
35 *business enterprise.*
36

37 That's a matter we will be raising with the witnesses
38 during the course of this week because it does not appear
39 that any such loan was ever entered into; it does not
40 appear that the Norfolk Island International Airport
41 government business enterprise had any separate legal
42 entity or had any separate access to funds or cash reserves
43 to provide a loan in those terms.
44

45 At the same meeting council received two of the
46 regular monthly investment reports from its financial
47 officers: one for December 2018 and one for January 2019.

1 They indicated that, as at 31 December, council held
2 \$16.3 million in cash or term investments, that only
3 \$9.6 million of that was unrestricted. By 31 January, the
4 unrestricted figure had grown to just over \$10 million.
5

6 Moving ahead to June 2019, Boral reported that
7 following its investigation into the source aggregate on
8 Norfolk Island stated that testing had indicated that the
9 material in the target area, the existing Cascade Quarry,
10 failed to meet the standard for manufacturing asphalt for
11 airport purposes.
12

13 The end result was Option 2, meaning all aggregate for
14 the project had to come from the mainland, none of the
15 savings associated with quarrying on the Island could be
16 achieved, and by 20 February 2020 the estimated total
17 expenditure on the project had grown to \$48,568,000. This
18 meant in short that the council was required to fund
19 \$5.5 million to complete the airport resurfacing.
20

21 It should, however, be pointed out in this respect
22 that there was a significant liquidated damages claim made
23 by Boral in respect of delays caused by the COVID pandemic
24 of the order of \$1 million which in the circumstances was
25 unavoidable.
26

27 There was, however, a further matter that also weighed
28 heavily on the cash position of the council. Operating in
29 parallel with the airport contract was a second contract
30 whereby the presence on the Island of Boral was seen as an
31 opportunity to carry out long overdue road repairs.
32

33 If we could perhaps display NIRC.PUB.0001.0227_0022,
34 and we go to Resolution 141, please. There's the
35 resolution. You will note the reference to
36 section 55(3)(i) of the Local Government Act, I'll come to
37 that in a minute, but this was approval of expenditure of
38 \$5,065,000 in two budget years from existing cash
39 reserves - so, it's expressly referred to the cash position
40 of council - to reseal just over 9 kilometres of roads
41 using Boral's asphalt plant while it was on the Island and
42 the particular roads to be resurfaced were indicated.
43

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

1 the present instance.

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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

7 MR BOLSTER: Commissioner, I'm ready to proceed with
8 Mr Roach, if that's appropriate?

9

10 THE COMMISSIONER: That's fine, we'll have a break at
11 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

19 MR BOLSTER: Q. Do you have a glass of water there,
20 Mr Roach?

21

22

23 Q. I think, perhaps if we could get Mr Roach a bottle of
24 water. If you could perhaps just lean a little closer to
25 that microphone. Your full name is Andrew Blair Roach?

26

27

28 Q. You are currently employed as the general manager of
29 Norfolk Island Regional Council?

30

31

32 Q. You have prepared a statement dated 24 May 2021?

33

34

35 Q. There are various documents attached to that
36 statement?

37

38

39 Q. Are the contents of that statement true and correct to
40 the best of your knowledge, information and belief?

41

42

43 MR BOLSTER: Commissioner, if Mr Roach's statement could
44 be displayed.

45

46 Q. You'll see in front of you a copy of your statement?

47

A. Yes.

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

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

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

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

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

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

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

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

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

1 vision of what I could bring to the Island.

2

3 Q. What was the vision that you communicated to them
4 before you arrived on the Island to take up the position?

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

19

20 Q. When you then arrive on 6 January, what was the state
21 of council? What stood out to you as a general manager
22 taking up the role, what stood out to you as being the
23 status of the council itself?

24 A. There was a lot of challenges that lay before the
25 council itself. There was a number of contracts that had
26 been entered into that needed to be delivered, a lot of
27 commitments that needed to be done in a short period of
28 time, and that would have required significant amount of
29 management to ensure that we can meet our obligations
30 through those contracts, whether it was for the airport,
31 for the roads, the telecom upgrade to the 3G/4G and a
32 number of other small tasks that lay before it. So, I saw
33 a significant challenge and one also to work out how best
34 to deliver that from the model that we had before us.

35

36 Q. Were you familiar with the recent history of the
37 Island and the background to the transition to the council
38 when you arrived?

39 A. I was - I had some knowledge, obviously, doing some
40 research myself before I took the job on, but it was best
41 to say that the first few months that I was skilled in by
42 locals about what had transpired over the previous three to
43 four years.

44

45 Q. Perhaps we'll come to that in a moment. You say in
46 paragraph 19 of your statement that you developed a good
47 understanding of council's operations. When do you think

1 you obtained that good understanding?
2 A. Probably within the first few months, it would have
3 been mid-February. I spent a lot of time reading existing
4 reports and I met with all of the elected members in the
5 first few weeks that I was here to get their views on
6 things. I also met with all the senior staff and we headed
7 towards, I suppose, middle of February where I sat down
8 with council to develop an action plan as such to say what
9 we would do for the next three years of my tenure.
10
11 Q. At paragraph 123, you refer to a 5 February workshop
12 with councillors; was that a workshop that you called to
13 talk to them?
14 A. Yes, it was.
15
16 Q. What was the purpose of that workshop? Was there
17 something that you'd identified that you felt that you
18 needed to communicate with them, or was that more of
19 establishing some sort of collaborative process for working
20 together in the future?
21 A. It was probably a bit of both. It was what I
22 distilled in all of the meetings that I'd had to date and
23 applying my local government experience to work towards a
24 collaborative approach that I could work with the elected
25 members to say, this should be our focus for the next three
26 years, and we came up with a nine-point plan.
27
28 Q. By that stage were you on top of the council's
29 financial position?
30 A. I wouldn't say on top of; I was starting to become
31 aware of some of the challenges that sat within the
32 financial system.
33
34 Q. What were the impediments for you getting an
35 understanding to the council's finances in that sort of
36 first month-to-month and a half? What was the office of
37 the council accounts, to put it in general terms, what was
38 that office like, how was it operating?
39 A. At that stage it was quite disorganised when I arrived
40 because the CFO that was in place resigned within the first
41 week of me commencing at council, and with that there was
42 a, best to say, a vacuum of knowledge for quite a period of
43 time until we could bring in some resource to actually
44 start to pull together the information I needed to
45 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
8 Q. Can I ask why it took that long? What was the problem
9 with the records? I mean, there was a computer system in
10 place that should have been able to indicate where you
11 were; why did it take till April?

12 A. An interesting point, that I bought a financial
13 resource onto the Island in February to help pull together
14 the first quarterly budget review - sorry, the second
15 quarterly budget review which was December, and when he
16 arrived we couldn't find an electronic copy of the first
17 quarterly budget review which was done by the former CFO,
18 it wasn't in council's records anywhere, so for the first
19 week that resource had to reconstruct the quarterly budget
20 review which was September 19, and then he had to do
21 the December quarterly review.

22
23 So, it was trying to piece together information that
24 wasn't there that should have been there. If you're in any
25 other local government organisation you could walk in and
26 be given a set of statements or a set - you know, a set of
27 financial records and it was quite easily or readily
28 available, but it wasn't here so I required some people to
29 come in and help pull that together.

30
31 Q. From your experience, how unusual or usual is that
32 result? Is that something you were expecting when you
33 landed on 6 January?

34 A. No, it was not, highly unusual, and it certainly made
35 my task extremely difficult.

36
37 Q. So, if my memory serves me, the December quarter
38 budget review was only made available in March; that sounds
39 about right, doesn't it?

40 A. That's correct.

41
42 Q. Ordinarily, you'd expect that in at the end
43 of January?

44 A. No later than the middle of February, so six weeks.

45
46 Q. And you'd report to council the result of that for the
47 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
11 Q. What was the feature that stood out to you when you
12 got the half-yearly in March?
13 A. Significant commitments for council that were heading
14 in a particular direction to say, you know, we were
15 spending all of our cash, our unrestricted cash.
16
17 Q. Let's just pause there and go back to early February.
18 You signed a contract with Boral for the roads project.
19 How was that issue relayed to you by your staff? How did
20 you come to sign that contract, is effectively what I'm
21 asking?
22 A. Yes. One, there was a Council resolution to head down
23 that way, and you'd understand that my role as general
24 manager is to enact Council resolutions, so that was the
25 obvious underlying commitment there.
26
27 Secondly, I was given a semblance of confidence that
28 council committing towards this project was covered within
29 existing frameworks - of existing funding frameworks of
30 council.
31
32 Q. It's implicit though, from what you've said, that you
33 didn't know what the cash position was?
34 A. No.
35
36 Q. You understood that you were bound to sign the
37 contract. Did that make you feel uneasy?
38 A. Yes, it did. Yes.
39
40 Q. Did you raise that with the councillors?
41 A. Not directly. We had several conversations about our
42 commitments around the airport - was primarily the
43 commitments over and above the grant amount but not
44 necessarily the roads. We probably had more conversations
45 about the roads later in the fact, more as a result of
46 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
6 Q. April/May, all right. I take it that, when you signed
7 the roads contract, you knew how the airport contract was
8 tracking?
9 A. Yes, at that stage that was all pre-COVID and
10 everything was sailing along nicely as far as the delivery
11 of that commitment.
12
13 Q. When it was put to you by your staff that, well,
14 last year in July Boral spoke to us, said look, while we've
15 got the machinery and the equipment here we can resurface
16 the roads. They gave a tender; you saw that, I take it?
17 A. A price, not a tender; it didn't go through a tender
18 process.
19
20 Q. No, correct.
21 A. That's right.
22
23 Q. I stand corrected. They gave you a price of around
24 \$5.3 million; that's the price that was embedded in the
25 contract, and the works were carried out in 2020 and 2021
26 split between the two years; correct?
27 A. I think most of the works were completed in 2020.
28
29 Q. In 2020?
30 A. Yeah, because they he - they demobbed or debunked from
31 the Island in October.
32
33 Q. In October. Had they started any of the road work
34 before the contract was signed?
35 A. No, not to my knowledge.
36
37 Q. In your statement you refer to being given a tour of
38 all the assets by the staff, other general managers?
39 A. Yep.
40
41 Q. We'll come back to all the other assets in due course,
42 but when it came to the roads did you do the drive around
43 the Island?
44 A. I did.
45
46 Q. Having been involved in local government on the
47 mainland, what was the impression that you took away from

1 that when you saw the roads?
2 A. I hadn't seen such a poor state of road network, for a
3 complete network, anywhere else that I'd worked previously,
4 and I did say that during my interview process and I think
5 a tongue-in-cheek comment was, "That's some of the charm of
6 the Island", but I went - I just didn't agree. They were
7 very poor state of roads.
8
9 Q. So you could understand why council wanted to do
10 something about the roads?
11 A. Yes.
12
13 Q. So, at the time you signed the contract to do
14 something about the roads, what was your understanding
15 about the cash shortfall on the airport runway itself? Was
16 that something that was known to the corporate and
17 financial team within council?
18 A. Yeah, so as soon as council committed those funds to
19 it I understood that their commitment was \$49 million,
20 which included some grant funding, so I was aware of that
21 from the process, but at the same time the signing of the
22 contract in February was all pre-COVID, so it was all prior
23 to changes that were coming towards the council in loss of
24 revenue.
25
26 So, it would have been tight, but it's always
27 manageable, and I've been in many similar circumstances in
28 councils across Australia where you need to - you need this
29 particular asset so things are going to be tight for a
30 number of years, so I was aware that I was giving myself a
31 challenge for the next three years of keeping things tight.
32
33 Q. The resolution made very clear that the road project
34 would be funded out of cash reserves of council; correct?
35 A. Yes.
36
37 Q. The airport contract made it clear that council would
38 have to fund the shortfall around five, potentially six,
39 even more, million dollars from cash reserves; correct?
40 A. Correct.
41
42 Q. Do I take it, you knew that the unrestricted cash
43 reserves as at 30 June 2019 were of the order of
44 \$11 million?
45 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

4 Q. Did you provide any formal warning to the councillors
5 about the risk of that or did you take the view that you
6 were effectively bound to proceed with the road contract?

7 A. The latter.

8

9 Q. Thank you. Things had changed by 23 June, hadn't
10 they?

11 A. They certainly have.

12

13 Q. Let's pause at 23 June. I choose that date because
14 it's the day before a council meeting where a formal
15 resolution was passed concerning audits being obtained.
16 You recall that?

17 A. Mmm-hmm.

18

19 Q. The day before you had a meeting with councillors. I
20 take it staff weren't in the room, it was just you and
21 councillors?

22 A. I'd say, yes.

23

24 Q. What was the purpose of that meeting? What was the
25 message that you sought to convey to councillors?

26 A. I don't have my notes here in front of me for 23 June.

27

28 Q. Had you prepared notes?

29 A. No, no, but I take notes of all my meetings that I've
30 had with council, so could you remind me again what words
31 you're looking for there?

32

33 Q. Well, this is the day before council passed
34 resolutions to appoint Nexia and Grassroots effectively to
35 come in and carry out, in the case of Grassroots, a full
36 governance audit, and in the case of Nexia a full
37 accounting audit. So, a significant step, not something
38 that general managers of council ordinarily do, can I
39 suggest; I would suggest you've never had to do that
40 before?

41 A. Yes, that would be correct.

42

43 Q. And, in doing that, you were seeking to invoke powers
44 under the Local Government Act; it was a statutory audit,
45 wasn't it?

46 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
11 Q. Lockdown.

12 A. Lockdown, and I safely worked nearly every weekend I
13 think during that 14 weeks because I was here and probably
14 met with either the Mayor or Mayor and councillors quite
15 regularly on weekends all the way through that period where
16 we were discussing our ever-changing position of the
17 council, and it was a wide-ranging number of topics, but
18 eventually we got to that point where the council
19 themselves were the ones calling for the external audit
20 based around a number of challenges the council had faced;
21 so, whether it was governance or finance, but that's where
22 we got to that point.

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

26
27 *On 23 June 2020 I held a meeting with the*
28 *Mayor and councillors recommending [it was*
29 *your recommendation] that an independent*
30 *external audit into council's operations be*
31 *conducted.*

32
33 My question is, why? Why did you tell councillors,
34 before the meeting the following day, that that's what you
35 wanted to do? What had you seen/discovered/uncovered that
36 lead to that action?

37 A. I suppose the paragraph above highlights kind of why I
38 recommended to councillors following the audits conduct
39 they found 113 improvements that were required, so these
40 are quite varied; but, why did I do that? Because we'd had
41 a number of conversations over a period of time beforehand
42 that we wanted to fix the council, you know, we wanted to
43 fix how the council operated in its governance framework so
44 that we could get better outcomes and better decisions
45 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

6 Q. What was it about the financial position on 23 June
7 that needed to be fixed?

8 A. I had a very good feeling that we would run out of
9 cash.

10

11 Q. Where did that feeling come from?

12 A. From a discussion I had with the council around the
13 cash position. If we continued on the current trajectory
14 we would be minus \$7 million in cash by 30 June 21. We had
15 to correct our position at that point right there and then
16 to make significant cuts to services and changes to revenue
17 streams so that we could bring the budget back into a zero
18 balance.

19

20 Q. What do you recall was the reaction of the councillors
21 when you conveyed that to them on 23 June?

22 A. Significant concern, worry, and in the end I can say
23 that they were all on board in that path to try and fix the
24 council's financial position.

25

26 Q. When you say that you've told them that the council
27 could run out of money, did you give them an indication of
28 what the figure was, how it had been derived and what it
29 meant?

30 A. Yeah, I got on a whiteboard and I put up all of the
31 figures across - basically, it was a projected cashflow,
32 and saying that this is our existing commitments, employee
33 costs et cetera, pretty much what you did this morning, and
34 showed them on the whiteboard and I said, "This is what it
35 needs to be." So, if they continued on this existing path
36 we'd have minus \$7 million in the bank.

37

38 Q. But you saw what Nexia had to say about the cash
39 position?

40 A. Yes.

41

42 Q. And you don't take any issue with that?

43 A. No, I do not.

44

45 Q. When did that position first become apparent to you?
46 Am I right in thinking that you had a fair idea that that
47 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
5 reconciling that with my staff first and then having a
6 number of conversations with councillors that led to the
7 23 June meeting.
8
9 Q. The staff that you talked to and who were on board
10 with that, who were they?
11 A. At that stage it was primarily a contract accountant,
12 Roger Neilsen, and that's probably about it, was basically
13 between Roger and myself. The other managers were all
14 involved and were aware, but primarily the financial
15 conversations were between Roger and I.
16
17 Q. When did you communicate the cash shortfall with the
18 staff? Did you discuss that with them - with your managers
19 I mean - did you discuss it with them before you spoke to
20 councillors?
21 A. Yes, to ensure that the position I distilled with
22 Roger was accurate before I took it to council. So, we'd
23 have weekly management meetings and, I can't remember the
24 exact date, but it would have been sometime during May that
25 we started to talk.
26
27 Q. And I take it, one of the issues that you needed to
28 talk to your managers about was that this was going to mean
29 loss of employment in the council?
30 A. Yes.
31
32 Q. Was that raised early on before you spoke to
33 councillors?
34 A. Yes, we started speaking about that quite early in the
35 piece, in May.
36
37 Q. When do you think that was?
38 A. It would have been early May that we started, because
39 I - you know, not knowing the organisation, only being
40 there three or four months, not knowing it as well as my
41 managers who had been there several years, I had to engage
42 with them to start finding parts of the organisation that
43 we could do without.
44
45 Q. When did Mr Neilsen come onto the Island?
46 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
5 accounts, was it?
6 A. Yeah, and finding the cash position because I had a,
7 yeah, pretty strong feeling by that stage that we were
8 headed in the wrong direction.
9
10 Q. The cash position is - not being an accountant, and I
11 do apologise if I get this wrong - the cash position is
12 really derived by what you've got in the bank and what
13 you're bound by?
14 A. As simple as that, so --
15
16 Q. And, why was something as simple as that as hard as
17 you're indicating to ascertain?
18 A. So, our financial systems are not particularly good
19 here at council. We're currently working on trying to fix
20 that right now, we have a number of contractors on Island
21 trying to fix things as simple as our ledger, but we have
22 difficulty pulling information out and them balancing, so
23 things that you would rely upon in other council
24 jurisdictions, you just can't rely upon here.
25
26 Q. In other jurisdictions, you're the general manager and
27 you walk to your corporate and accounts section; is it a
28 matter of them going to a computer to identify the cash
29 position on a particular day? Is that the way it is
30 normally?
31 A. Pretty much. You can rely upon at least having by the
32 end close of day - if you requested something by close of
33 day you would have your cash position.
34
35 Q. The general manager role typically, does that involve
36 a regular, whether it's daily, weekly, fortnightly
37 reporting of cash position?
38 A. Not normally. You know, you have chief financial
39 officers and finance managers for those sorts of things,
40 that's what you engaged, but this council has had a number
41 of CFOs in a very short period of time, so high turnover;
42 extremely high turnover in financial staff, so there's a
43 lack of corporate knowledge and that required probably more
44 involvement or more oversight from me than I would have
45 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
6 Q. Was there debate that you recall about it?
7 A. Yeah, there was debate to the extent that each
8 councillor spoke to the subject, but they were all in
9 general agreement.
10
11 Q. Is there anything that stands out from that debate,
12 sitting there now?
13 A. No.
14
15 Q. Was there any opposition to what was being proposed?
16 A. No.
17
18 Q. Do I take it that, when you briefed councillors the
19 day before, you also addressed the issue about council's
20 income position?
21 A. I did.
22
23 Q. And the breadth of that income base?
24 A. They were fully aware.
25
26 Q. Do I take it, that would have been one of the other
27 significant matters that you raised with them?
28 A. Yes.
29
30 Q. What were the concerns about the breadth of the income
31 base on 23 June that you recall conveying to councillors?
32 A. There was often strong reliance upon external funding
33 and the fact that our fees and charges which are reliant
34 upon the travelling public had decreased and that was the
35 acknowledgment.
36
37 Q. Let's break up the areas of funding, let's talk about
38 the service delivery agreement. Were you concerned about
39 whether council was getting value under that agreement in
40 terms of a financial return for the services being
41 provided?
42 A. The services we provide were fully funded and a small
43 amount remained with the council to help pay for components
44 of, say, my salary and some of my managers, so I was
45 comfortable that the SDA is more than sufficient to deliver
46 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
8 Q. But there was little scope to increase them, was
9 there, or not?

10 A. Those fees are quite high now, they're in excess of
11 \$100 per passenger, so the movement charge is quite high.
12 There was a good example during COVID where the emergency
13 management process wanted a permit system, and you would
14 have filled that permit out to come to the Island the last
15 couple of times.

16
17 Q. Yes.

18 A. Well, that permit system cost \$65,000 and when council
19 purchased that originally we were going to put another \$25
20 fee on top of that permit - so, for that permit, which is
21 on top of the landing fees you already pay, and it went
22 through a process and the council adopted to put that in
23 place but there was some community backlash and that was
24 reversed. So, we lost that funding straight away.

25
26 Q. Let's just take that apart and do that step-by-step.
27 So, it was a proposal from staff and yourself to the
28 council to increase that fee by \$25 per head: how much
29 would that have pulled in in terms of extra revenue, do you
30 think?

31 A. It would have covered the cost of the software, which
32 was \$65,000, and a small amount more which was, from memory
33 it was about \$80,000.

34
35 Q. So, when that was put forward to council, what was the
36 result on the floor of council?

37 A. Originally it was adopted to go on public submission
38 for 28 days, and so it was supported, but towards the end
39 of that 28 day period their position had changed.

40
41 Q. What was the principle behind the decision not to
42 proceed with that, what was the argument that you were made
43 aware of?

44 A. It was strong community feedback that said - and it
45 was primarily from the tourism side of things - that they'd
46 already paid their fee, you know, they'd paid their landing
47 fee which is in excess of \$100, and we're now asking the

1 travellers to put another \$25 on a different credit card
2 transaction and it was making things more complicated and
3 could have been prohibitive to bring people to the Island.

4
5 Q. And when was this, when was this decision made?

6 A. So, the permit system I think was in place by - I
7 think we re-opened in June, 6 June or something like that
8 from memory. It was around that time and I think we were
9 trying to have the permit system in place by July. The
10 permit system was in place but the charge was not. I bring
11 that up just because we're paying in excess of \$100 and an
12 additional \$25 on top was quite a high fee.

13
14 But, to answer your earlier question is, we went from
15 having six flights a week to the Island to two, and that's
16 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
25 flights returned?

26 A. There's still only two, pretty much through
27 till October.

28
29 Q. Two from?

30 A. One from Sydney, one from Auckland.

31
32 Q. One from Sydney?

33 A. Yeah, two flights a week, and that was until I
34 think September, I'd have to check.

35
36 Q. Until September?

37 A. Yeah, I'd have to check.

38
39 Q. Let's talk about other areas where the income could
40 have been increased, let's talk about rates. I take it,
41 you're familiar with the history of arguing for rate
42 increases with the council by your predecessors?

43 A. I am.

44
45 Q. We won't go into that, that's something we'll deal
46 with at a later time with other witnesses. You formed a
47 view that the rating model needed revision, do I take it,

1 when you arrived?

2 A. I did. It was actually raised during my interview
3 process.

4
5 Q. How was that issue raised in your interview?

6 A. It was raised by a couple of councillors that, you
7 know, rates was not seen as the correct method for raising
8 revenue on the Island.

9
10 Q. Who said that?

11 A. It was said in a roundabout way by Councillor Snell
12 and Councillor McCoy during my interview process. I was
13 given a heads-up by a consultant as well to be aware of a
14 question along those lines, but yeah. So, I was aware of
15 the history operating before I came here and it's not hard
16 to see when you arrive on the Island, there's still cars
17 with posters in the back windows saying "No Land Rates."

18
19 Q. What did Mr Snell say to you about rates? I think the
20 words you used before, and I want to get it as accurately
21 as you can recall it: "Rates aren't seen as the way to
22 raise money"; was that what you indicated?

23 A. Yeah, so --

24
25 Q. What were his words?

26 A. I can't recall his words exactly, but there was a
27 feeling that rates are not the best method of raising
28 revenue here from Norfolk Island and, you know, we needed
29 to look at some other revenue-raising method to put in
30 place, so whether that was a GST-type taxation to be put in
31 place. That was often raised to me by the councillors to
32 say they raised \$7 million in the past, whereas rates are
33 only now raising \$1 million, so that in itself is a gap for
34 the government here on Island. So, they were not
35 supporters of the way rates are levied in other
36 jurisdictions.

37
38 Q. Despite that, when it comes to the budget for
39 2020/2021 you put forward a rating increase. Let's go back
40 a step. Can you tell the Commissioner, how are rates set
41 currently on Norfolk Island?

42 A. So, there's three categories of rates here at the
43 moment: residential, farm land and commercial. There's no
44 mining rate on the Island. The rate is set through two
45 parts: a base rate, which is very similar to most other New
46 South Wales areas, it's either a base rate or a minimum,
47 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

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

12

13 Q. Tell me about the homeowners. When people are away,
14 absent homeowners levy; is that still in operation?

15 A. I don't think so. It was taken out a year or so ago,
16 I think, prior to me commencing here.

17

18 Q. Are you familiar with how that particular rate
19 operated?

20 A. No, I didn't look into that, but I'm sure that some of
21 my staff could answer that.

22

23 Q. Was that ever raised by councillors as an option to
24 broaden the rate base?

25 A. Not during my time.

26

27 Q. Was that something that had been raised by your staff
28 with you when you were thinking through options to be
29 brought in place?

30 A. No, that hasn't been brought up.

31

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

34 A. Yep, 21/22?

35

36 Q. No, no, as you approached 30 June 2020, having had the
37 meeting on the 23rd, you put forward changes to the rates
38 to meet the pressing cash position, the cash position that
39 had led councillors to move for a full audit and a
40 governance audit, what was the practical effect of the
41 rating change that you put forward?

42 A. So, it was still quite conservative what we put
43 forward; prior to that the council had been generally
44 focused on about 1.5% rate rises. We called for a slightly
45 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
17 that, 12 grand, so it's not a lot of money extra. The
18 rating base is quite small, and any movement, any sort of
19 significant movement just can't fix some of the financial
20 challenges that we face. So, we're proposing the
21 current year a 10% rate rise which is currently on public
22 exhibition, and it's going to raise an additional \$120,000,
23 so that's a staff member.

24
25 Q. And it's a drop in the ocean compared to the actual
26 deficit that you face?

27 A. Yeah. So, the interim administrator has given me a
28 task to present a budget to him shortly of at least a half
29 a million dollars surplus as a basis to try and restore our
30 cash position.

31
32 Q. I just want to focus now about what happened in the
33 lead-up to 30 June. There was an issue about electricity
34 fees in that budget; correct?

35 A. There was.

36
37 Q. If we could just pause there and talk for a minute
38 about what you observed about the electricity assets on the
39 Island when you had your tour. What was the feature about
40 how electricity - perhaps you could give us a narrative of
41 how electricity operates on Norfolk Island, because
42 probably nowhere else that it operates this way. How does
43 it work?

44 A. So, council controls generation and distribution. So,
45 generation is about 70% from diesel electricity and 30%
46 from solar, and it comes into our network and flows on an
47 old system.

1
2 Q. What do you mean by "an old system"?
3 A. An old system so that, even those houses with solar,
4 the meters are old meters where they flow both ways. So,
5 when you draw down, you know, we get a record of what
6 you're consuming, but if you're creating it, it turns the
7 meter back, so you're getting it in the same sense
8 basically for generation as you are from purchase.
9
10 On top of that we have a really old network, you've
11 got old transformers and old wires and --
12
13 Q. How old?
14 A. A fair age. So, transformers that I was shown, you
15 know, 70s, they're quite aged. My father worked in the
16 electricity industry for a while and said to me that he
17 hadn't seen a transformer like that since the 70s, I don't
18 think they're made any more, so that's one of the
19 challenges that we have. But the actual generation is
20 quite modern, the diesel generation power station is very
21 clean, very modern, very well run by our team; it's just
22 very expensive because you're buying diesel at quite a high
23 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 A. Piped onto shore into holding tanks that are owned by
30 council but operated by a private contractor.
31
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
40 Q. In terms of the cost of running the system, what was
41 the annual cost when you're coming to approach the budget
42 for 2020/2021?
43 A. So that, that year, if we left everything as is at
44 70 cents a kilowatt sale price --
45
46 Q. 70 cents a kilowatt?
47 A. 70 cents a kilowatt, the electricity business unit

1 would have lost money that year.

2

3 Q. How much?

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

13

14 Q. How was that issue resolved on the floor of council?

15 A. When it went to council for public exhibition there
16 was little debate, it went out on public exhibition, but we
17 had a number of informal workshops - because I was still on
18 Island and we were meeting quite regularly with the
19 councillors, at least fortnightly - and at that stage they
20 did say that they were going to have a conversation about
21 that when it came back to council at that meeting.

22

23 Q. And?

24 A. At that meeting they moved that the electricity charge
25 remain at 70 cents rather than being 74, and were about to
26 move and adopt that position until I interjected and said,
27 "Do you want to know what that cost will be prior to
28 adopting?"

29

30 Q. Who responded?

31 A. The Mayor said, "Well, please go ahead", and I then
32 informed them that that change would put our balance budget
33 that we had on public exhibition into a deficit position.

34

35 Q. By how much?

36 A. \$250,000.

37

38 Q. The position about funding the electricity assets: to
39 what extent does the need to maintain those assets get
40 honoured had it been delivered and were the assets being
41 maintained to the proper degree that you could ascertain
42 when you came to prepare that budget?

43 A. I think the assets are being maintained well enough to
44 provide delivery or service to the Island, but knowing that
45 they're doing so with - you know, on the smell of an oily
46 rag; they are delivering it just to make sure we keep the
47 lights on, and they do an exceptional job of being able to

1 do that and finding the easiest way to deliver these
2 things, but there's no ability for us to find significant
3 money to invest capital correctly that you would in any
4 other jurisdiction.

5
6 Q. Am I right in thinking that that loss on the revenue
7 side was really an operational loss and it didn't deal with
8 funding the cost of depreciation on the power assets?

9 A. That's correct.

10
11 Q. What would you need - we'll come back to this in
12 detail after the break - did you work out the cost to the
13 budget of properly meeting the depreciation costs of the
14 power system?

15 A. Not at that time.

16
17 MR BOLSTER: That's probably a convenient time,
18 Commissioner, to take the morning tea adjournment.

19
20 THE COMMISSIONER: Okay, we will take a morning tea
21 adjournment for about 20 minutes. Please adjourn the
22 inquiry.

23
24 **SHORT ADJOURNMENT**

25
26 MR BOLSTER: Commissioner, if the witness could be shown a
27 copy of this document, and I have a copy for you.

28
29 THE COMMISSIONER: Mr Bolster.

30
31 MR BOLSTER: Commissioner, I have a document to be shown
32 to the witness and I have a copy for you.

33
34 Q. During the adjournment were you able to obtain a note
35 from your computer of your meeting with the councillors on
36 17 June last year?

37 A. I was.

38
39 Q. That's a shorthand note of the conversation; correct?

40 A. Yes, that's a brief overview of what I discussed with
41 the council.

42
43 MR BOLSTER: I tender that document, Commissioner. Might
44 it be marked as Exhibit 3, please?

45
46 **#EXHIBIT 3 - SHORTHAND NOTE OF CONVERSATION MR ROACH HAD**
47 **WITH COUNCILLORS.**

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Q. Having looked at that, does that refresh your memory of the conversation you had with the councillors?

A. Yes, it certainly does, and it probably aggregates a number of discussions that we had over a few weeks that led to that question of an external audit.

Q. In the first dot point it says:

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

Is that both the airport and the road costs?

A. Yes, it's both, and it was a conversation that we had with the councillors around whether it would potentially be a full forensic audit as compared to just a financial audit, so it was a wide-ranging discussion, obviously, there with council.

Q. Why was there discussion about a forensic audit? What was the trigger in your mind for a potential forensic audit?

A. I think I was personally leaning more towards a financial audit. A forensic audit is probably more around, you know, poor decisions or some maladministration, and I didn't believe that was the case, but it was read - it was raised by councillors as a forensic audit and I think it was their understanding of what that meant as compared to what I believed it would be.

Q. Let me be clear about this. Any discussion about a forensic audit, who initiated that? Was that initiated by you or by the councillors?

A. It wasn't by me.

Q. Which council member raised the prospect of a forensic audit?

A. It was, I think, discussed by a number of them, by at least three of the councillors.

Q. Which three do you think raised that or discussed that?

A. The Mayor, Councillor Snell, and I'm unsure of the third one.

Q. What was the language that you can recall that was used about why a forensic audit might be needed?

1 A. It was, we need to look at what's transpired with the
2 Boral costs primarily around the biosecurity costs which
3 were in addition or at council's expense.
4

5 Q. Let me see if I understand this correctly. The three
6 councillors who raised this were suggesting that there
7 needed to be a forensic audit about the extent of the
8 biosecurity costs?

9 A. Yes.
10

11 Q. What was their concern about those costs?

12 A. Were they actual costs or not; I think that was - it
13 was a real general thing to say, was this actually a
14 biosecurity cost or was this a Boral cost.
15

16 Q. Was any aspect of the forensic audit discussion about
17 the roads contract?

18 A. Not from me, no.
19

20 Q. Was it raised in connection with the roads contract?

21 A. Not that I recall.
22

23 Q. The second dot point says "Raised with administrator."
24 That presumably means Mr Hutchinson?

25 A. Yes, the Island administrator.
26

27 Q. And, was that something you were going to raise with
28 him?

29 A. Yes, the Mayor and I met fortnightly with the Island
30 administrator to brief him on council issues.
31

32 Q. Do I take it that, by 17 June 2020, you had not raised
33 with the administrator your concerns about the cash
34 position?

35 A. No, I had been briefing him generally from the time of
36 about April when we started to discover it ourselves.
37

38 Q. So, you think that he may already have been aware of
39 the disastrous cash position?

40 A. Yes, because we were - at this point in time we were
41 heading towards - we had put a budget out we said to reduce
42 numbers, and also, the - I think you made mention in your
43 earlier statement about a COVID additional cost by Boral,
44 so that --
45

46 Q. Liquidated damages for the --

47 A. Yeah, it was affecting our ability to pay.

1
2 Q. Was that something that the councillors wanted to have
3 investigated, the liquidated damages?
4 A. No, it was primarily biosecurity costs.
5
6 Q. Was the issue that was to be raised with the
7 administrator the need for a full audit?
8 A. Yes.
9
10 Q. The third dot point, help me with this, says:
11
12 *Agree to audit, but get a trade-off for*
13 *Island. Game changer for the Island.*
14 *Voluntary administration? Get preamble*
15 *into legislation.*
16
17 Now, there's a number of concepts there, but the first
18 two lines "Agree to audit, but get a trade-off for Island",
19 what was the discussion there, what was said about that?
20 A. Is that, if we were heading down this path of an
21 external audit, we wanted to make sure we could get the
22 best possible outcomes for the Island. Being a game
23 changer is, if there was any potential to have assets fixed
24 out of this process so that, whether it was, say, the
25 electricity grid, you know, the potential to lower the cost
26 of living here on the Island.
27
28 Another thing that was thrown in as a game changer
29 would have been the development of a port facility for sea
30 freight, because that's obviously a significant challenge
31 for the Island, so that's the sort of stuff that they were
32 talking about there.
33
34 One of the things that was raised - sorry?
35
36 Q. You keep going, sorry.
37 A. One of the things that was raised with them was that,
38 if we went down this path, we did discuss voluntary
39 administration at this point with the councillors.
40
41 Q. Who raised that?
42 A. I did.
43
44 Q. What did you say?
45 A. I said that it was a difficult circumstance to find
46 the council asking the Commonwealth for money and still
47 believing that we could continue in an elected members

1 mode, having worked in previous councils that had been in
2 similar sorts of financial circumstances, that had been - I
3 had seen that before as an alternative to getting an
4 outcome.

5
6 Q. Do I take it the use of the words "voluntary
7 administration", that to lawyers has a meaning associated
8 with the Corporations Act, slightly different?

9 A. Very different.

10
11 Q. Were you intending to talk about the sort of events
12 that actually occurred, that is, the appointment of an
13 administrator, the suspension of the council?

14 A. Yeah, there was - there was - because the council
15 itself is quite immature and doesn't understand local
16 government as well, we'd often have conversations about
17 local government in general, and what are the potential
18 avenues that we could end up in. And so, I tried to
19 explain what administration meant to the councillors
20 through this process so that they were aware or they were
21 fully informed that, if they were making decisions to head
22 down this path, it could potentially lead to this.

23
24 Q. What did you tell them administration would mean for
25 them?

26 A. Exactly what's transpired, is that, they would be
27 either suspended or dismissed and the council would be run
28 as an administration for a period of time depending on, you
29 know, a decision made by the Minister, so it was quite a
30 general and wide-ranging conversation, that part.

31
32 Q. What did the councillors say in response? Do you
33 recall any particular response to this third dot point
34 about agreeing to the audit but get a trade-off for the
35 Island, game changer for the Island, voluntary
36 administration, et cetera; what did they say?

37 A. I think it was a pretty robust conversation with the
38 councillors.

39
40 Q. What do you mean by that?

41 A. Everybody was involved and everybody had their say on
42 each of those things, and I'd say there was differing
43 opinions.

44
45 Q. What were the differing opinions and who expressed
46 them?

47 A. I think they were probably all aligned for game

1 changer as far as, you know, things that was really
2 required for the Island.

3

4 Q. By that, what do you mean by that? Did they say that
5 a game changer was needed for the Island?

6 A. Absolutely.

7

8 Q. Who said that?

9 A. I would say all, all would agree that any one of those
10 game changers would be good for the Island, right, and, you
11 know, each of them had, say, a pet: so, one would be very
12 supportive of, say, like, Councillor McCoy was very
13 supportive of sea freight, a sea freight solution, and the
14 others would be stronger in any one of the others, but
15 that's an example of.

16

17 Q. Let me suggest to you some ideas.

18 A. Yes.

19

20 Q. Councillor Snell may have suggested to you a
21 discussion about rates and GST?

22 A. That definitely came up during these conversations.

23

24 Q. Who raised that, was that Councillor Snell or someone
25 else?

26 A. To be fair, it was probably at least two of them, it
27 was Councillor McCoy and Councillor Snell that would be
28 strong on those conversations.

29

30 Q. What did each of the councillors have to say, and
31 let's deal with it one-by-one, about the prospect of
32 voluntary administration? Each of them?

33 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
40 Councillor McCoy and Councillor Adams. Councillor Buffett
41 was probably sitting on the fence with that side of things,
42 and to some extent Councillor Porter could see the reasons
43 why we were discussing it because it was almost heading
44 that way, and he was probably - he - he was the most
45 experienced of my councillors having been a councillor in
46 another jurisdiction.

47

1 Q. Councillor Buffett had been on the audit committee at
2 council?
3 A. He had.
4
5 Q. That committee involves him sitting with two experts,
6 independent experts, and their job is effectively to review
7 the accounts on a quarterly basis; correct?
8 A. That's correct.
9
10 Q. Did you, in your experience of Councillor Buffett,
11 discern a difference of approach when it came to accounts
12 and accounting issues compared to the other four
13 councillors?
14 A. No, I think they were all equal in their understanding
15 of the council's finances.
16
17 Q. Let's go back to the issue of voluntary
18 administration. Did any of them reject the idea
19 completely, say "that's not gonna happen", "we're not in
20 that position"?
21 A. Yes, the majority.
22
23 Q. The fourth dot point, set council up properly for
24 finance, fleet purchasing, records management, licensing
25 permits, legislation, regulation. Do I take it, that's a
26 reference to a discussion about all of the deficiencies
27 that you'd found up to that point in time?
28 A. Yes, and something that we'd had spoken about
29 regularly from the advent of COVID, that each time - I used
30 to tell a story that each time I picked up a rock large
31 spiders ran out from underneath, and so, that was a
32 compilation of the challenges that we saw prior to an
33 external audit starting.
34
35 Q. The last dot point, the fifth, was about meeting with
36 the Minister to discuss these issues.
37 A. Yeah.
38
39 Q. Were you proposing effectively a mea culpa meeting to
40 the Minister to say, effectively, this is what has
41 happened: help?
42 A. I think, to the best of my memory, I believe all
43 councillors got to this point to say that, given our
44 circumstances, that we needed to reach out to the
45 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
6 Q. What happened in respect of that last dot point; was
7 there such a meeting?
8 A. I don't believe there was, but we did meet quite
9 quickly then, I believe, with the administrator who's the
10 Minister's representative on Island.
11
12 Q. Do I take it, you conveyed to him all of your
13 concerns?
14 A. Definitely.
15
16 Q. But you say you had been filling him in on, what, a
17 fortnightly basis?
18 A. Yes, fortnightly before that.
19
20 Q. When do you think you first raised with him concerns
21 about the overall cash position?
22 A. It was probably early May.
23
24 THE COMMISSIONER: Mr Bolster, I might ask a couple of
25 questions on that topic, if that's okay?
26
27 MR BOLSTER: Yes, thank you.
28
29 THE COMMISSIONER: Mr Roach, one of the things you talked
30 about was the idea of an audit. Were other options
31 considered such as actually going to the department and
32 talking through with them - I know there are regular
33 meetings with the department - around what other options
34 there might be?
35 A. There were several different conversations. At that
36 stage I would say that there wasn't the openness or the
37 willingness to work collaboratively with us until probably
38 later in 2020. Earlier in the piece it was more about a
39 dual responsibility and we need to find a way, but I
40 suppose they were willing to listen to the concerns that we
41 had and list them, and I think I've detailed that in my
42 submission where I emailed the department as early as
43 14 April and explained our financial position as early as
44 that. And I suppose, eventually as our position worsened,
45 there was more collaboration in June more towards an
46 external audit rather than trying to provide resourcing to
47 fix specific problems which we're doing now as an outcome

1 of the audit.

2

3 Q. So, when you decided to go ahead with the audit, was
4 there things that you as the general manager, not the
5 council but yourself, expected that you would get out of
6 the audit that you don't think you would have got if you
7 hadn't undertaken the audit?

8 A. I think the audit gave us a - I hope I'm using the
9 right word here - an imprimatur to actually make change and
10 lock in a blueprint, because up until then I had witnessed
11 change was hard and difficult to occur here because they
12 were still applying new methods or practices or procedures
13 from a former self-administration model which weren't more
14 aligned with a local government outcome.

15

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

23

24 THE COMMISSIONER: Okay, thanks.

25

26 MR BOLSTER: Q. Just in terms of the software of the
27 systems, Civica. Can you tell us, what is Civica? It's a
28 four letter word wherever I read it. They don't like it:
29 why don't they like it?

30 A. Look, it's a bit unfair on Civica. Civica is one of
31 two major local government software suppliers in Australia.
32 At one stage I think they had over half the local
33 governments in Australia providing, and it's just basically
34 your enterprise system; so it's your ledger, it's your
35 payroll, your creditors, plant, all your foundational
36 systems to run a normal local government authority.

37

38 Q. Did it work when you came on board?

39 A. Um, does it still work? There's lots of flaws still
40 in place with Civica now, but it was installed quite
41 quickly I think in the beginning, and there was training
42 I'm sure provided - I wasn't here, but I'm sure there was
43 training provided at the beginning, but because of the high
44 turnover rate that this council has seen in four years,
45 it's higher than I've seen in other council areas, then you
46 lose institutional memory quite quickly, and procedure and
47 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
3 Q. Would those systems have been of assistance in keeping
4 a more rigorous track of the cash position generally?
5 A. Absolutely. You know, there's a very simple system
6 within Civica called bank reconciliation, most
7 organisations have it, but when I had an accounting
8 contractor come in and review it there were considerable
9 errors in that system where, as simple as bank fees were
10 being put to bank income, and bank income was being put to
11 bank expenditure, so it was putting it out a long way, and
12 they're only small amounts, but they were simple processes
13 that any other organisation would get right.
14
15 Q. And that was Mr Neilsen who came in and fixed that?
16 A. Yes.
17
18 Q. Can we go back to the budget for 2020/2021. We've
19 dealt with electricity increases, rates increases, were
20 there any other budgetary measures that you put forward in
21 that context?
22 A. That were changed? I suppose the biggest change to
23 that budget was a reduction in expenditure. So, we saw a
24 redundancy program that was put in place of 20 positions
25 that were nominated, so that was probably the largest. The
26 revenue changes that we put in place were small but
27 required, and electricity was spoken about, but another
28 simple one was the cattle tag process.
29
30 Q. We'll come back to the cattle tag in a minute.
31 A. Yep, there were just small ones.
32
33 Q. So, you had small increases in revenue which, correct
34 me if I'm wrong, were each knocked back?
35 A. There was two or three that were knocked back, from
36 memory.
37
38 Q. Which ones got through? Did anything get through?
39 A. The rate increase of 2.5%.
40
41 Q. Was anything else, did anything else get through?
42 A. There were a few, but they were probably not high
43 profile user charges, you know, they were just probably
44 some run-of-the-mill adjustments that were required.
45
46 Q. So, fairly standard year-on-year entry fee permits
47 and --

1 A. CPI increases and those sorts of things, they all went
2 through.
3
4 Q. Lighterage, does that go up?
5 A. Yeah, lighterage goes up a lot every year and
6 that's --
7
8 Q. Does it?
9 A. -- and that's primarily driven by cost of delivery.
10
11 Q. The price of lighterage is the price of the labour?
12 A. Yes.
13
14 Q. And that price is generally something that is paid to
15 members of the community?
16 A. Yeah, so --
17
18 Q. And it has a significant community connection or link,
19 doesn't it?
20 A. It does, yeah, and so there's the two groups: there's
21 stevedores that are on the boat, that's not within
22 council's control; but then there's lighterage teams which
23 is ship to shore, and that's what we're in charge of.
24
25 Q. Just so that the Commissioner understands the process,
26 how is that organised? When a vessel in a week, two weeks,
27 hopefully longer in advance when a vessel's coming, how is
28 the lighterage organised on Norfolk?
29 A. It's through management services looks after that at
30 the moment and he has a team and team leaders that are all
31 prepared and they all know their tasks extremely well.
32 It's a site to see for an outsider such as myself and you
33 go and watch how they move cargo in these precarious
34 situations and they do an amazing job, but they're a team
35 in itself and they know how to organise all of that.
36
37 Q. What drives that cost? Is that a cost paid by
38 council?
39 A. Yeah, it's cost - so, it will primarily be the labour
40 costs and also the boats and the lifeboats and all the
41 additional services that are required for that.
42
43 Q. That is an expense that - have you tried to control
44 that expense or reduce that expense?
45 A. You can't really control it because it's bums on
46 seats, it's --
47

1 Q. I think that's my point.

2 A. That's your point, yeah.

3

4 Q. You can't drop control of that expense.

5 A. No, and it's a vital thing for the operation of the
6 Island, so as people's wages go up and as costs of fuel
7 goes up, that all pre-determines what people pay on top of
8 the cost of buying the good that they want to bring to the
9 Island as that last little step that they also have to pay
10 for.

11

12 Q. I take it, council endorsed the retrenchment plan for
13 staff in that budget?

14 A. They did.

15

16 Q. And that obviously had a very significant effect on a
17 number of people on the Island?

18 A. It did.

19

20 Q. Can we turn then to - I think earlier on we talked
21 about your two of the assets and I want to go back to the
22 assets. We've dealt with electricity and we've dealt with
23 the roads. The next asset that I wanted to talk about was
24 the water supply.

25 A. Wastewater.

26

27 Q. Sorry, the wastewater. Tell us what you were able to
28 glean from the quality and the standard of that
29 infrastructure from the beginning when you arrived in
30 January last year?

31 A. It was one of the first reports I read that the
32 council had signed off, I think in November or December 19
33 before I started, was a Balmoral Report which identified a
34 replacement program for wastewater assets across the
35 Island.

36

37 Q. When was that report?

38 A. I believe it was adopted in November or December 19.
39 It obviously took a number of months beforehand, but that
40 report identified a replacement value of \$17,500,000 for
41 the wastewater treatment works which is next to the
42 airport. If you went to see it, you'd see how desperately
43 that asset replacement is required because --

44

45 Q. If we read the Balmoral Report we will see the history
46 of that particular facility and how long it's been there?

47 A. Yes.

1
2 Q. How old are the component elements of that?
3 A. I couldn't tell you that, one of my staff members
4 could tell you that; probably PJ Wilson will be the best to
5 answer that, but it's old; I haven't seen anything like
6 that in other jurisdictions I've worked at.
7
8 Q. Have you developed a budget for maintenance that deals
9 with the ongoing depreciation of that asset?
10 A. We have now; at that point we hadn't.
11
12 Q. When were you able to do that?
13 A. Probably only in the last three months that we've
14 landed at a --
15
16 Q. Can I ask why it took that long?
17 A. Because there was no asset management - accurate asset
18 management schedules that we could rely upon. A good
19 example is, all the roads on the Island, we don't have any
20 centreline data for at all.
21
22 Q. Explain to me the significance of centreline data for
23 someone who knows nothing about it?
24 A. It's very important to put into your computer systems
25 to have centreline data as a baseline of simple data so
26 that you can then build three schedules, and those are
27 really important in asset management, are your depreciation
28 schedule and your accuracy of that; your maintenance
29 schedules, that's the second most important, and then the
30 last one is your capital works programs or your replacement
31 programs that you can run out of that. We didn't have any
32 of those.
33
34 When I arrived here I didn't - I asked for them and I
35 couldn't see them. We had a spreadsheet that ran
36 depreciation and it was signed off, it was to a level, but
37 it didn't produce asset data like I'd seen in any other
38 council area.
39
40 Just before I came here I worked at the City of Darwin
41 and they engaged me to do exactly that, was to build their
42 asset management plans for the city that they had lost all
43 their data for, so I had to rebuild that and when I arrived
44 here I looked at it and couldn't find any of those sorts of
45 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

4 Q. Do I take it, there are elements of the asset base
5 that you do know about but that you're working through to
6 get the whole picture?

7 A. Yes, that's right. So, to set the systems up properly
8 so that you can then feed that data into a 10-year
9 financial plan so that you can then set expected revenue
10 streams and all those sorts of things, you need to have
11 these systems in place.

12

13 Q. Going back then to the wastewater system, what does it
14 need?

15 A. Complete replacement, urgently.

16

17 Q. Where does the wastewater go? Which side of the
18 airport is it on? I'm not entirely familiar with this
19 particular location.

20 A. It flows towards Headstone.

21

22 Q. To Headstone, yes, okay. And so, wastewater, are we
23 talking about sewerage or just stormwater runoff here?

24 A. Sewerage.

25

26 Q. And stormwater runoff?

27 A. Well, to a lesser extent stormwater; it's unlike other
28 things, but it's primarily sewerage, but it would collect
29 water in the catchments that would flow around it where it
30 flows down from, where it discharges from.

31

32 Q. And presumably it flows down one of the natural
33 watercourses on the Island?

34 A. It does.

35

36 Q. The wastewater or sewerage, that is treated or
37 untreated or partially treated?

38 A. Partially treated.

39

40 Q. Why is that the case, because the facility has an
41 upper limit that it just simply cannot meet?

42 A. I suspect it's past its used by date.

43

44 Q. Let's talk about internet services and communication,
45 the phones system, which obviously is incredibly important
46 as time passes. What was the state of those facilities
47 when you arrived on the Island?

1 A. I raised in my interview with the councillors,
2 in October or November 19, the poor quality of
3 communications, primarily because my wife is a travel agent
4 and we'd spent \$200 here on Island for three days and she
5 couldn't connect with any of her clients. So, I was very
6 honest in the interview and I said, "My wife is not moving
7 to the Island" because her business was at that time - it's
8 not any more - but her business at that time was important
9 to us, so communications were bad.

10
11 Q. What was the basic problem there, what's the nub of
12 the issue with communications?

13 A. Look, the nub of the issue is the fact that we run on
14 satellite and we have this limiting factor, it's here:
15 that's the in and out of the Island that is limited by how
16 much you buy in satellite bandwidth. So, that's our
17 challenge. We've got pretty good systems on the Island,
18 there's a lot of optic fibre on the Island connecting all
19 the major employment venues, but at the end of the day
20 we're still limited by the width of our satellite on and
21 off the Island.

22
23 The Island did have an undersea cable back in - up
24 till the 80s which was put in in 1900-and-something and it
25 was pulled out in the 80s and the undersea cable came into
26 a facility called LandScan at the north part of the Island,
27 which is the Australia, New Zealand, Canada undersea cable,
28 and once that was pulled out and we went to satellite, then
29 they've had their challenges ever since.

30
31 We've been fortunate enough to get a government grant
32 to do the upgrade for the mobile telecommunications from 3G
33 to 4G. Why? Because the 2G network was at least 20 years
34 old and it was still operational on 11 January this year.
35 There's not many places in the world that had 2G on January
36 2021, but we've now upgraded it but we're still a long way
37 from making that effective for not only our locals but for
38 visiting public right now. So, we are still yet to
39 finalise roaming with other carriers around the world, and
40 so, when you turn up here your Telstra phone or your
41 Vodafone phone won't work. So, we're a long way behind
42 other parts of the world. You know, you could be in - I
43 think I was in Russia and my Telstra phone worked no
44 problems at all.

45
46 Q. The budget for the telecommunications operation of
47 council, is that something that is in deficit?

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

7
8 Q. What's the five to 10-year plan then for data? Now
9 that NBN is here, you would think - what are council's
10 investigations or projections suggesting?

11 A. So, that was one of the things that was found in the
12 external audit, is that we need to review our telecom
13 services and the provision of such and work out what's
14 required or what can be delivered differently. Council's
15 also made a pretty substantial submission to the Joint
16 Standing Committee, a Commonwealth process which I think is
17 coming to the Island in July about an undersea cable and
18 potentially looking into a new service that's running
19 between Australia and Chile, and so, we're hoping that that
20 could be the saviour of our communication problems but
21 that's still a few years away.

22
23 Q. To what extent though does the rest of the budget have
24 to subsidise or fund the communication problems that you've
25 been speaking about?

26 A. At the moment it's probably one of the better business
27 enterprises as a whole, it's probably close to being
28 self-funding even with the overrun in, say, with the data
29 service, but you know, you should be making a lot more
30 money out of that to subsidise across council. I think
31 that's a simple fact.

32
33 Q. The other business that seems to be making money is
34 the liquor bond and probably will continue to make money
35 indefinitely; what does it contribute to the budget bottom
36 line?

37 A. Net, just about \$2 million, \$2.5 million every year,
38 so it's something that the council just couldn't do
39 without.

40
41 Q. In the ordinary sense, the airport would provide a
42 significant amount of income as well?

43 A. Yeah, so we are quite reliant upon landing fees as
44 well, so the two major contributors or cross-subsidisers I
45 suppose for the organisation is the airport and the liquor
46 bond.

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
11 Q. Was the staff position vacant or filled for the risk
12 and audit officer when you arrived?

13 A. We had a person across a couple of tasks and risk was
14 one of those that that person held, but it had remained
15 vacant for a long time and this person was in the role for
16 maybe 12 months.

17
18 Q. Ideally the risk and audit role needs to marry up with
19 the financial position in an ideal world, doesn't it?

20 A. Yeah, well, they integrate with one another on a
21 regular basis to ensure there's touch points across each of
22 the things.

23
24 Q. I want to suggest to you that there was a
25 dysfunctional situation in February exemplified by the
26 roads contract.

27 A. Yes.

28
29 Q. No element of risk would seem to have been conveyed to
30 you about the financial implications of that contract by
31 anyone.

32 A. No, and that was also due to the CFO who had resigned.

33
34 Q. So, the CFO resigned in the first week you were there;
35 how long had that CFO been in that position?

36 A. I think he was the longest of them; 18 months maybe,
37 two years.

38
39 Q. Was a reason given for why he left?

40 A. Yeah, there was a number of issues, but I think in the
41 end it was a personal choice for him to move on.

42
43 Q. One of the members, I think the Chair - correct me if
44 I'm wrong - of the audit committee is a risk management
45 specialist. What have you observed about the work that's
46 been done on risk management since you've arrived?

47 A. What I observed was the audit and risk committee were

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

2

3 Q. What was the process when you arrived for engaging
4 with them?

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

19

20 Q. Who were they brushed aside by?

21 A. By the management of council, I believe, and they made
22 that point to me early in the piece, in February when I
23 started that we wanted engagement. So, we've just - to let
24 the Commission know, we've just revitalised our committee
25 and we've brought on two financial external experts now and
26 they were on Island last week for the first time and we had
27 a completely different engagement already with our staff
28 and our staff are conversing more regularly with those
29 audit committee members and calling upon their expertise to
30 help them out in areas that they don't know.

31

32 Q. In paragraph 24 of your statement you refer to being
33 provided with the draft copies of the Nexia and Grassroots
34 reports in October last year and the final reports
35 in November. Were there any material changes to either
36 report from draft to final copy, do you recall?

37 A. Not that I recall.

38

39 Q. Resolutions have been passed by council to effectively
40 implement all of the recommendations. Most of the
41 recommendations call for reviews and reassessment of
42 policies and things like that. What's the process in place
43 between you and your staff and the administrator for
44 developing and keeping track of that process?

45 A. We've now, in February we adopted all 113 external
46 audit findings, and we're to move away from
47 recommendations, because recommendations - yeah, so they're

1 locked in. So, they've now been distributed to each of my
2 managers within council and we now have a report card that
3 will be reported to the council - the first one went up
4 in April, and you'll have every three months an audit
5 performance report card on the EAS and how we're tracking
6 in achieving those goals that we've set. We realigned some
7 of them to say short-term now is the first 12 months,
8 medium term is one to two years, and longer term is
9 two-plus years. We've placed all 113 into each of those
10 categories, we've given them to managers, we've assigned
11 staff to them and they will report on a quarterly basis on
12 the performance card.

13
14 Q. Has any even preliminary costing been worked upon?

15 A. Yes. My original submission to the department
16 in November was based on very loose estimates but it was in
17 excess of \$44 million.

18
19 Q. Finally, February of this year \$3 million was provided
20 by the Commonwealth: was that as a one-off payment?

21 A. It was December.

22
23 Q. December, sorry.

24 A. December we received a one-off payment and it wasn't
25 linked to any of our other payments. So, without the
26 \$3 million we would have --

27
28 Q. What would have happened?

29 A. We definitely would have been insolvent.

30
31 MR BOLSTER: Commissioner, I don't have any further
32 questions for Mr Roach.

33
34 THE COMMISSIONER: Okay, I've got a couple. Sorry,
35 Mr Roach, we'll just keep you a few more minutes.

36
37 Q. I just want to go back to the signing of the Boral
38 contract which you started talking about earlier this
39 morning. You said that you signed that Boral contract for
40 two reasons: one, if I recall, was that there was a Council
41 resolution to proceed with the contract.

42 A. Yep.

43
44 Q. And the other was that you received some degree of
45 comfort from the council staff. Can you sort of elaborate
46 as to what that degree of comfort was or how you got that?

47 A. It was simply, at the time there was I think an

1 investment report that was up at council that showed
2 unrestricted cash that was there. I think it's fair to say
3 that the decision of signing that basically put me on
4 notice that, you know, things were going to be tight moving
5 forward but in normal circumstances they would have been
6 manageable based on a normal council operation, but since
7 been disproved.

8
9 Q. Did you give any thought to deferring that? Like, was
10 there some kind of reason why it had to happen then and
11 there until you got your head across the financial position
12 in more detail?

13 A. Yeah, one of the difficulties was that council had
14 indicated their commitment to that, to Boral, and Boral had
15 already brought all of the supplies to Island in the barge
16 movements that happened during the year for the airport
17 upgrade, so there was - from memory there was about
18 45,000 tonne of rock, cement, asphalt, all of these other
19 things that had already arrived on Island, and so, council
20 was pretty much committed to that process.

21
22 Q. So, the things that were brought to Island were
23 brought in to resurface the airport runway and there was an
24 opportunity because of the resurfacing of the runway to
25 actually do the roads?

26 A. Yes.

27
28 Q. So the things that were brought in, were they brought
29 in specifically to do the roads on top of the runway or -
30 because I know the scalpings from the runway were basically
31 to be used for the road; or was it more of a case of, if
32 you didn't move ahead with the Boral contract it would be a
33 missed opportunity?

34 A. It was probably twofold there. Definitely a missed
35 opportunity and that was being pushed quite strongly by a
36 number of councillors, you know, and you can't deny them
37 that, the roads were in desperate need, so that was a good
38 outcome. But secondly, there were materials that were
39 brought in for that process because it was indicated quite
40 early to them. Scalpings only produced a percentage of the
41 mixture, not all of the mixture.

42
43 Q. Okay.

44 A. So it was a percentage of.

45
46 Q. So they were brought in largely without a contract
47 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
9 \$44 million to fully implement all 113 recommendations; is
10 that correct?

11 A. Look, that's a really rough estimate. The vast
12 majority of that \$44 million is \$20 million for the
13 wastewater treatment plant. So, the reason it's
14 \$20 million and not 17 and a half as I said earlier is
15 because that was the price back in 2019, so by the time we
16 get around to doing it I made an estimate of \$20 million to
17 fix those problems.

18

19 Q. So, the council's made another decision - the decision
20 was made to implement 113 recommendations, but again,
21 there's not a budget to do that; is that right?

22 A. Yeah, so we're not committed to those things. The
23 \$44 million was developed for the department to give them
24 an indicator of the challenges that lay ahead to implement
25 the 113, all of its findings.

26

27 Q. So, there will be a carve out of some recommendations
28 if funds aren't made available?

29 A. I think it's definitely contingent on whether we can
30 get funding for it because, like most other jurisdictions,
31 wastewater is not 100% met by its local community, I think
32 it's a third/a third/a third normally between each of the
33 government levels, and it would be very difficult for this
34 community to find \$20 million to only really service about
35 300 properties.

36

37 Q. So, with the 113 recommendations, is it fair to say
38 that there's a number that will get to the effect of
39 running an administration of the organisation and then
40 others are about servicing the community: do you have a
41 ballpark idea about how much it's going to cost to get the
42 administration up to speed in respect of those
43 recommendations?

44 A. Probably about a third.

45

46 Q. About a third?

47 A. About a third.

1
2 Q. And again, you don't have all that money?
3 A. No.
4
5 Q. So, what really is happening, is it true, that you can
6 only implement the recommendations as far as you've got the
7 funds?
8 A. That's 100% correct.
9
10 Q. So, although you've got a lot of good intent, you may
11 be hampered by inability to put those recommendations in
12 place if you haven't got the funding?
13 A. That's right.
14
15 MR BOLSTER: Commissioner (indistinct), that I neglected
16 to raise with Mr Roach.
17
18 THE COMMISSIONER: Yes.
19
20 MR BOLSTER: Q. The cattle tag: what was the purpose of
21 proposing the cattle tag measure in the 2020/2021 budget?
22 A. As I understand it, and you're probably best to check
23 with the manager of services when he comes with the
24 details, but the increases that we were looking to put on
25 the cattle tags was to pay for the repair or replacement of
26 the cattle grids around the main part of town, I think
27 there's five, maybe six cattle grids that need replacing,
28 and it's also, there was water troughs that were put in
29 place late last year during the drought circumstance, so we
30 were looking to recoup money for that.
31
32 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 A. There's 180-something or 190, again, the manager of
38 services will have to tell you that, but there's --
39
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
2 Q. And that was knocked back by council?
3 A. Yes.
4
5 Q. Do you understand the reason why or was that
6 articulated to you by any members of council?
7 A. No.
8
9 Q. Finally, in the 2020 draft financial accounts, there's
10 a net loss from the disposal of assets of \$10,067,000 which
11 is obviously a significant draw on the budget. When you go
12 to the notes it's not well explained. Are you able to
13 explain it?
14 A. I can't. I can follow that up and provide you an
15 answer for that.
16
17 Q. Perhaps, if Mr Ernest Walker's here, he can take it on
18 notice that --
19 A. Absolutely, that you will ask him that when he comes.
20
21 Q. When will the 30 June 2020 accounts be audited?
22 A. Good question. So, we've been in a long dialogue with
23 our external auditors who are Pitcher Partners. We believe
24 we're now at the point where they've now issued a draft
25 audit certificate, it will be a qualified audit for
26 this year.
27
28 Q. What do the qualifications go to?
29 A. The qualification goes to the fact that the auditor
30 was unable to be on Island on 30 June to complete the
31 stocktake, and that's a significant thing because of our
32 large stock that we carry, like the bond and also in our
33 stores, so he's qualified the audit on that basis. He's
34 raised a number of adverse findings around going concern,
35 but that's not a qualification, and we're hoping that we
36 can have an extraordinary meeting on 7 June to adopt the
37 financials and then we'll have an audit certificate issued
38 that afternoon.
39
40 Q. That afternoon, okay, and we'll be provided with that
41 in due course?
42 A. Yes.
43
44 Q. Just to be fair to you, having said in your statement
45 that you think the meeting with councillors was on 23 June,
46 and having seen that note being on a slightly earlier date,
47 do you think there was a meeting on the 23rd the day before

1 the council meeting as well?

2 A. I'm just checking, getting my diary checked, and I'll
3 come back to provide that to you.

4

5 Q. Can you take it on notice that we will want any notes
6 of any meetings between you and councillors from that
7 period from February through till 31 June 2020?

8 A. Happy to provide it.

9

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

18

19 THE COMMISSIONER: Okay, thanks, Mr Bolster.

20

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

23

24 I think my learned friend wishes to clarify something
25 concerning the Boral road contract. I think, in fairness,
26 he should be entitled to do that very briefly,
27 Commissioner.

28

29 <EXAMINED BY MR WEBSTER:

30

31 MR WEBSTER: Thank you Commissioner, it's really just one
32 question.

33

34 Q. Mr Roach, you were asked some questions about entering
35 into the road contract with Boral in February and you were
36 asked a question about whether you gave any formal warning
37 to the councillors about the risk of the cash position at
38 the time of entry into that contract, and my note was, your
39 answer was you didn't give them a formal warning at that
40 time. I just wanted to clarify with you the reasons that
41 you didn't and what changed subsequently?

42 A. Best - the answer to that is quite simple, that at the
43 time of February, it was pre-COVID and it was following the
44 changes that happened in March, that's when our cash
45 position changed quickly, and it was probably mid-April
46 that I started having the cash conversations with the
47 council, from that point forward.

1
2 MR WEBSTER: Thank you. Nothing further, Commissioner.
3

4 THE COMMISSIONER: Okay, thank you. Thank you for your
5 evidence today, Mr Roach, that's been really helpful.
6 We'll say whether we need you later again in the week.
7 A. Thanks very much.
8

9 THE COMMISSIONER: We'll take a recess now and we'll come
10 back at about 2 o'clock. Thanks everyone.
11

12 <THE WITNESS WITHDREW
13

14 LUNCHEON ADJOURNMENT
15

16 MR BOLSTER: Thank you, Commissioner, the next witness is
17 Mr Bruce Taylor. Ms Morris will be dealing with Mr Taylor
18 in relation to asset management and I will then ask some
19 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

25 MS MORRIS: Q. Thank you, Mr Taylor. I think there's a
26 fresh bottle of water there if you do need it and, if at
27 any time you can't hear me properly, let me know and I'll
28 speak up. Your full name is Bruce Gloucester Taylor?
29 A. Yes.
30

31 Q. And you're currently service manager of the council?
32 A. Correct.
33

34 Q. You've been involved in the council since its
35 inception, from 1 July 2016?
36 A. Correct.
37

38 Q. And in that role as group services manager with a
39 brief few months as interim general manager?
40 A. Yes.
41

42 Q. Prior to the council you were involved with the
43 administration also?
44 A. Yes.
45

46 Q. Including as deputy CEO of the administration?
47 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
7 looked like between administration to when the council came
8 in on 1 July 2016 --

9 A. The one year between?

10
11 Q. That one year and just general of how it operated, so
12 as a day-to-day measure did you notice any particular
13 changes from administration to council in terms of how the
14 staff operated, for example?

15 A. There were differences in the functions that were
16 carried out. At the end of that one year period the
17 school, the hospital, the police, social services,
18 healthcare, those things that did operate in the old
19 administration were no longer the responsibility of
20 council. In terms of that 12 months between there being no
21 Legislative Assembly and the commencement of the council,
22 it was a period of steady as she goes. I guess it was not
23 a great period of change from an operational point of view.
24

25 Q. And operationally, leaving to one side the change in
26 some of the services that were provided under the
27 administration versus council; operationally, for example
28 assets, was there a process of change of how you'd fix a
29 budget for an asset under the administration versus under
30 the council?

31 A. No, there was no - no great change, it was still the
32 same, keeping things going with the very poor quality of
33 assets that we had generally.
34

35 Q. You were, for example, involved in the asset
36 management plans under the new council?

37 A. Yes, as they are, yes.
38

39 Q. What information did you use when you were preparing
40 those plans?

41 A. If you read those plans, they're quite basic because
42 we didn't have asset registers, but also it's difficult to
43 develop a 10-year plan when most of your assets, a large
44 percentage of your assets are in very poor condition, so
45 the staff are more realistically waiting for the next thing
46 to break down rather than being in a position to develop a
47 preventive maintenance program, for example; you really

1 needed an asset replacement program to get assets to a
2 level where you could have what would be considered normal
3 maintenance programs, preventative maintenance programs,
4 replacement programs. For example, even the budget that
5 we're doing just now, the question that was asked of my
6 guys that I asked is, what are you going to tag out in the
7 next 18 months? That was your driving force behind what
8 your asset replacement program was; it was not a, when
9 they're getting towards end of life, they are already there
10 in a large number of cases.

11
12 Q. And that attitude of, what's going to tag out in the
13 next 18 months, would you say that's typical of how things
14 have worked with the council and, before that, the
15 administration, the last 5, 10, 15, 20 years?

16 A. Yeah, it was very reactive, yes.

17
18 Q. One of the other plans that was done at the same time
19 as the asset management plan was that long-term financial
20 plan, the 10-year, which had three different models: do you
21 recall those models that were being put forward at that
22 time?

23 A. Not in any detail, no.

24
25 Q. So, were you asked to contribute to any of those
26 models?

27 A. Again, as I recall, not in any detail; that was more
28 of a finance/GM function, yep.

29
30 Q. Part of what the finance plans drew upon was saying
31 what you've mentioned, that there wasn't information
32 available for asset management, but the financial plan
33 planned on having the assets being self-funding so that the
34 income from their revenue would offset the expenses. Do
35 you remember something to that effect being discussed with
36 you at that time?

37 A. Yes, I remember that sort of approach, yep, the same
38 as the operational budget was to be a balanced budget, yep.

39
40 Q. In your view, was that something that was feasible for
41 the council as at 2016?

42 A. Not if you wanted to improve your asset base to any
43 great degree. As the GM mentioned earlier, the roads are
44 in the condition that you see and that includes the recent
45 replacement of about 9 kilometres. Yeah, the other assets
46 like the electricity assets, yeah, three generators were
47 replaced three years ago now because the ones that were

1 there had been refurbished so many times they were no
2 longer able to be refurbished again.

3

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

9 A. Correct, yes.

10

11 Q. And part of the planning that was done in 2016 was an
12 idea of moving from that model where the user charges
13 wouldn't cover the costs, to one where the user charges
14 would cover the costs?

15 A. That was one of the intentions, yes.

16

17 Q. How was that shift intended to be funded?

18 A. Again, as a user pays system, using electricity as the
19 example, finding out what the real cost was and I'm sure
20 the Hydro Tasmania Report's one of the reports in your
21 bundle and it was - I think 89 cents was the cost of
22 production across the Island including photovoltaic and
23 \$1.17 was the cost to the consumer if you fully recovered
24 costs now. So, at the moment 70 cents is a lot more than
25 anywhere in mainland Australia I'm sure, and the Hydro
26 Tasmania Report suggested that \$1.17 per kilowatt hour was
27 the correct tariff if you wanted to run the electricity
28 business --

29

30 Q. So, do I take it from that, that in your view it never
31 would be able to really sustainably self-fund given the
32 cost it would be for the community?

33 A. Yep, correct, and going a step further if I may, there
34 was work done, and I think again in the Hydro Tasmania
35 Report, other islands around the mainland, 35 cents is a
36 fairly high rate, I think there was one in the 40s, and a
37 number of those are subsidised particularly by state
38 governments.

39

40 Q. Just staying on electricity, there were over the last
41 five years a few resolutions or suggestions to increase the
42 tariff, as I understand it?

43 A. Yes.

44

45 Q. In particular, in 2017 you were involved in putting
46 forward a proposal to increase from 62 cents to 68 cents?

47 A. I can't remember exactly, but it's highly likely, yes.

1
2 Q. What was the attitude amongst council staff as to the
3 need or likelihood of achieving that change?
4 A. From council staff? It was a necessary step if you
5 wanted to get progressively to a stage of having the
6 revenue that you needed to finance the operation if you
7 were to run it as a business.
8
9 Q. Did you have ongoing discussions with the councillors
10 about that ongoing need?
11 A. Not with councillors in the last five years apart from
12 putting business papers to council meetings.
13
14 Q. So, you did put a business paper for that?
15 A. In - well, the last one was the operational plan
16 12 months ago.
17
18 Q. And I've seen ones as well earlier where there's been
19 putting forth proposals. When you put those forward what
20 was the response when they were put forward?
21 A. The community can't afford to pay the additional
22 costs, as a general comment, yeah.
23
24 Q. Were you able to have a chance to respond to that
25 comment, as to why it was being put forward and why it was
26 necessary despite the affordability issues?
27 A. I don't think I did in the presentation. As the
28 general manager said earlier, he commented at the end of -
29 in the business paper 12 months ago when that 4 cents was
30 rejected he asked if they wished to know the quantum of
31 that decision, yep.
32
33 Q. Was that then a discussion that, after it was
34 rejected, you had a meeting with, for example, finance to
35 work out how to finance the electricity without the
36 increase?
37 A. It was put through as a deficit in the budget.
38
39 Q. But there wasn't an ongoing information-sharing
40 between yourself and the CFO, for example?
41 A. No, not as such, no, I can't recall.
42
43 Q. More broadly in your role as service manager, what
44 access did you have to the financials?
45 A. Access to the Civica system which is not ideal from a
46 management point of view, long way from it. That was - I
47 went back and looked and that was identified - are you

1 happy with an explanation?

2
3 Q. Yes.

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

12
13 Q. And do I take from that, that that tool is not
14 available to you in Civica?

15 A. Not without work and it's also muddled a little bit by
16 the accounting things that team leaders, section leaders
17 can't control such as overhead allocations and depreciation
18 and things.

19
20 Q. By saying you can't control, do you mean you don't
21 have control of the input into the system or you don't have
22 control over how those prices are fixed, for example?

23 A. I don't - shouldn't have any control over the input to
24 the system in terms of what's paid and those sorts of
25 things, it's more the output, that there was not a simple
26 reporting tool, as I said, that just had actual budget
27 variance. I could get that information out of the raw data
28 but it took time and it was at a point in time, so yeah,
29 that was a simple example of the system not providing what
30 you needed as a management tool.

31
32 Q. And you needed to go out and get that information
33 yourself as opposed to, for example, the CFO or finance
34 team regularly reporting to you?

35 A. Yeah, correct.

36
37 Q. When you were going throughout the year for asset
38 management, for example, were you given updates to know how
39 you were tracking in terms of money available for
40 maintenance options?

41 A. I did it myself because it wasn't available generally,
42 so you went in and you investigated the system and did it
43 yourself there.

44
45 Q. And you were able to do it yourself because of your
46 own financial background?

47 A. I guess so, yeah.

1
2 Q. But the systems weren't there otherwise?
3 A. No, but for somebody without any financial background
4 it would have been much more difficult.
5
6 THE COMMISSIONER: Q. Mr Taylor, in respect of your
7 performance discussions, who did you have those with?
8 A. The general manager.
9
10 Q. When you raised the issues around Civica being the
11 major impediment to being able to do your job, what was the
12 response?
13 A. It was taken not particularly seriously, it was "work
14 it out with the CFO", yep.
15
16 Q. It was downplayed?
17 A. Yes, yep.
18
19 THE COMMISSIONER: Okay, thanks.
20
21 MS MORRIS: Q. To clarify, when you speak of those
22 discussions, that was under Lotta Jackson as the general
23 manager?
24 A. Yes.
25
26 Q. Has that attitude shifted with the change in general
27 manager?
28 A. Well, firstly, we don't do the same performance
29 appraisals as under the group manager system and, yes, the
30 current general manager - well, when he arrived he
31 recognised the deficiencies in Civica and I think one of
32 his first instructions was "Don't pay that bill until it
33 gets sorted out."
34
35 Q. I'm not sure if you were here this morning when
36 Mr Roach was giving his evidence, but he commented there's
37 still some difficulties with Civica today; is that correct?
38 A. Yes.
39
40 Q. Is there, however, a greater ability to access the
41 information by council staff or by yourself than there was
42 previously?
43 A. Somewhat but there's still not my ideal of, push a
44 button and get a report that you can use, but it is
45 improved, yes.
46
47 Q. And there's steps attempting to be taken at least to

1 continue to improve?

2 A. Yes.

3

4 Q. Were there any other substantial changes of that
5 nature that you noticed between the previous general
6 manager and under the current general manager?

7 A. Totally different personality, that's an observation.
8 Yes, the focus has changed to getting things done, where
9 Lotta was very process-focused.

10

11 Q. Is there more regular meetings, for example, between
12 yourself and general manager or more regular reporting
13 lines?

14 A. Yeah, we have - the management group has a meeting
15 every Tuesday morning. With the previous general manager
16 we also had those, but with Andrew there's more a two-way
17 traffic of information.

18

19 Q. When you say "more two-way traffic", you mean that
20 Andrew's responding to you more and providing you more
21 information?

22 A. And, but also accepts - is much more readily accepting
23 of listening to what you need, yep.

24

25 Q. Does that feed through to the councillors themselves?
26 Was there a difference in information flow-through between
27 Lotta and Andrew in information pathways?

28 A. From what I've seen, yes; yes, Andrew 's style is much
29 more communicative of information.

30

31 Q. As I understand it, you have attended most of the
32 council meetings over the last five years?

33 A. In the first three, four years particularly, yep.
34 Less since Andrew's been there because he's more focused on
35 getting us out doing our job and he's across pretty much
36 everything that goes to council; he just instructs, if
37 you've got a specific business paper that he's not
38 100 per cent over the top of maybe then you go to the
39 council meeting, but otherwise your time is spent doing
40 your job at the manager level.

41

42 Q. What were your observations then previously when you
43 were attending meetings more frequently as to the level of
44 reporting going to the council on issues such as asset
45 management and financial management?

46 A. It was, there were investment reports came up, which
47 again we relied on to make some of our decisions which in

1 hindsight possibly weren't as informative as they should
2 have been, and that obviously created difficulties with the
3 elected members and, frankly, Lotta didn't like to take a
4 lot of questions, it was a very strict approach from her.

5
6 And, can I say, very few of us had any experience in
7 local government: Lotta did and one of the other managers
8 did, but the rest of us were brand new to the local
9 government structure, so that made a difference I think.

10
11 Q. Just going back to one point you just said in your
12 answer there. You talked about the investment policies and
13 in hindsight some issues in the sufficiency of information.
14 Do you recall when exactly or what decisions you're
15 thinking about when you said that?

16 A. If you look at the situation we're in now, then with
17 more information maybe we would have made possibly
18 different decisions with the capital projects that were
19 talked about earlier today. The road one for example in
20 terms of finances but in terms of needing to provide a safe
21 road for people to drive on, it's two sides of the coin but
22 they're very, very linked.

23
24 Q. Do I take it from that though, that when the road
25 project, for example, was made back at the time it was
26 made, that you didn't have the same understanding of the
27 finances as you do now?

28 A. Well, after what's happened and a year of less income
29 with COVID and things, yes, if you could have predicted all
30 those, yes; but when you looked at the investment reports
31 of those times, we had the cash to do it, and talking to
32 the CFO of the day, yes, there was available cash.

33
34 Q. Were you told at that time about the available cash of
35 restrictions on the cash position?

36 A. Yeah, the monthly investment report has restricted and
37 unrestricted, yep.

38
39 Q. From the reports I have seen there wasn't necessarily
40 accounting of, for example, the airport additional funds
41 within the restrictions; do you recall that?

42 A. I'd have to look back, but I don't recall the
43 restricted being itemised to that degree, but I'd have to
44 look again.

45
46 Q. What was the process in which the roads' additional
47 works came to your attention first?

1 A. Sorry, could you repeat the question?
2
3 Q. The additional roadworks done by Boral, when do you
4 recall that first coming to your attention as a
5 possibility? Were you approached, how did that occur?
6 A. Yeah, it came as a, I believe, a draft proposal from
7 Boral but there had been some work done by my
8 infrastructure manager to go and identify roads that were
9 suitable to be put in the list of work to be done, and I'd
10 have to look at notes but obviously before it went to
11 council, you know --
12
13 Q. But your recollection is not - that it wasn't in the
14 budget or a forward plan by council, it was an approach
15 made to you by Boral?
16 A. Yes.
17
18 Q. And so, when that approach was made, was there then
19 discussions between yourself and the CFO about it?
20 A. Yes.
21
22 Q. What information were you told at that time?
23 A. He provided the advice that the funds were available
24 from a combination of, we were budgeting to spend
25 \$2 million a year on roads, so \$2 million could come out of
26 the current year, \$2 million out of the next year and we
27 could afford the additional million.
28
29 Q. Was there identification of where that additional
30 million would be sourced from?
31 A. I don't recall, no.
32
33 Q. In your answer you've identified that \$5 million was
34 going to come, \$2 million already budgeted for roads in
35 one year, \$2 million for the next, and \$1 million other
36 sources. The resolution that was put to the council
37 identifies the \$5 million coming from cash reserves; is
38 that what you mean by the \$2 million, \$2 million, 5, or did
39 you have a different understanding to that?
40 A. No, it obviously would come from cash reserves but it
41 was a timing issue of what year those funds came out of in
42 terms of the spending of money. It was due to be done
43 June, July, August 2020, so some could have come out of
44 19/20 and some out of 20/21 was the way it was presented.
45
46 Q. And was that matched with expected income in 2019/2020
47 from particular sources that were going to, for example,

1 increase the cash reserves?

2 A. That was my recollection of the 10-year plan, yes.

3

4 Q. And, as we spoke about earlier, the 10-year plan was
5 partly based on services, the main business enterprises
6 being self-funding?

7 A. Yep.

8

9 Q. Which at that time you were aware wasn't taking place,
10 there'd still been deficits for some of those?

11 A. Yeah, some were making surpluses and some were making
12 deficits, but overall the budget was that they broke even
13 as a group in those early times, yep.

14

15 Q. You've mentioned, for example, the generator purchases
16 that occurred a few years back; those were, as I
17 understand, an emergency purchase, a non-budget purchase
18 when they were made; is that correct?

19 A. Yes.

20

21 Q. What was the mechanism used for funding those?

22 A. A report went to council to get approval for roughly
23 \$1 million for three generators and to look to ask the
24 military to fly them to the Island because they weighed
25 15 tonne or 16 tonne or something like that, so couldn't be
26 brought in using conventional methods.

27

28 Q. But in terms of the source of funding itself, was that
29 again budgeted out of cash reserves or was there a plan to
30 fund them through other sources?

31 A. From memory, it would be out of cash reserves, yep.

32

33 THE COMMISSIONER: Q. Mr Taylor, you talked about
34 \$2 million being allocated in the budget each year as an
35 amount that could be available for roads. Was the
36 \$2 million spent in previous years as well or was it just
37 to start in 19/20?

38 A. Again, from memory, it had been budgeted in
39 previous years but, no, it had not been spent partly
40 because we didn't have the resources to spend it in those
41 earlier years.

42

43 Q. Okay. How many kilometres of road are there?

44 A. 78, roughly, depending whether you're counting sealed
45 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

5 Q. And so, if you're spending \$2 million a year, how much
6 could you fix a year? Not many kilometres.

7 A. To chip seal a road that's in reasonable condition
8 costs \$120,000, \$150,000 a kilometre, so working that to
9 its end, what's that, 8 kilometres per million dollars if
10 that's all that was wrong with it, but we have a culvert
11 replacement program that we're partway through, but again
12 we've been taken from that to do other things, and there
13 were 100 culverts identified as needing replacement, some
14 are built with 44 gallon drums. So, what we had to do was,
15 with the Boral project particularly was transfer your
16 efforts to make sure underneath the road that Boral was
17 going to seal that we made those culverts good before that
18 happened and then the guys had been taken off those
19 projects. We get grants, so you do that project rather
20 than your normal maintenance program; it's a --
21

22 Q. It was really a long-term plan to be able to fix,
23 like, you're looking you know a couple of decades really
24 almost to get --

25 A. Yep, \$2 million.
26

27 Q. So, the Boral opportunity that they put to you seemed
28 like an opportunity to get a good headstart on something;
29 is that a fair assumption?

30 A. Yes, because asphalt is a much better product than the
31 chip seal that we can do, so to take it one step further we
32 revisited the roads that were to be asphalted and changed
33 some of them, so now you'll notice that they're the heavy
34 use areas where the fuel truck goes taking the most
35 advantage of asphalt which is a much better finished
36 product. So, as you say, then if you spend \$2 million
37 a year for 20 years, you'll be back painting the Harbour
38 Bridge again, you'll be in the cycle if you can spend the
39 \$2 million and have the rock and get the emulsion here.
40

41 Q. So, just another question. The \$2 million each year,
42 putting in place infrastructure requires a lot of effort
43 and resources; does that mean that, because you haven't got
44 certainty of being able to spend that money each year, that
45 you've got a sort of a stop/start approach?

46 A. Yes, yep, and also our equipment: if you go back to
47 the WorleyParsons 2015 road report, they identified the

1 equipment we needed and the worst spots in terms of
2 possibility of accidents and what needed to be done, and we
3 have a reasonable amount of that equipment now, some thanks
4 to the Boral project where we were able to buy their
5 equipment rather than them take it back, and we've built up
6 some equipment, but rock's an issue and now importing of
7 emulsion's also an issue.

8
9 Q. So, the legacy of buying the equipment, was that
10 equipment cost on top of the \$5 million, or how much did
11 you have to pay for that equipment?

12 A. That was not included in the \$5 million, and to finish
13 that section it actually cost us \$4.2 million, not
14 \$5 million. The \$5 million quote was based on a tonnage of
15 asphalt and they used less in what they produced, so they
16 only charged us about 4.2 rather than 5, but that equipment
17 was purchased separately out of capital budget.

18
19 Q. Okay, and how much was that equipment?

20 A. There was a screener which was about \$300,000, a tar
21 truck fitting a couple of Bobcats, a couple of vehicles; I
22 don't know, half a million dollars maybe.

23
24 Q. And so, whose decision was it to buy that? I'm not
25 saying it was a good or a bad decision, but whose decision
26 was it to buy that equipment? Was that a councillors'
27 decision or was that a council staff decision? Like, does
28 the staff have that kind of delegation?

29 A. Some of it was included in the runway costing and
30 others such as the screener went to council as a business
31 paper because our limit is \$150,000 in spending on any
32 capital without approval of the elected members.

33
34 THE COMMISSIONER: Okay. All right, thanks. Ms Morris,
35 thank you.

36
37 MS MORRIS: Q. Touching on what you've just exchanged
38 with the Commissioner, the roads when the council started
39 were in a very poor state?

40 A. Yep.

41
42 Q. And it had been a long-term plan to slowly improve the
43 state of all those roads?

44 A. Yes, yep.

45
46 Q. For the first few budgets there were line items put
47 aside with the idea of spending money on roads but that

1 money wasn't in fact spent in the first few years?
2 A. No, not in total, no.
3
4 Q. And that was despite there being some cash reserves
5 available through that time?
6 A. Yeah.
7
8 Q. So, what changed in your 2019/2020 time that meant
9 that the money was spent at that point when had it hadn't
10 been in the previous few years?
11 A. You mean, the \$5 million?
12
13 Q. The \$5 million with Boral.
14 A. Again, the opportunity was there on that side of it;
15 the next runway reseal will be 15 years away, so that
16 equipment won't be back on Island realistically for another
17 15 years. Your question of why: as I said, in that
18 justification from the CFO there was \$2 million one year,
19 \$2 million in the next year, and we could afford \$1 million
20 more.
21
22 Q. But there'd similarly been money in the budget in the
23 previous years but it wasn't spent.
24 A. Yep, because physically we were not able to do those
25 things because we didn't have the equipment, the rock, the
26 resources, to spend that \$2 million.
27
28 Q. Was there, for example, a cross-comparison done of the
29 costs of asking Boral to do it at that point in time versus
30 a few years down the track if they'd already left of what
31 that cost would be?
32 A. Asphalt is a considerably more expensive product, but
33 based on our history a few years down the track we may well
34 still have been planning to do things rather than having
35 actually done that 9 kilometres. As we say, just doing
36 basic work you'd get 8 kilometres for \$1 million, so doing
37 the heavy work that Boral did, questionable whether you'd
38 get that work done given the resources that we have.
39
40 Q. Has any further roadwork been done since the Boral
41 works were done?
42 A. We're working on Prince Phillip Drive at the moment.
43 Again, because of that Boral work there was a lot of
44 ancillary work doing the edges after Boral had been
45 through, and now our focus is on completing the footpath
46 from the airport into town which is part of the economic
47 stimulus project, including a roundabout at the corner up

1 by the hospital included in that footpath funded project.

2

3 Q. Is that using the equipment that was purchased from
4 Boral for that work?

5 A. Some of it, yes, yep.

6

7 Q. But some of that equipment hasn't been used for the
8 roadworks yet?

9 A. Well, the screen has been used a lot, just the screen
10 rock in the different products. Other equipment like
11 Bobcats and vehicles and everything just became part of the
12 fleet that get used as needed.

13

14 Q. One of the other things that you mentioned doing there
15 was the grants funding, and there's been for assets as a
16 whole as the council, as I understand, and many budgets
17 have been based on receiving grants, whether capital grants
18 or operating costs grants, to be able to fund that budget:
19 yes?

20 A. Yeah, and that was part of the design in the
21 early years, was that council should apply for grants and
22 get a percentage of their money through the grant system.

23

24 Q. What steps were taken when there were, for example,
25 the lags in receiving those grants? Was it that the works
26 just weren't done, or was there ways of getting that money
27 if there wasn't the grants?

28 A. In the earlier times it was establishing what grants
29 we were and were not entitled to, and there was a long list
30 of grants that we weren't entitled to because we weren't a
31 New South Wales council, we weren't this, we didn't tick
32 this box: there's a list of quite a few that we weren't.

33

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

41

42 Q. I'm sure he'll be happy to hear that.

43 A. Sorry, mate.

44

45 Q. If we take, for example, the telecommunications grant,
46 the grant was received and confirmed in late 2018 but it
47 had been forming part of the budget since 2016, so in that

1 two-year period was there any investment being done in
2 assets or was it a case of wait and see if the grant came?
3 A. Generally it was wait and see, yep.

4
5 Q. Now - sorry?

6 A. Can I say, council started from nothing, so a year was
7 not a very long time. The roads had been owned by the
8 Commonwealth until the council started but the
9 administration was responsible for maintaining them. With
10 the change to the council the roads' ownership moved from
11 the Commonwealth to the council but we were still
12 responsible for maintaining them, so it's areas like that.

13
14 And, as I said, those grants, as you say, can take a
15 long time for them to process a grant. We were starting
16 from absolutely nothing and in great kudos for the first
17 general manager, she got a council meeting established
18 within three weeks of the council starting, from nothing.
19 So, I don't mean to get defensive --

20
21 Q. No.

22 A. -- but it's putting in context a lot of what we're
23 talking about.

24
25 Q. When you say "start from nothing" though, there were
26 quite a number of staff that were there pre-council and
27 stayed on with the council?

28 A. Yes.

29
30 Q. Including yourself?

31 A. Yep.

32
33 Q. You had access to the records and the documents that
34 the administration had?

35 A. Yep.

36
37 Q. So, what was it that you were missing that you hadn't
38 been given from the administration that you needed, or that
39 didn't exist?

40 A. The payroll system was transferred directly from the
41 old system, so you had employees on relatively low wages
42 now being taxed: okay, not a massive amount of tax, but
43 being taxed. It took over 12 months to get an enterprise
44 agreement in place, so there were a lot of issues that you
45 had to deal with outside these wonderful things like asset
46 management and things; your day-to-day was considerable in
47 keeping things going. Yeah, you started off with employees

1 and old assets and other things, but it was a different
2 structure.

3

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

10

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

15

16 Q. And so, that process delayed on a practical level
17 being able to do projects or being able to make those sorts
18 of decisions for asset maintenance?

19

20 A. You've only got so much resources and people can't do

21

22 Q. You're aware of as well the service delivery agreement
23 where there's the state equivalent?

24

25 A. (No audible answer.)

26

27 Q. To your understanding, is there asset management or
28 asset maintenance requirements with things connected with
29 this service delivery agreement?

30

31 A. Yeah, under the service delivery agreement that does
32 not own assets, so the lighters and launchers, for example,
33 for ship to shore, the crane, all those things in that
34 operation under the SDA council leases that equipment to
35 the SDA for the period of time it's needed, yep.

36

37 Q. Does that leasing arrangement cover the costs of
38 maintaining and purchasing those assets that you need to
39 provide those services?

40

41 A. The launchers are 25 and 35 years old; the lighters
42 are five, six, seven years old; the crane cost \$660,000
43 roughly. I think the figures, I'd have to go back and
44 check again, but the figures are reasonable, yes, in terms
45 of charge-out rates for the use of that equipment, yep.
46 What happens when we need a new \$400,000 launch next year
47 is a conversation yet to be had.

48

49 Q. So there haven't yet been conversations yet of that
50 nature?

1 A. No, we're still trying to source what is the most
2 suitable, yeah.
3
4 THE COMMISSIONER: Can I just ask a question?
5
6 MS MORRIS: Yes, Commissioner.
7
8 THE COMMISSIONER: Q. Mr Taylor, you mentioned in
9 passing that the Commonwealth owned the roads prior to the
10 council being established; is that basically the
11 Commonwealth in terms of through the then self-government
12 arrangement, or is there some nuance there I'm not quite
13 understanding?
14 A. The owner of the road reserve was the Commonwealth up
15 until 30 June 2016, similarly as they owned other pieces of
16 land.
17
18 Q. Was the governing body then responsible for the
19 maintenance of a Commonwealth-owned asset?
20 A. Correct.
21
22 Q. So, when the transfer took place, were there any
23 discussions that you were either involved in or aware of
24 around what was being transferred and the state of the
25 Commonwealth transferring an asset in a certain condition
26 but no funding to take that on?
27 A. There wasn't any conversation that I was aware of, no.
28
29 Q. So, basically there was a decision to set up a new
30 governance arrangement for the Island and those decisions
31 were taken more at a higher level in terms of just getting
32 the process set up rather than fully understanding the
33 implications, in your experience?
34 A. In my opinion, yes.
35
36 THE COMMISSIONER: Okay, thanks.
37
38 MS MORRIS: Thank you, Commissioner. Mr Bolster is going
39 to ask some questions.
40
41 MR BOLSTER: Thank you, Commissioner, I'll be relatively
42 brief in the light of some of Mr Taylor's answers to
43 questions by my learned friend. Can I begin though,
44 Commissioner, by tendering the electronic tender bundle for
45 the airport contract; that should be Exhibit 4.
46
47 **<EXHIBIT #4 - ELECTRONIC TENDER BUNDLE FOR THE AIRPORT**

CONTRACT.

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

For the record I can indicate that you have made a non-publication direction in relation to those documents. That direction permits witnesses to be shown those documents on the screen in front of them but those documents won't be shown up on the screen for public consumption. So, people may, I'm sorry to say this, not be able to see the documents that witnesses are being shown but there's not much we can do about that, I do apologise.

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

MR BOLSTER: Yes.

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

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

THE COMMISSIONER: Okay, thanks, Mr Bolster.

<EXAMINED BY MR BOLSTER: [2.51 pm]

MR BOLSTER: Q. Mr Taylor, can we begin by having a look at the minute why the council made the decision to proceed with the Boral tender. Now, that is not a confidential document although it was a confidential discussion amongst council at the time and it's in tab 3 of the airport

1 bundle, if we could have up, please, NIRC.PUB.0001.00192,
2 and if we go to page 19.

3
4 On page 19 you will see that the discussion about the
5 tender evaluation moved into confidential session on
6 20 February. Were you the officer who had carriage of that
7 particular project at the time under the overall direction
8 and control of the general manager?

9 A. Yes, I think the general manager might have put that
10 paper up, but yes.

11
12 Q. And you were there to answer questions of councillors?
13 A. (No audible answer.)

14
15 Q. All right. Typically of other confidential
16 discussions of council, those portions of the meeting are
17 not recorded?

18 A. Correct.

19
20 Q. They obviously are not broadcast. Ordinary meetings
21 are broadcast on the Island, aren't they, on the radio
22 service?

23 A. Yes, but when it moves into confidential the broadcast
24 stops, so the recording is the same method so it stops.

25
26 Q. For anyone who wants to know what was discussed at a
27 council meeting at any time, they can go to the council
28 website and listen to the tape of the full meeting?

29 A. Yes.

30
31 Q. Except for these discussions?

32 A. Correct.

33
34 Q. If we could go, please, down, you will see if we go
35 down the page to the next page, originally Councillor Snell
36 and Councillor Buffett proposed a fairly simple resolution
37 adopting the Boral tender. Do you recall that?

38 A. Yes, that would have been what was presented in the
39 business paper.

40
41 Q. And then there was some discussion and an amendment
42 was moved, and if we could go down a bit further, this form
43 of words was put forward by Councillor Buffett and
44 Councillor McCoy, and this concerned exploring an
45 alternative option raised by Boral that involved the rock
46 or aggregate being sourced on the Island; correct?

47 A. Correct.

1
2 Q. Just pausing there, it's fair to say, isn't it, that
3 the total amount of aggregate needed to do the airport was
4 about 30,000 cubic metres; is that right?
5 A. Yes, tonnes versus cubic metres --
6
7 Q. Tonnes, I'm sorry, tonnes. I do apologise, tonnes.
8 A. Yep.
9
10 Q. That you had a quarry that had approval for 15,000
11 tonnes; that's correct?
12 A. Yep, roughly, yep.
13
14 Q. In order to obtain the necessary Department of
15 Environment consents - and that's the Commonwealth
16 department not something that was in the control of council
17 - you would have had to have approached Canberra about
18 that; correct?
19 A. Correct.
20
21 Q. The process for doing that was anticipated, wasn't it,
22 to be quite a lengthy process?
23 A. Yes.
24
25 Q. Do you recall how long you anticipated it was going to
26 take back in February 2019 when this was discussed?
27 A. I can't recall how long, but this business paper's
28 dated February 19?
29
30 Q. 2019?
31 A. So, if it cannot be obtained by 31 March, then the
32 recommended tender will proceed, so unlikely that you would
33 get ministerial approval for significant development in six
34 weeks or whatever.
35
36 Q. Was that issue discussed, to the best of your
37 recollection, when the matter came before council?
38 A. I can't recall with any certainty, no.
39
40 Q. Did you yourself see the quarry, the Cascade Quarry
41 alternative, as a realistic alternative at that time?
42 A. No.
43
44 Q. Why was that?
45 A. As you've said, we need 30,000 a tonne, and the
46 approval or the expected return from that area was only
47 half that.

1
2 Q. Can I take it that, knowing that at the time, you'd
3 have pointed that out to council members at that time?
4 A. How do I say this simply? In some instances the
5 general manager didn't encourage a lot of talking in these
6 meetings.
7
8 Q. Really? So, do you have a recollection of her giving
9 such a direction in relation to that sort of information
10 that I would have thought would have been the sort of
11 information that councillors needed to know?
12 A. No, I don't have a recollection on that.
13
14 Q. I take it that you don't have a recollection talking
15 about that particular problem with councillors at that
16 time?
17 A. No.
18
19 Q. I want to suggest to you this: if it was something
20 that you were aware of, it would certainly have been
21 something you relayed to the general manager?
22 A. Yes.
23
24 Q. Do you have a recollection of doing that or would you
25 rely on that - your practice and your procedure in briefing
26 the general manager to say that?
27 A. Yep. I recall the discussions, I don't recall whether
28 it was after or before that meeting, where the possibility
29 of obtaining rock locally was remote in terms of the time
30 constraints on having to reseal the runway.
31
32 Q. Once that's understood, the project funding of
33 \$43 million fell substantially well short of the likely
34 project cost if you factor in biosecurity, doesn't it?
35 A. Yes, at that stage we may not have known what
36 biosecurity cost was, but Boral had an estimate and it
37 depended on biosecurity's requirements.
38
39 Q. Their estimate proved to be pretty reliable in the
40 end, didn't it?
41 A. Yes.
42
43 Q. Does your recollection extend so far as to whether the
44 Boral extension was made expressly known to councillors
45 when they came to consider this?
46 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
8 I want to take you then to paragraph 3. Where did
9 this notion of a loan from the Norfolk Island International
10 Airport Government Business Enterprise come from? Who
11 proposed that?

12 A. I honestly don't know. Was that in the original
13 submission?

14
15 Q. If we could go up the page. Yes, it was. Is that
16 something that came from your hand? It looks like a
17 finance matter.

18 A. I don't believe so and I certainly hope not because
19 the Airport Business Enterprise would be loaning money to
20 the Airport Business Enterprise, which it didn't have
21 because we didn't account for businesses separately to
22 that degree.

23
24 Q. Correct.

25 A. In the old system you had P&L balance sheet by
26 business but not in the council system.

27
28 Q. It's not as though the Norfolk Island Airport had a
29 separate bank account with a pile of cash that it was going
30 to lend to council.

31 A. No.

32
33 Q. I mean, you'd agree with me that that is bordering on
34 a nonsensical notion, isn't it?

35 A. Yes.

36
37 Q. Has that been brought to your attention before? Have
38 you stopped to think about that before, that resolution?

39 A. Whilst nonsensical, the money would have come from
40 council.

41
42 Q. Yes.

43 A. So, yeah, I can't explain it and I certainly hope my
44 name's not on the business paper.

45
46 Q. Subsequently Boral carried out, at council's cost,
47 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
5 nearly \$100,000 if my memory serves me. Do you recall how
6 much it cost you to do the drilling to ascertain the
7 quality of the aggregate?

8 A. I don't recall. I would not have thought that the
9 figure that you mentioned was correct, but I don't recall.

10

11 Q. No, it's in the papers, we'll see that in due course.
12 Obviously, we all now know that the aggregate was not of
13 appropriate quality to resurface the runway; correct?

14 A. Correct.

15

16 Q. And again, council was forced to proceed with
17 Option 2. But I just want to go back to that meeting on
18 20 February. I want to ask you whether you recall, because
19 the meeting was not recorded, if there was any discussion
20 about the potential risks to the council cash position of
21 Option 2 which you understood to be the most likely result
22 from a funding position, whether there was any discussion
23 about the risk to the council budget and cash position at
24 that time?

25 A. I don't recall.

26

27 Q. Was it consistent with the way in which these matters
28 were dealt with on council for the general manager to lead
29 the discussion about these sorts of matters?

30 A. Yes.

31

32 Q. Do you recall making any contribution to the debate on
33 that occasion or answering questions?

34 A. I don't recall, no.

35

36 Q. Is there any practice at all of recording any of the
37 substantive discussion that's to and fro on such an
38 important issue?

39 A. No, confidential matters are only recorded with what
40 you see on the minutes from that meeting.

41

42 Q. The discussion about the roads, the Boral road
43 contract, do you have any recollection of that debate? It
44 was, again, a confidential discussion, was it?

45 A. Just that it was considered as a positive move in
46 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
8 Q. Am I right in thinking that you don't recall that
9 particular contract as having any risk at all?

10 A. No, because the financial implications indicated that
11 it was able to be financed.

12
13 Q. Where did that critical piece of information come
14 from?

15 A. From the CFO.

16
17 Q. And, who was that at that time?

18 A. It was Phil Wilson.

19
20 Q. Was he the CFO when the airport resurfacing contract
21 was considered?

22 A. Excuse me. He was officially CFO from April 2018 and
23 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
29 Q. Mr Taylor, can you tell me who actually negotiated the
30 contract with Boral? Who did the day-to-day negotiations?
31 Was there like a team, the CFO and yourself and others or
32 was it --

33 A. Yeah, there was a group which included the general
34 manager, me, Alistair Innes-Walker, and others, I believe
35 the airport manager of the day was Anthony Allen, possibly
36 Alan Buckley the infrastructure manager; I think that was
37 the group involved in the project.

38
39 Q. Was there any contingency requirements in the tender,
40 call for tenders that went out, or was there any
41 contingency requirements discussed as part of any of those
42 discussions?

43 A. I can't recall with any accuracy, no.

44
45 Q. Have you got any recollection about whether Boral
46 actually raised the need for a contingency within their
47 budget? Boral is a very experienced infrastructure

1 delivery entity and they would be used to such things; can
2 you recall them ever raising the need for a contingency?
3 A. Again, I can't answer with an answer that I could rely
4 on, yeah.

5
6 THE COMMISSIONER: All right, thanks, Mr Bolster.

7
8 MR BOLSTER: Thank you, Commissioner, those are my
9 questions, nothing arising out of that, so Mr Taylor can be
10 excused from further attendance and released from his
11 summons.

12
13 THE COMMISSIONER: Okay, thank you so much for your
14 evidence and for being up-front with us and trying to
15 recall things that happened a while ago, it's been very
16 helpful, thank you.

17
18 <THE WITNESS WITHDREW

19
20 THE COMMISSIONER: We might actually just take a 10 minute
21 comfort stop for everyone and we'll come back in
22 10 minutes.

23
24 **SHORT ADJOURNMENT**

25
26 MR BOLSTER: Commissioner, the next witness is Mr Alistair
27 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
33 MR BOLSTER: Q. For the record could you state your full
34 name?

35 A. Alistair Ronald Innes-Walker.

36
37 Q. Your current position with Norfolk Island Council is?

38 A. I'm the manager corporate and finance.

39
40 Q. How long have you held that position?

41 A. I was transferred to that role from my previous role
42 on 3 June 2019.

43
44 Q. Before that, what was your position?

45 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

6 Q. So that routinely involved you sitting on a steering
7 group?

8 A. That is correct.

9

10 Q. With representatives, other representatives of Boral
11 and the council to oversee the performance of the contract?

12 A. Correct. At the same time as we let the tender for
13 the airport reseal we engaged a project manager,
14 professional project manager, Aileron Edge, who was
15 responsible for the day-to-day interaction with Boral and
16 management of the contract. My role, together with other
17 members of the council, was to participate as you said in
18 steering committee meetings.

19

20 Q. Part of that role involved monthly, was it, or
21 quarterly reports?

22 A. Quarterly reports.

23

24 Q. For --

25 A. They included - sorry, they included members, a
26 representative from the Commonwealth, the funder, and also
27 the administrator.

28

29 Q. Taking you back to the precursor to the contract and
30 this figure of \$43 million.

31 A. Yes.

32

33 Q. It seems to have been a hard cap in the Commonwealth's
34 thinking, are you able to assist the Commissioner with
35 where that figure came from in the first place?

36 A. I can't provide the specifics apart from the fact that
37 the technical consultant who was engaged by the council to
38 assess the issue at the airport following the CASA
39 findings, who was recommended because he's a world expert
40 in asphalt and runways, he made an estimate and I believe
41 it was a range of 35 to 43 depending on whether the rock
42 was brought in or not; but definitely he made an estimate
43 and that was the figure that was provided in discussions,
44 which I was not involved with, between I believe the
45 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
13 Q. Can I ask you about that third paragraph of the loan
14 from the Airport Government Business Enterprise, which
15 would seem to have been within your area; can you make
16 sense of that particular provision in the resolution?

17 A. The only sense I can make of it is that, as I recall,
18 the CFO at the time made that suggestion or whatever the
19 recommendation was. So, as Mr Taylor has previously
20 explained and as you're alluding to, there was no real
21 business unit, airport business unit, to actually raise a
22 loan to or from.

23
24 Q. Did you question that resolution at the time, the
25 proposed resolution at the time?

26 A. No, ah --

27
28 Q. Or do you not recall?

29 A. No, no, I wouldn't have said anything and, as
30 Mr Taylor indicated, the general manager took
31 responsibility for a lot of the decisions, and in terms of
32 feedback and the like it wasn't a very open environment in
33 that regard; and, to be honest with you, the context of the
34 whole discussion was that the airport had to be fixed,
35 council had agreed or was required under the funding
36 agreement to pay any difference, and so from my perspective
37 as someone at a different level, I didn't really care - I
38 knew the council was going to have to pay for it and
39 whether they want to - whether a person wished to frame it
40 in such a way, I personally didn't really care, we just
41 needed to get the job done.

42
43 Q. Do you recall any discussion about risk to council's
44 cash position in the context of this project?

45 A. No. Again, as the other witnesses have stated, the
46 finance side of things was conducted by the CFO and
47 discussed with the general manager.

1
2 Q. Do you recall being present in any of those
3 discussions and, if so --
4 A. No, I wasn't on the executive group. It was the
5 general manager, the group manager Mr Taylor, and the CFO
6 and the executive manager HR were the executive group where
7 that was discussed.
8
9 Q. If we could have displayed document 42 in the airport
10 tender bundle which I showed you during the break, it's a
11 letter from Boral to you; if that could just come up and
12 this could be displayed publicly, it's not a confidential
13 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
19 Q. You are familiar with that letter?
20 A. I am.
21
22 Q. So, we've moved forward basically 12 months to April
23 2020. COVID has just landed on Norfolk Island - well,
24 thankfully it's never landed on Norfolk Island, but the
25 effects of COVID have definitely landed on Norfolk Island.
26 A. Yep.
27
28 Q. What was the reason for this letter to you from the
29 representative of Boral?
30 A. It was in response --
31
32 Q. Mr Jeffrey.
33 A. Sorry. It was in response to a number of discussions
34 we had had with regard to biosecurity. As the
35 Commissioner's probably aware, at the time the contract was
36 let or the tender was made there was a provision made for
37 \$4.2 million for biosecurity. What Boral said at that time
38 is that their price, without the provision for 4.2,
39 included what they thought would be a normal provision for
40 biosecurity based on what they'd done in previous years, so
41 they had actually provided for some biosecurity activity
42 within the core contract. However, due to - and it spells
43 it out in this document - agricultural biosecurity,
44 whatever department is responsible for what would be needed
45 to be done to the rock, we were unable to provide any
46 guidance to Boral and/or the other tenderers as to what the
47 specifics were with regard to the biosecurity requirements.

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

18
19 So, obviously as the customer, we were concerned about
20 the impact: yes, it was accepted that there was provision
21 for 4.2, but we were always very hopeful that it would come
22 in a lot less than that, as any person in a contract would.
23 And with all these things happening it became increasingly
24 obvious that it was going to head towards the 4.2 and at
25 one stage it looked like it was going to go beyond, so
26 that's when we started asking Boral to please document what
27 their issues were, because we were hearing these
28 anecdotally, and, "Oh we're waiting for this. They haven't
29 got back to us. We can't make a decision. We don't know,
30 we keep asking them", and so, for us to then go, okay, well
31 perhaps we need to talk to the Commonwealth about this,
32 because a number of people saw it as an additional cost
33 imposed by Commonwealth requirement, and so that was the
34 basis of this letter.

35
36 Q. So, was this documentation used? If we could perhaps
37 go down to page 3 of the document, and you'll see the
38 closing three lines which I think probably answer the
39 question, but do you recall the tenor of that? That's the
40 reason for the letter, isn't it?

41 A. Yeah. Again, anecdotally when I spoke to the Boral
42 representative on the Island they couldn't believe that the
43 council was being asked to pay these additional costs for
44 biosecurity when it was a Commonwealth requirement.

45
46 Q. Have subsequent attempts been made to raise this issue
47 with the Commonwealth?

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

13 Q. So, 43 was always just a hard limit for the
14 Commonwealth?

15 A. And it was even harder than that because in the
16 original contract, as Mr Taylor referred to, we purchased
17 some vehicles under the contract, they were going to be
18 used on the project, and then obviously they'd be taken
19 back; it was an opportunity for us to buy equipment to
20 replace equipment that we had that was basically stuffed,
21 so it was a good opportunity to buy that equipment. But
22 when they reviewed that requirement in the contract, the
23 AusIndustry basically cut back the eligible component by
24 the depreciation of the vehicles post-completion of the
25 contract; they said that should not be a cost of the
26 contract, you're getting benefit of that afterwards, so it
27 actually dropped the - I guess the deemed eligible
28 expenditure down by, I can't remember, it might be
29 \$300,000. So, the actual figure was 4217.
30

31 Q. So, a further cost?

32 A. Correct, but --
33

34 Q. And council have already committed to buying those
35 vehicles?

36 A. Yeah, it was part of the contract. I guess
37 inexperience from whoever was negotiating was, there was no
38 sort of understanding that it wouldn't be deemed an
39 eligible cost but they ran into it. The reality is, up to
40 the fact that we spent more than the \$43 million eligible
41 expenditure, we got the 43 anyway, \$43 million.
42

43 Q. When were the significant problems to the cash
44 position first communicated to you?

45 A. Again, in my role as commercial services manager and
46 even during the evaluation of the tender, the financial
47 side of things for the council as a whole wasn't always

transparent. For me personally, I first - I guess I first got the idea when - in May, in May last year when the contractor, Roger Neilsen, who had been contracted to do the job of the finance corporate manager, or the CFO and do the budget, we were called in and the budget was discussed and this was the issue and ultimately Andrew Roach, Mr Roach made the decision that, given the seriousness of the issue, he was proposing to make redundant a number of people on staff. So, obviously it got discussed then, why are we doing that, who are the people? So, it was around - I can't tell you exactly, but it was in discussions in May, and then obviously the people made redundant in June and then it was on.

Q. When was the last payment of cash on the airport and roads contracts made?

A. On the airport contract or the roads?

Q. Well, let's deal with the airport contract first.

A. Okay, the last payment was made last month.

Q. Was that out of internally or externally restricted cash? I'm just wondering how the cash dwindled from April when you found out what was going to happen?

A. In that case it wasn't really saying whether it was restricted or unrestricted. It was a component of restricted that, because we had received funding in advance from the Commonwealth, they paid us the \$43 million apart from the last tranche of half a million which was the hold on clause until we reported to them, which was last month I believe, but then we knew there was a commitment for the final payment of 700 - whatever it was, \$700,000, and that was held off because there was some delays in finalisation of the practical completion, but that was the last payment. And the roads --

Q. And the roads?

A. The roads was, I can't be 100 per cent sure, I think it was October/November.

Q. Shortly after the works were finished, I expect?

A. Yeah, basically the roads offer, in Boral's interest, when they had all their equipment here there was a period of time between when they finished laying the asphalt and when they can start doing the grooving - and that's not all them dancing on the runway, it's, they have to groove into the actual --

1
2 Q. Yes.
3 A. So, there's a period of time in between then when
4 they're waiting, so they came to us and said, oh look while
5 we're doing this - I mean, and this was always further
6 back, but they always knew there was going to be a space
7 between when they finished the work with the asphalt
8 machine and when they finished the grooving, and then when
9 they would leave the Island, so in that time that was when
10 they were proposing back - whenever - so we could do the
11 roads in that time.
12
13 MR BOLSTER: I have no further questions, thank you,
14 Commissioner.
15
16 THE COMMISSIONER: Thanks, Mr Bolster.
17
18 Q. Mr Innes-Walker, can you help me out with a few
19 things, hopefully. So, the consultant said the price of
20 the contract would be between around 35 to 43. Do you
21 think it's interesting that the costs came in at 43, and
22 not 41 or 42 or 40, but 43?
23 A. You mean, the costs that the Commonwealth were
24 prepared to provide?
25
26 Q. Yeah, like, if you're letting a contract and you know
27 you've got a budget of 35 to 43, go out to tender, you know
28 you've got that much and then your contract comes back in
29 and it's at the top end almost to the dollar of the amount
30 you've got available. So, that leads me to the question,
31 was that amount, that estimation amount, public?
32 A. Yes.
33
34 Q. So, one of the things that happens in government is
35 that often there's a lot of argy-bargy around whether you
36 should talk about how much you're making available for
37 roads, and typically the government shies away from talking
38 about such amounts because they don't want to lead the
39 tender process, they want an honest response. Have you got
40 any comments around that?
41 A. It was public knowledge actually, \$43 million was what
42 the Federal Government would be providing. But we were -
43 again, we were relying on Mr White, Airport Payment
44 Services, who was a world renowned expert. He'd done work
45 with Boral and all the tenderers I believe around Australia
46 laying airports and checking compliance and seeking advice,
47 being sought for advice and the like. So yeah, you could

1 argue that, yeah, that's a bit of coincidence, but when
2 you've got someone who's got intimate knowledge of the
3 industry and what the normal costs are, I didn't think it
4 was unusual but ...

5
6 Q. But if the contract had come in at, say, 37 or 38 and
7 then there was this extra \$4 million on top, you still
8 would have been within that 43 that was available?

9 A. Yeah, but we didn't know what the 40 - we didn't know
10 about the 4.2 at that stage either. The contract was
11 for --

12
13 Q. I mean, as Mr Bolster's highlighted, there seems to be
14 this fixation on the Commonwealth not going over the 43
15 because that was the top end of what the consultant said it
16 should cost, I presume?

17 A. Yep.

18
19 Q. So, if the contract had come in midway in between the
20 35 to 43, you would have been able to have a more proactive
21 discussion with the Commonwealth because you knew there
22 were funds that you would be discussing?

23 A. Yes, absolutely, and I'm betting they wouldn't have
24 given us the 43 if it came in at 42, so it works both - it
25 doesn't seem to work both ways, but I don't personally see
26 that there was a, you know, a deliberate ploy to say, oh,
27 we know it's 43 we're gonna get, but I'm not an industry
28 expert; the council relied on the expertise. Mr White was
29 on the evaluation panel as was the - you know, the Regional
30 Procurement who were the experts in the probity, and so, we
31 relied on those.

32
33 Q. Was anyone from the Commonwealth on the panel?

34 A. No.

35
36 Q. One of the things I asked earlier was around
37 contingency issues. The Commonwealth Government's very
38 focused on putting contingency into infrastructure
39 contracts and they have a cost estimation system which
40 includes a confidence factor of P50 or P90, and they have a
41 cost estimation process up on the Department of
42 Infrastructure's website which I think started in around
43 2010.

44
45 Are you aware of any discussions that were occurring
46 around the need for some contingency to be built in? And
47 the reason I ask that question is that, apart from the

1 biosecurity issues, it's quite common for infrastructure
2 projects to cost more than originally envisaged due to
3 things like weather, delays in getting materials, changes
4 in the valuation of the dollar, that kind of thing in terms
5 of purchasing materials. Are you aware of any discussions
6 around building in some kind of contingencies?

7 A. There were standard contractual terms around time
8 delays and who would be responsible financially for those
9 and things around, for instance, how quickly that Boral had
10 to close down their operations when a plane was going to
11 land because that would have an economic impact, we
12 couldn't shut down the airport. So, that doesn't answer
13 specifically your question, but there are clauses in the
14 contract that were - liquidated damages, for instance -
15 that were in there to deal with those situations. I can't
16 tell you off the top of my head the specifics.

17
18 There was a provision, for instance, of \$300,000 for
19 customer-generated variations. So, there was 300 grand
20 sitting in the office so that, if we wanted - which we
21 used - for various bits and pieces, say for airport
22 furniture or for - not chairs, you know, but various things
23 to go around the airport we could utilise that, so there's
24 300 grand there, but you know, the percentage of a
25 \$43 million contract, that was nothing.

26
27 MR BOLSTER: Just one thing that arises out of that, I
28 just wanted to clarify something about whether there was a
29 representative of the Commonwealth on. Mr Innes-Walker,
30 could you just have a look at this document which is a
31 confidential exhibit, it's a copy of NIRC - don't bring it
32 up, if you could just hand it to him, that's the quickest
33 way: NIRC.020.0001.0002 for the record. You will see there
34 at the foot of the first page and going over to the second
35 page there are eight names. Can you just check that
36 there's no one from the Commonwealth there, without naming
37 the person? That's the list of the tender evaluation.

38 A. No, there was no one from the Commonwealth. The
39 reason why I hesitated when you asked me originally was
40 because Mr Tim Cotter was involved fairly closely with the
41 project, both during and before and after the tender
42 process, so I couldn't quite remember whether he was
43 involved.

44
45 MR BOLSTER: Thank you. Nothing further, Commissioner,
46 and Mr Innes-Walker can be excused from further attendance
47 and be excused from his summons.

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

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

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

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

**AT 3.47PM THE PUBLIC INQUIRY WAS ADJOURNED
TO TUESDAY, 1 JUNE 2021 AT 10.00AM NFT**

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