

**PUBLIC INQUIRY INTO THE NORFOLK ISLAND REGIONAL COUNCIL**

**South Pacific Hotel Board Room  
110 Taylors Road, Norfolk Island 2889**

**Before: Ms Carolyn McNally, Commissioner**

**Counsel Assisting:**

**Mr Paul Bolster  
Ms Kathleen Morris**

**On Wednesday, 2 June 2021 at 9.05am NFT**

**(Day 3)**

1 THE COMMISSIONER: Mr Bolster.

2

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

6

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

8

9 <EXAMINATION BY MR BOLSTER:

10

11 MR BOLSTER: Q. Mr McCoy, for the record could you  
12 indicate your full name, please?

13 A. My name is Alan John McCoy.

14

15 Q. You've lived on Norfolk Island all your life?

16 A. I've had a short period off Island for seven years, so  
17 five years I lived in Surfers Paradise and another two  
18 years up in Macquarie, and that was - I returned back to  
19 Norfolk Island nine years ago.

20

21 Q. Before your election to the Norfolk Island Regional  
22 Council, you had a fairly long history in the Norfolk  
23 Island Assembly?

24 A. I certainly did, I was a member of the 10th and 11th  
25 Assembly.

26

27 Q. Did you hold office?

28 A. I held office for a short period, I was the Minister  
29 for Health and Environment.

30

31 Q. In that period, did you have a close involvement with  
32 the budgetary processes for the government?

33 A. Yes, as I said, as Assembly members, we sure did; when  
34 budgets were - was due for the budget process to occur,  
35 that would start in about March, and the senior staff of  
36 administration at the time would come and present their  
37 bids and we would go through the budget line-by-line to  
38 come up with a final budget which the Assembly would be  
39 comfortable with, which then the Minister for Finance would  
40 still need to have that budget passed.

41

42 Q. Who was the Minister for Finance and who was the Chief  
43 Minister when you were in the government?

44 A. At that time the Minister for Finance was Ronald Coane  
45 Nobbs, and he was also the Chief Minister.

46

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

1 until the transition period began and you ran for office.  
2 What was the thing that attracted you to nominating for the  
3 council elections?

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

15  
16 Q. I take it though that all of those issues you just  
17 mentioned, they'd been issues that have confronted the  
18 Norfolk Island Government before 2016?

19 A. Correct.

20

21 Q. And there's been a difficulty in meeting those needs  
22 in the years leading up to 2016?

23 A. Well, there had been money expended on road repairs  
24 but, as I mentioned, I had a vision that we needed to have  
25 a better system of the water run-off from the roads and to  
26 try and capture, through swales and mini dams, some of that  
27 water so it would permeate back into the Island. It's more  
28 of an environmental matter as such, the same with the waste  
29 management system.

30

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

36

37 Q. Just on the roads, to what extent has the condition of  
38 the roads been a safety issue? We've struggled to find  
39 statistics about accidents and fatalities; are the roads  
40 that dangerous on Norfolk that you've had those sorts of  
41 problems arise?

42 A. Well, that is a difficult question to answer because  
43 I'm not aware of any accidents on the Island that were a  
44 direct result of the condition of the roads.

45

46 Q. We've obviously become familiar with the roads and  
47 we've driven along a number of them ourselves and we can

1 see a difference between what occurred in 2019/2020 with  
2 some of the areas of the roads that are on the more remote  
3 parts of the island where there are steep grades, dips,  
4 sharp turns, and the surface is of a very poor quality. To  
5 do anything meaningful about the roads would, obviously I  
6 take it, involve quite a lot of work, quite a lot of  
7 expenditure, far more than the \$5 million that was spent  
8 over the last two years; you'd agree with that, wouldn't  
9 you?

10 A. I would agree. A quick example: there was a section  
11 of roadworks repaired just along Taylor's Road over here.  
12 In the early days of council I requested a breakdown of the  
13 figures for the seal works, the footpath and the gutter and  
14 kerbing so that, when council puts a budget together to do  
15 roadworks, we had an understanding of what it would cost  
16 per metre, per kilometre, to do the resurfacing, to do the  
17 gutter and channelling; I got an answer back to say, "The  
18 roadworks cost \$500 million and was paid for by the  
19 council." That was it.

20

21 Q. That was a request to whom and who gave the answer?

22 A. To senior staff.

23

24 Q. Anyone in particular? Mr Taylor, or was it the  
25 general manager?

26 A. Yes, correct.

27

28 Q. When you were elected were there groupings of  
29 candidates? Was there a ticket or were there informal  
30 parties or associations?

31 A. No, not on my part. I stood independently, I'm always  
32 an independent person, so I was not part of any party and I  
33 was not aware of any other councillors being part of any  
34 party or - oh well, some of the councillors are members of  
35 the Labor Party et cetera, but as far as forming a group on  
36 the Island, I couldn't answer that.

37

38 Q. What about on council when it came to voting on  
39 issues, were there groupings or alliances that voted a  
40 particular way?

41 A. Well, I wouldn't say that, you know, there was no real  
42 alliance because there were difference of opinions between  
43 the five councillors, we did not all agree or say, well,  
44 I'm going to vote the way a particular councillor wants to  
45 run.

46

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

1 training in the way in which you would have to operate  
2 differently under the Local Government Act compared to  
3 self-governing?

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

14

15 Q. What did you take away from that training?

16 A. Well, simply how a councillor should operate, how a  
17 councillor acts in council meetings, what we can do as  
18 councillors, moving motions, whether recommendations - but  
19 one of the more important things is the financial side of  
20 how a council operates and really, when it comes to the  
21 public monies, it's no different to how the Assembly  
22 operated, it was a responsibility - we owe a responsibility  
23 to expend public funds in a responsible manner.

24

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

30

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

34

35 *... responsible and sustainable, aligning*  
36 *general revenue and expenses.*

37

38 Is that something that your attention was brought to  
39 at the beginning of the local government process?

40 A. Well, are you asking without training or what?

41

42 Q. Yeah, with the training; I'm focusing on --

43 A. Well, yes, I would say, yes.

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45 Q. Was sustainability an issue that was conveyed to you  
46 as being important in the training you received?

47 A. Yes.

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Q. "Aligning general revenue and expenses", I take it, you would understand that means balancing the budget?

A. That would mean balance, yes, I understand that's balancing the budget but --

Q. You would be familiar with that from your --

A. Correct, and if I can elaborate on that, you mentioned on Monday that the council assets that were passed on to council were in a poor to fair condition, so as a councillor I felt I had an obligation to invest in improved infrastructure, and if you want me to go through where council invested monies to replace ageing infrastructure, I can elaborate.

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

*... effective financial and asset management, including sound policies and processes for ... performance management, asset maintenance, funding decisions, risk management practices.*

Were those issues conveyed to you by the people who gave you the training?

A. Yeah, reflecting back, yes.

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

Then (d), which is:

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

And Chapter 3 includes those four financial management principles that we just went through. Did you understand that the governing body, that is the five of you, the five members of council, had to ensure as far as possible that you acted in accordance with those principles?

A. Without a doubt because, quite simply, whilst a lot of it becomes operational, as a councillor I felt that I had a

1 right to glean from the officers why and where they were  
2 spending funds. So, when it comes to that, it became a  
3 grey area for me, as to who actually held that  
4 responsibility, so when financial matters were put to  
5 myself as a councillor, I took that on good faith and spent  
6 many, many hours trolling through the council budgets and  
7 asking questions, but one of the differences is, we did not  
8 get to through the budget line-by-line.

9  
10 Q. Why was that?

11 A. I'm not the general manager.

12  
13 Q. The budget was something that was presented to you in  
14 late May, early June each year for the following years?

15 A. Correct.

16  
17 Q. The budget was something that you as a council had to  
18 sign off on, wasn't it?

19 A. Correct.

20  
21 Q. From time to time officers put forward a range of  
22 revenue measures to improve the financial position of the  
23 council, didn't they?

24 A. Yeah, they certainly did, and you know, I rely very  
25 heavily on the audit reports, monthly audit reports, the  
26 investment report, and also the annual report which was  
27 prepared by Pitcher Partners to compare how the council's  
28 travelling with the income and expenditure. But there's -  
29 yeah, you may get to an area where I can answer, you know,  
30 questions as to some of the difficulties that were  
31 encountered during the early days of council with the  
32 budget. The budget was passed on from --

33  
34 Q. Let's talk about that, shall we. The first budget was  
35 prepared by the administration?

36 A. By a consultant.

37  
38 Q. And that person was meant to continue for another  
39 three months to finish the council's accounts?

40 A. Yes, correct.

41  
42 Q. And he resigned on 30 June, said "I'm out of here."

43 A. Correct.

44  
45 Q. Council staff then had to finish the Norfolk Island  
46 Government's accounts for the previous year, didn't they?

47 A. Correct.

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Q. One of the features of that budget was, it predicted a deficit of about \$4.2 million; correct?

A. Correct, yep.

Q. Then, in November, you received a report from council staff which said things were looking worse than that?

A. That is correct, I believe it had increased by a million.

Q. And a new financial plan was presented to you, a 10-year financial plan; do you remember that?

A. Well, a long-term financial plan was presented, but there's also of course the operational plan which is what you're referring to in the budget as the budget.

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

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

A. Correct.

Q. That was resolved for the second, third and fourth years; correct?

A. Well, yeah, if I --

Q. It was improved?

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

Q. Leave aside New South Wales, that's education and the hospital?

A. That is correct, but that was an issue that had not been sorted prior to the council budget being developed.

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Q. But that was off the council budget, wasn't it?  
A. Well, I couldn't - I cannot answer that.

Q. Perhaps if we summarise the position: by this last financial year Commonwealth operational grant funding had virtually doubled from where it was in the first year, so all of those issues had been effectively - well, if not resolved, let's say substantially improved; you'd agree with that?

A. Well, it has improved, but there's underlying reasons why: you know, would anything have changed if COVID didn't happen? And, just harking back on the improvement and the mechanisms to get the SDA agreements in place and the FAGs agreements, because if I remember correctly we hadn't received any FAGs in the first budget. Then there was the Grants Commission which indicated that funding from the Commonwealth was not sufficient and there will be financial issues for the council as time went on, it would increase. So, these are some of the underlying matters I referred to when I say that which had not been addressed correctly.

Q. I want to turn to then revenue measures that council took over the four years effectively to improve the situation, particularly in light of these other matters that are going on in parallel. For example, a contentious issue: rates and broadening the rate base and increasing rates. What was the reason for council's reluctance and in some cases opposition to increasing rates over time?

A. Well, there's a number of matters. Firstly, as a Norfolk Islander, I don't see land as an asset, it's something that we enjoy whilst we occupy that property to pass on to try and maintain and to pass on to future generations; it's - I guess it's matrimonial land, it is not a consumable, it's not something that - so, that's that.

Then there's the matter of, there are some large landholders who adopt that policy and they are retirees, then their asset value prohibits them from being able to get a pension. Then there's, if I remember, at the last census 2016 there was 1,080 houses on the Island. Off the top of my head, I think there's around 4,000 ratable properties, so 25 % is covering the cost of land rates. Now, you might understand there are some members of the community who have a number of portions, ratable portions. Like, when the general manager said the other day the

1 average cost is \$500 - that's totally incorrect. There are  
2 some in the community who pay up to \$8,000 in rates a year.  
3 Personally, I pay \$700, you know, so --  
4

5 Q. How big is the block that you have for \$700?

6 A. I have three acres of rural land. I know we keep  
7 getting told that's how rate - how it is in Australia:  
8 well, sorry, this is not quite Australia, and this is not a  
9 council similar to any other council in Australia, as  
10 you're well aware.  
11

12 But then, so to change - I put up a motion, if you  
13 would like to hear, to remove land rates but to replace it  
14 with a consumer-based levy and I couched it as an  
15 environmental levy which would collapse five fees into one  
16 which include the land rates, the water assurance scheme,  
17 waste management import levy, the waste management ticket  
18 collecting system and also the fuel levy.  
19

20 If I can talk on the - I think the waste management  
21 ticketing was cumbersome. Also the water assurance scheme,  
22 it was only in the Burnt Pine area, so you have around 280  
23 properties who cover the cost of running the water  
24 assurance scheme, and for council to try and build up funds  
25 to replace that scheme, which is now 30-odd years old, is  
26 nigh-on impossible.  
27

28 With the GST, the Assembly collected around just under  
29 \$7 million in the last round of GST, the administration  
30 collected, and that was based on a turnover of \$72 million.  
31 We had a 12% GST. With KPMG, if I remember, their estimate  
32 of the GDP for Norfolk Island is \$80 million, so I proposed  
33 that we have around a 5% consumer levy to cover those other  
34 five, which I felt was a more efficient system, it's more  
35 efficient for council staff to collect that revenue, and  
36 then, when I presented that to the Assistant Minister, the  
37 Assistant Minister wouldn't have a bar of it because the  
38 people are not contributing at the moment, how will they be  
39 affected?  
40

41 Just briefly, this accommodation property here pays  
42 the water assurance scheme. I don't know what they achieve  
43 in occupation here, but I know some of the accommodation  
44 properties on outlying areas of the Island where you've got  
45 beautiful views, 80 per cent, but they don't pay anything  
46 in for the water assurance scheme, or very little, only  
47 when they have a pump out, so is it a fair method of

1 collecting revenue and trying to build up funds to replace  
2 the system?

3

4 Q. In answer to my question then about why you didn't  
5 increase rates to meet the growing budget problem and which  
6 became particularly acute in the last financial year, I'm  
7 discerning an in principle opposition to rates as a means  
8 of raising revenue, at least on your part?

9 A. That is correct, I don't believe it's an efficient or  
10 appropriate method of raising revenue for this community.

11

12 Something else just crossed my mind. With the land  
13 rates, you might note in the Pitcher Partners audit report  
14 there's been a slight increase each year in the amount of  
15 outstanding rates, more than likely because those  
16 landholders cannot afford. You know, some people did opt  
17 not to pay it, but my discussion with people in the  
18 community saying, well, you need to consider paying the  
19 rates because the inevitable outcome may not be as good; if  
20 you can afford it, consider paying it, and there are those  
21 who simply cannot afford it. That's why I was opposed to  
22 trying to increase the rates.

23

24 I also - on rates I moved, which took a lot of  
25 convincing the other councillors and senior council staff;  
26 when the rating model came in I adjusted - I made an  
27 adjustment so that commercial properties contributed more  
28 to the land rates thing simply based on the fact with. I  
29 ran a small hotel, all my rates were tax deductible.  
30 Whereas private property, you've just got to bear the brunt  
31 of paying the rates.

32

33 Q. Mr McCoy though, the real point I want to get to is  
34 that nothing that council did sought to use the rates  
35 mechanism to increase revenue when other revenues were  
36 going down and expenditures were going up and the budget  
37 deficit was going up.

38 A. Well --

39

40 Q. Say, for example, let's talk about the budget. In  
41 June 2020 COVID is on, rates was an opportunity to broaden  
42 the income base of council; you'd agree with that?

43 A. Not at all.

44

45 Q. Why wasn't it?

46 A. Well, because, as I've explained, by increasing the  
47 rates and putting that burden on community members who are

1 already suffering financially, where were they going to get  
2 the income to cover that rate impost that we've now decided  
3 to increase? It just doesn't make sense.

4  
5 Q. I understand the principle, I understand the  
6 principle, but the question I want to ask you is, where was  
7 council going to get the income so that it could continue  
8 to operate?

9 A. Well, we had one poor business - one main industry on  
10 the Island: tourism. Once we shut the gates on the  
11 visitors then our revenue decreased dramatically. It's not  
12 just land rates. There was no revenue coming in through  
13 the airport, which council collected \$100 per passenger  
14 coming in, so that was \$2.7 million in the 2019 budget.  
15 Then that meant that, where our businesses like the liquor  
16 bond, telecom, electricity, their revenue all went down.

17  
18 Then there was the issue, we have an issue which is a  
19 sideline thing, with shipping. See, where we used to get  
20 12 ships a year, we were down to three, so there was  
21 revenue which impacted on the council revenue. So, simply  
22 by going, oh well, we've upped the rates even though we  
23 know your bucket's empty, was not going to improve the  
24 council's position.

25  
26 Q. What were the options available to you?

27 A. Well, the options, the total was limited, it was a  
28 matter of considering whether we continue council  
29 operations that we do, you know, that option had to be  
30 considered. But if you want to discuss the COVID issue and  
31 the impact on the community, on Norfolk Island, on the  
32 council's economic or financial situation: when COVID  
33 started right from the start in China I made a call to the  
34 Mayor to say, "Well, I believe this COVID matter will go  
35 out of control, we need to have a discussion with the  
36 Administrator", because health fell under the Commonwealth  
37 banner. The Mayor contacted the Administrator who  
38 consequently called me and he said, "I agree, we need to  
39 see what we - make some considerations."

40  
41 The Administrator was away for a period and a month  
42 later I had another call, we were going to be having a  
43 meeting at the Administrator's office. The Administrator  
44 fortunately had discussions with doctors in Australia who  
45 told him that COVID will be a problem. He had contacted  
46 the Assistant Minister to say, "I'm considering closing the  
47 borders because we have an aged community on the island.

1 If COVID gets in here we'll be saying goodbye to some of  
2 our elders." That was on Sunday. The Administrator said,  
3 if I enact the state of emergency there will be stimulus  
4 funding from the Commonwealth. We felt more comfortable,  
5 if we have to close the borders, we can. Tuesday, that  
6 following Tuesday, the borders to Norfolk Island were  
7 closed, much to the disappointment of some businesses on  
8 the Island because they could immediately see the impact  
9 that it would have, but the discussion hinged around that  
10 there would be a stimulus package.

11  
12 Then an options paper was put together, the  
13 Administrator had a contractor put an options paper  
14 together to seek financial assistance for a stimulus  
15 package for shovel-ready jobs on the Island, and you'll see  
16 some of that stimulus package is still working from the new  
17 buildings that's going on, the footpath around the airport.

18  
19 Q. Was that income into council's coffers or was that  
20 dealt with outside of the council budget?

21 A. The figures that were thrown around at the start  
22 compared to what was eventually granted to the community  
23 was a lot less than what was originally set, so some of  
24 the --

25  
26 Q. But it might, just to be --

27 A. No, I'll answer that question, I'm getting there. So,  
28 out of the funds that were the stimulus package, there were  
29 funds that went to some of the sporting associations,  
30 netball got new netball surfacing, the council got  
31 \$1.5 million which had to be expended by 30 June this year.

32  
33 Q. And what has that expenditure gone towards?

34 A. Well, it was specifically for the Bicentennial Centre.  
35 Where the council chambers are at the moment, for that  
36 building to be refurbished, rebuilt, some extensions done  
37 so that all council staff can be located into that  
38 building.

39  
40 Q. Moving up from Kingston where they had been before?

41 A. Moving from Kingston, yep. So, that work, I was on  
42 the committee to move that project ahead as quick as we  
43 can. We met once a week to get that project running, so  
44 knowing that we had a short timeframe to expend the funds.

45  
46 Also, I had promoted, and in my policy speech for  
47 elections to the council, that we need to have a research

1 centre established on Norfolk Island. There's opportunity  
2 for a lot of university graduate students to visit Norfolk  
3 and do important research that we need. We also had a lot  
4 of --

5  
6 Q. Can I just pause you there. A lot of the things that  
7 you're talking about are the sort of things that are the  
8 responsibility of the government of the Island, these are  
9 the sort of things that Norfolk Island Government would  
10 have done previously; they don't sound to me like issues  
11 that are within the four walls of the obligations of a  
12 council, that is, delivering local government services.

13 A. Well, that may be correct, but we have a small  
14 economic base. Now, the idea of having a research centre  
15 to encourage university students to visit the Island gave  
16 us an opportunity to have Commonwealth funding, a conduit  
17 for Commonwealth funding which would increase our economic  
18 base; that is the reason for proposing a research centre.  
19 It's a different - to try and encourage a different tourism  
20 market.

21  
22 And during the COVID period we're fortunate to have  
23 groups of, you know, university students visit the Island  
24 and Norfolk is starting to become more popular because  
25 they - you know, it's another form of visitor because we  
26 have a small tourism market. So, that's the reason, and I  
27 know it's outside of what is ordinary council business, but  
28 so is running a telecommunications centre, power house,  
29 liquor bond and airport. We are different, we have to  
30 think outside of the square, that's my whole point, we need  
31 to increase the revenue stream into the Island. Not - you  
32 know, otherwise we cannot afford to cover the expenses that  
33 the council need to upgrade infrastructure on the Island.

34  
35 Q. I want to pause you there and change topic. I want to  
36 talk about the Nexia report.

37 A. Yep.

38  
39 Q. That was the result of a process initiated by  
40 councillors on the recommendation of Mr Roach in June of  
41 last year?

42 A. Correct.

43  
44 Q. When you read that report, did it come as a surprise  
45 to you?

46 A. Not at all. Not at all, and one of the underlying or  
47 one of the main first paragraphs of the report is the

1 impact that COVID has had on the finances of council, and  
2 it was not hard to see, I've already outlined where we are  
3 losing out on revenue that we had budgeted for during - you  
4 know, because of the COVID pandemic that occurred, so the  
5 Nexia report was not a surprise.

6  
7 Q. Were you surprised about the conclusion that there was  
8 only \$600,000, \$700,000 of operating cash available as  
9 unrestricted funds at 30 June 2020?

10 A. No, I was not surprised because the general manager  
11 already walked the councillors through the problems that we  
12 were going to encounter.

13  
14 Q. When did he tell you about that?

15 A. Well, as soon as - around, in early May, maybe April;  
16 I couldn't say off the top of my head, I can't remember  
17 when. When we had that discussion, he may have said the  
18 other day it was 23 May.

19  
20 Q. 23 May, I think there was an earlier meeting in April,  
21 but we'll come back to that in a minute. When you  
22 commenced your role as a councillor on 1 July 2016 did you  
23 have any idea in your mind about the sort of cash reserves  
24 that the council should keep as a bottom line to enable it  
25 to continue to operate?

26 A. Well, I just believed that the council should not  
27 erode its reserves, wherever possible the council must  
28 maintain a - yeah, I did not have a set figure or, you  
29 know, at least 12 months worth of funds.

30  
31 Q. What's 12 months worth of funds?

32 A. Well, that would be, off the top of my head, to  
33 continue council operations. Say, council staff I believe  
34 is \$3 million a year to continue paying council wages.  
35 Maybe you can't continue carrying out all the functions,  
36 but again, without that stimulus going through the  
37 community.

38  
39 Q. Absolutely. Is your evidence that you thought that at  
40 least \$3 million was necessary for council to keep as cash  
41 throughout the four years?

42 A. No, in my mind the investment money that we kept in  
43 investment because, quite clearly, the airport resurfacing  
44 was coming up and we need to build up some reserves so that  
45 we could do that, but as a new councillor I had no - it  
46 wasn't until our meeting with Senator Nash, Assistant  
47 Minister Nash, that it became clear that there was a 1:3

1 ratio; if we're asking for funding from the Commonwealth,  
2 well, we need to meet that through a 1:3 ratio.

3

4 Q. Firstly, when was that meeting?

5 A. Now, that's a tough one, about March 2017.

6

7 Q. So, fairly early on. I take it, you were talking to  
8 her about the sorts of things that needed to be done on the  
9 Island, of which the list is a long list?

10 A. Well, yeah, there were the matters that were  
11 immediate, but there was also the fact that our  
12 telecommunications system was needing upgrading and the  
13 reports were there, so we discussed that, and the health;  
14 the airport runway, that was brought up as well.

15

16 Q. So, in March/April 2017 when you think this meeting  
17 took place, what was the expected timeline for the airport  
18 runway?

19 A. Well, I believed it was 2021. The runway's done in  
20 2006 with a 15-year life, so simply we had until 2021 to  
21 secure funding to have material to be able to do the  
22 runway.

23

24 Q. And later in 2017 that position changed, didn't it?

25 A. As far as?

26

27 Q. The timeframe for having to do the work?

28 A. Yeah, well - m'mm, was it 2017 or 2018?

29

30 Q. CASA came out here in 2017, didn't they?

31 A. Well, yeah. Yeah, again, I'm not fully aware because  
32 we didn't get a full CASA report in 2017. It was  
33 indicative and it didn't come to council, the report. And  
34 then, when CASA did a report in maybe 2018 indicating that  
35 the resurfacing may need - well, I got probably half an  
36 hour to quickly glean through the report in the general  
37 manager's office.

38

39 Q. When did that report come in?

40 A. Well, like I said, the general manager made us aware,  
41 Lotta, that there was a CASA report and the airport runway  
42 needed some attention.

43

44 Q. Was that --

45 A. But that report, we were told it's commercially in  
46 confidence, "If you want to view the report you can view it  
47 at my office", so roughly half an hour to quickly flick

1 through the report. You can't take any notes, nothing like  
2 that. I took two things out of that report: (1) CASA had  
3 said, providing the maintenance program is kept up, there  
4 would be room for dispensation. I walked the runway prior  
5 to the previous resealing, I've seen far worse condition  
6 than the runway that the councillors viewed prior to the  
7 resurfacing work, far worse condition: CASA kept giving  
8 dispensation providing the maintenance program was kept up.  
9

10 Q. That changed though, didn't it? There was a  
11 suggestion that, if nothing was done within two years, then  
12 you would lose the certification to land commercial  
13 aircraft on the Island?

14 A. Well, that's --

15  
16 Q. Do you disagree with it, do you?

17 A. Well, without having had the opportunity to study the  
18 report, you know, over hours, not briefly, I cannot say  
19 whether that is true or correct. That's the report that  
20 came to us from the general manager, so we take that on  
21 good faith.

22  
23 Q. Just pausing there. What was your relationship with  
24 the general manager like in 2018, and in the lead-up to  
25 2019?

26 A. Well, I had respect for the general manager, you know,  
27 because the general manager had a difficult job, and coming  
28 into the environment in Norfolk Island where the community  
29 was not happy that the governing body had been sacked and  
30 removed and now we have a council. So, the general manager  
31 had a huge task to set up the council, you know, so --

32  
33 Q. Were you happy with information flow passing between  
34 the council governing body and the general manager and her  
35 senior staff?

36 A. Well, depends on what information you're referring to.  
37

38 Q. Well, was there information that you wanted and you  
39 couldn't get and you were unhappy about?

40 A. Well, not in the early days because in the early days  
41 we were adopting community strategic plan, we were  
42 understanding the Local Government Act, we were being  
43 guided to comply with the reporting framework, so then the  
44 operational plan was to be developed and asset management  
45 plan, long-term financial plan, you know, and also, we had  
46 no audit report for 2015. I can't recall when we managed  
47 to get that audit report which the council had to pay for

1 to get.

2

3 Q. The audit for 2015, the audit of Norfolk Island  
4 Government, that was done by the Australian National Audit  
5 Office?

6 A. Well, yeah, I had a meeting with them as well.

7

8 Q. And for 2016, they did that, and then in 2018 they did  
9 a report on the transitional arrangement with the  
10 Commonwealth, they made some recommendations about that.  
11 What I want to try and ascertain from you is, how was the  
12 relationship with the general manager when it came to  
13 providing information about the airport?

14 A. Well, the general manager felt - Lotta had a huge  
15 responsibility to ensure the airport job went ahead.

16

17 Q. And, did she tell you why?

18 A. Well, based on the CASA report which we didn't have in  
19 front of us so, like I said, we had to take the general  
20 manager's reasons on good faith, so yeah, that's why we  
21 accepted that the job - we knew that the job will have to  
22 be done in 2021 at least, so you know, I felt, well, I'm  
23 sure with the maintenance program we can get out to 2021  
24 and achieve CASA's requirements.

25

26 Q. It seems as though you're trying to challenge the need  
27 for the airport resurfacing taking place at all. Do you  
28 challenge that? Do you say, well, it may not have been as  
29 necessary as the general manager and others have said, or  
30 do you accept that it had to be done?

31 A. I accept it had to be done, but whether it needed to  
32 be done in 2020 or we can continue that maintenance program  
33 to 2021 is what I questioned, but we were being advised by  
34 the council's experts. "You're not an expert, Councillor  
35 McCoy, we have experts in the room who are telling you it  
36 must be done", so you get to a point where you believe,  
37 well, on good faith we must resurface the runway earlier  
38 than the given life of the runway.

39

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

47

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

5 A. Yes, I do recall.

6  
7 Q. Prior to that, let's just clarify where things stood  
8 at 20 February. What were the events leading up to that  
9 briefing, in terms of what information you were conveyed by  
10 the general manager about this project? Had it been  
11 discussed previously?

12 A. Well, that's what I was referring to where we - the  
13 general manager gave us the opportunity to read the CASA  
14 report. We also, if I remember correctly we had meetings  
15 which involved the airport manager at the time, and prior  
16 to this maybe - if I remember, we also had - included in  
17 those meetings was Professor Greg White, the asphalt cook  
18 or whatever.

19  
20 Q. Professor White was an international expert in airport  
21 runways, wasn't he?

22 A. Well, that's again, like I said, the term "expert" was  
23 used and that was in reference to Professor Greg White.

24  
25 Q. If you could go to page 3 and just read to yourself,  
26 please, the second paragraph under the words,  
27 "Attachment 1" that begins with, "Boral has indicated."

28 A. The \$4.2 million?

29  
30 Q. Yes. You understood when you came to deal with this  
31 matter that there was a \$4.2 million cost hanging above it,  
32 wasn't there?

33 A. Well, yeah, my understanding was the \$4.2 million was  
34 outside of the tender.

35  
36 Q. Outside the Commonwealth funding, yeah, outside the  
37 Commonwealth?

38 A. Outside the Commonwealth funding.

39  
40 Q. If you go down to the last paragraph that says,  
41 "Further Dr White has highlighted", you see there that the  
42 limitations on acquiring rock from the island, of which you  
43 would be extremely familiar, were evident?

44 A. Well, that's one thing that's not in this paper.  
45 Originally the tenderers or the interested parties were  
46 told to tender, as you might recall from Monday, to win the  
47 rock on the Island. They all received a letter to say, do

1 not tender on Option 1, from Dr Greg White.

2

3 Q. Do you have a copy of that letter?

4 A. Not on me, I do have a copy.

5

6 Q. Is that something you'd be able to provide us with?

7 A. I certainly can.

8

9 Q. When do you say that letter was sent?

10 A. Just prior to the - I couldn't tell you the date, but  
11 prior to the tender closing date. Just as a background for  
12 you I, in the early days of the council roughly in November  
13 or October I moved a recommendation that a rock source feed  
14 committee be set up by council knowing full-well we needed  
15 to win rock to resurface the runway. That rock source feed  
16 committee was chaired by Councillor Porter. Originally we  
17 met once a month and then it was, the recommendation came  
18 through to meet only quarterly.

19

20 Q. Just going back to this paragraph you will see, in  
21 addition to the limitation about the volume available, so  
22 15,000 tonnes available, 30,000 tonnes required, so you've  
23 got a 15,000 tonne deficit. Two years was the suggestion  
24 that it would take to approve an expanded quarry; you  
25 understood that?

26 A. Yes, but you see, there's a lot of grey areas here.

27

28 Q. What are the grey areas?

29 A. Well, with Assistant Minister Lee and the council, we  
30 put in place a significant development pathway, and  
31 I believe that was in 2018 which had a sunset clause of  
32 2019 to put in place the development applications to win  
33 rock from Youngs Road. Now, nothing happened in that  
34 process. The councillors were told, and there are reports  
35 indicating, that we cannot start the work or the quarry  
36 design until we get a drilling rig. You see, the rock  
37 source feed committee knew that there was only a limited  
38 amount of rock in Youngs Road, but the approval was to also  
39 extend into the Cascade Reserve which is Commonwealth land.  
40 Now, you might understand you need to quantify and qualify  
41 the amount of rock, but also the next area that council  
42 intended to quarry rock was at Headstone which was  
43 inhibited by the waste management process, so there's a lot  
44 of interlinking activities which I have mentioned earlier  
45 in the interview that were required to happen but it just  
46 did not happen.

47

1 Q. There were problems with each of those possibilities,  
2 weren't there?  
3 A. Well, if you have a project and you don't get on with  
4 it, that's the problem, not getting on with the project.  
5  
6 Q. But this briefing paper was pointing out those  
7 problems, saying that getting approval to do all of these  
8 things is going to take at least two years.  
9 A. That was questionable.  
10  
11 Q. Did you question that at the meeting?  
12 A. Yes.  
13  
14 Q. Do you have a clear memory in your mind of the  
15 discussion at that meeting?  
16 A. This particular meeting?  
17  
18 Q. Yes.  
19 A. Well, I didn't believe the asphalt engineer, or  
20 professor, had any right or knowledge to tell us whether we  
21 could win that rock or not. His job was the asphalt mix,  
22 not to come and try and influence council outcomes; that's  
23 how I felt, that's what was discussed at that meeting. I  
24 also indicated at that meeting how uneasy I feel about  
25 having a contractor trying to influence the council outcome  
26 to actually win crushable rock on the Island.  
27  
28 Q. When you say "a contractor trying to influence", who  
29 are you talking about?  
30 A. Greg White.  
31  
32 Q. Well, he wasn't the contractor?  
33 A. He was contracted to do the asphalt mix.  
34  
35 Q. But he's an expert, he's an expert on airport design?  
36 A. Not in quarrying.  
37  
38 Q. An expert on airport design.  
39 A. Airport design, not in quarrying. We had expert  
40 quarry masters who were willing to carry out the work. One  
41 particular off the top of my head, I can't remember his  
42 name, but he had been involved with Norfolk Island for  
43 20 years and was willing, but he was no expert so they  
44 said, but he knew more about quarrying than anyone else in  
45 the room. Andrew --  
46  
47 Q. We'll come back to the meeting in a minute, just to

1 deal with this point: by August you were aware that  
2 drilling had taken place at the proposed sites?

3 A. Because the recommendation to --

4

5 Q. No, we'll come back to --

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

21

22 Q. Are you saying this: that before Boral produced a  
23 report that said the rock was not suitable for the airport  
24 runway, Boral had told you that it was?

25 A. Very clearly.

26

27 Q. Why then, may I suggest, you did not do anything about  
28 that by preventing council from executing the contract for  
29 the airport runway project? Why didn't you do something  
30 about it, Mr McCoy? If that's what you were told by Boral,  
31 why didn't you do something to stop all of the rock from  
32 having to be imported from the mainland?

33 A. Well, I didn't personally - I, as a councillor did not  
34 want to be - you know, because they were community members  
35 having protests, lying on the road putting up --

36

37 Q. Protesting about what?

38 A. About importing rock into the Island when we have our  
39 own - we live on a rock, this is what they were saying. I  
40 felt comfortable that Boral was doing the survey, and at  
41 the last minute because, you see, we had been told the  
42 runway could have a catastrophic failure, so who would that  
43 fall on? Councillors if that happened, this is what we  
44 were being told.

45

46 Q. But you say you were told by someone at Boral that the  
47 rock was of sufficient quality to use in the airport runway

1 project: did you tell the Mayor, did you tell Mr Buffett?  
2 A. All the councillors were in the meeting, we were all  
3 in the meeting with three Boral staff.

4  
5 Q. Well then, why didn't you do anything about it?

6 A. Well, continually, as a member of the rock source feed  
7 committee, we had continually tried and been invited by  
8 council staff to have the drilling rig brought in, we even  
9 had half a million dollars in the budget to develop the  
10 quarry, continue it.

11  
12 Q. Why didn't you rescind the motion of approving  
13 acceptance of the tender on the basis of Option 2 if you  
14 thought that the rock was of a suitable quality?

15 A. Well, I guess I could say, maybe peer pressure and --

16  
17 Q. Peer pressure from whom?

18 A. From council staff, from other councillors that we  
19 cannot run the risk of not doing the work, and knowing  
20 full-well that, you know, in order to achieve the job for  
21 this there was a lot of logistics involved. We even  
22 discussed Boral establishing a rock crushing - bringing  
23 their own rock crushing plant and setting it up at Cascade,  
24 you know, and feeding and crushing the rock at that point,  
25 so we went through everything possible and had discussions  
26 to encourage Boral in whatever way or shape or form to win  
27 the rock on the Island.

28  
29 We had - and the Mayor and the Assistant Minister Lee  
30 spent many hours getting the significant development  
31 pathway approved. We also spent many hours with our  
32 planning staff to get that legislation put in place and the  
33 amendments for the Norfolk Island plan for that legislation  
34 to be put in place. So, we were running, you know, close  
35 to not meeting timelines, so once Boral indicated that they  
36 felt the rock was not of sufficient quality and they would  
37 import the rock themselves --

38  
39 Q. You accepted that, did you?

40 A. We had no - very little option. You know, like I  
41 said, we were being told by experts that this is what  
42 needed to happen. We were having rock source feed meetings  
43 to understand where this equipment is, why isn't it coming  
44 to the Island, and then to be given 20 minutes, number one,  
45 to go through the tender documents and agree to Boral still  
46 with deep concerns. I guess I could have voted against the  
47 motion, that's the only avenue I would have had.

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

A. Correct.

Q. It wasn't recorded. It wasn't recorded, was it?

A. Not, um, no.

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

If we go up the page, and that that provision of funding would be "by way of a loan from Norfolk Island International Airport Government Business Enterprise." But let's pause there on those words of "a loan from the Norfolk Island International Airport Government Business Enterprise", did you understand what was involved in that part of the resolution?

A. Yes, I did. At that time the airport had the ability to fund a loan.

Q. To fund the loan?

A. To fund the loan. Now, I questioned the senior finance officer on how the airport will fund the loan.

Q. Who was the senior finance officer at the time?

A. Phil Wilson.

Q. Phil Wilson?

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

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

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

4 A. Yep, correct.

5

6 Q. Did it have the cash to lend council or was it going  
7 to take out a loan at commercial rates from a bank?

8 A. Well, to be honest, I didn't ask that question of the  
9 senior staff who had proposed that we could meet the  
10 shortfalls with a loan from the airport operation.

11

12 Q. A loan from the airport operations?

13 A. To pay for its - yeah. Now, how the operational arm  
14 was going to configure that funding, I couldn't tell you  
15 what they were thinking, but in my mind we had an agreement  
16 with the Commonwealth for \$43 million and don't come and  
17 ask for any more, so we need to find a way, a mechanism, to  
18 cover any potential shortfalls in the airport resurfacing  
19 project.

20

21 Q. Just on that point. As the project developed did you  
22 query any of the staff about how that loan was being  
23 structured, how it was being recorded?

24 A. How it will operate?

25

26 Q. Yeah.

27 A. No.

28

29 Q. All right, please go back down to the amendments to  
30 the motion. Now, these were moved by Councillor Buffett  
31 and Councillor McCoy. What were you trying to achieve with  
32 this particular motion, what was directing your intentions  
33 when it came to putting forward something like this?

34 A. Well, as we covered earlier on, was to maximise the  
35 economic gain to the community by selling our own rock or  
36 using our own crushed product to do the airport  
37 resurfacing, rather than buying 30,000 tonne of crushed  
38 rock from Boral, which is the end result.

39

40 Q. I understand that, a perfectly legitimate, reasonable  
41 thing to want to do; you didn't give yourself much time to  
42 do it, did you? 31 March, less than two months. You see  
43 that?

44 A. Yep.

45

46 Q. If you can't get the Minister's approval to quarry the  
47 extra 15,000 tonnes we'll proceed with Option 2 which means

1 importing all the rock?

2 A. That is correct:

3

4 *... scope of work be negotiated to minimise*  
5 *any grant funding shortfall.*

6

7 Operational.

8

9 Q. Did you follow up on that over the next 18 months or  
10 so?

11 A. Well, that's correct, but --

12

13 Q. Did you? Were there any scopes of - was there any  
14 changes to the scope of work to minimise any grant funding  
15 shortfall?

16 A. Well, there was a change which is - that's Boral's -  
17 again, Boral's option. They were going to bring large  
18 loads, 10,000 or, you know, 5,000 tonne at a time, but  
19 because of my indicating to the project manager that,  
20 "You're running a great risk by trying to import, bring  
21 barge loads of rock from Australia across the Pacific  
22 Ocean, you know, why can't you just bring the equipment and  
23 win the rock here?" So then they decided to bring it in  
24 large shiploads.

25

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

31

32 Q. No, there's no recording of this meeting.

33 A. No, this was --

34

35 Q. Financially the most significant meeting in the  
36 four years of the council and there's no recording of it?

37 A. No recording and councillors cannot - any documents  
38 provided to councillors in the closed meetings goes back to  
39 the general manager, so you don't even have that record to  
40 refer to at a later date.

41

42 Q. Let me take you to another paper that was in the  
43 public section of that meeting. If we go to  
44 NIRC.PUB.001.0193\_177. At this 20 February meeting there  
45 were two investment reports provided to council. Do you  
46 remember how often you used to get these investment  
47 reports?

1 A. Yeah, they were sent into council at ordinary council  
2 meetings monthly, but - yeah, there was a period in 2020  
3 when the investment reports were not available, but yeah,  
4 they were part of the - pretty well standard part of the  
5 council meeting.

6  
7 Q. This is the December one, let's scroll down to  
8 the January one and the data in the January one. So, the  
9 January, this is the most recent report, so this is where  
10 cash was at on 31 January 2019 and you're sitting on  
11 20 February dealing with a contract to resurface the  
12 runway. If we just go down the page to your investments,  
13 it's either term deposits or at call deposits, total value  
14 of the investments was \$16,897,000. If we go down a bit  
15 further, there we have the table of restricted and  
16 unrestricted cash. How would you describe your  
17 understanding of externally restricted, internally  
18 restricted, and unrestricted cash at that time?

19 A. Well, my understanding is that the externally  
20 restricted cash was there for the purpose it was deemed  
21 for, and the internally restricted cash was for such, as we  
22 can see here, the capital projects which again are largely  
23 for the purposes there for. It's not general revenue that  
24 can be spent, so the capital project 18/19, which I assume  
25 refers for the airport budget?

26  
27 Q. Can I suggest that that is not the airport budget,  
28 that's the capital projects in the budget for all capital  
29 projects of the council, so roadworks, telecommunications  
30 works, anything you were doing of a capital nature in  
31 that year.

32 A. But that would - oh, yes, capital projects, but unless  
33 I have budget papers in front of me to look at, you know, I  
34 would glean from the discussion we've had, you're referring  
35 to the airport project.

36  
37 Q. But at this point, at this point, the airport project  
38 has not been approved, there's no contract?

39 A. Funding had been approved.

40  
41 Q. Funding from the Commonwealth had been approved?

42 A. Correct.

43  
44 Q. But council has not agreed to anything with Boral, it  
45 hasn't signed any contract with Boral, so therefore it has  
46 no commitments to Boral; correct?

47 A. Correct.

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

A. Correct.

Q. The airport was going to be done in 19/20 and 20/21.

A. Works for the - if I'm correct - you see, this is the thing; Professor Greg White may have already been contracted at that time.

Q. Okay, he's paid some consultant fees, but nothing in the order of \$5 million though?

A. No, no, no, but then we have the 4G upgrade.

Q. 4G, that would be in there, wouldn't it?

A. Without having everything in front of me, yes, I would say probably 4G, the purchase of a new crane, the - yeah, the list goes on. The three new generators, but that came at a different time. So, you know, like I said, without having the full budget in front of me to read through it all, and you might appreciate, a lot of water has passed under the bridge since this time.

Q. Absolutely. The bottom line though is that you had unrestricted cash of \$10 million.

A. Yes.

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

A. Yes.

Q. To the best of your recollection, what was the anticipated cost of the airport project as communicated to you at the time?

A. Around \$48 million.

Q. So, that is an immediately significant figure?

A. It is a significant figure.

Q. Of nearly \$6 million?

A. Yeah, \$6 million, or \$5 million. However, we had 43 from the Commonwealth, so council needed to find \$5 million, just rough figures, or 4.7 if I remember, somewhere around that area.

1 Q. Nearly 6; 4.2 was this risk of the --

2 A. The risk plus 1.5 for --

3

4 Q. Plus 1.5, okay. When do you think you understood what  
5 the actual cost of the airport was definitely going to be?  
6 Was that after you found out that Boral had reported that  
7 the rock would not be suitable?

8 A. Well, to be honest, we - that was a guess as what it  
9 would finally cost. If you have a bulk loader sitting off  
10 the Island for six months, who knows.

11

12 Q. Yes.

13 A. We did not have any idea, and again, it's an  
14 operational matter. And when we questioned these things,  
15 without putting a recommendation up to get answers, "It's  
16 an operational matter" is the answer that comes back.

17

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

23

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

28

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

31

32 The cost of the project from the recommended tenderer  
33 is 44,898, then there's the indication that there's the cap  
34 of \$43 million, and a suggestion that the Commonwealth  
35 won't waive the eligibility criteria under any  
36 circumstances.

37

38 Then there's the next paragraph, if you can read that,  
39 "Therefore council", you see that?

40 A. Mmm-hmm.

41

42 Q. But having previously indicated in the earlier report,  
43 the 4.2. All right. Can we then turn to the resolution  
44 that was passed in May concerning the road project. If we  
45 can go to NIRC.PUB.001.0227\_0022. While that's being  
46 brought up, when did it first come across your desk that  
47 there was an opportunity to make a significant improvement

1 on Norfolk Island's roads whilst Boral were on the Island?  
2 A. Yeah, well, it was mooted at, I guess, a council  
3 workshop prior to the council meeting that the opportunity  
4 is here to do the 9 kilometres of road using the scalpings  
5 from the runway. Quick estimate was, taking 50mm of  
6 scalping would provide the material to redo the roads  
7 because, quite simply, we don't want to have a pile of  
8 scalpings just left to waste, and the asphalt equipment was  
9 here, so the prime opportunity was there. But, unbeknown  
10 to councillors, there was already 3,000 tonnes of crushed  
11 product being brought to the Island by Boral to do that  
12 work.

13  
14 Q. Just pausing there. To assist the Commissioner, what  
15 are scalpings?

16 A. Scalpings is what they remove with a profiling  
17 machine, it's called, a layer of material from a road, from  
18 a runway. You may have seen in Australia large machines  
19 working where they're churning up the road but generally  
20 they put it through the asphalt and re-use that material.  
21 But with the runway the scalpings, once it's brought up,  
22 they would have to create a new mix of asphalt, so there  
23 would be this waste product of asphalt and gravel that  
24 could be re-used and to a quality where it would be used on  
25 our roads, and that's the smooth roads that we now have on  
26 the Island, and the figure was \$5 million.

27  
28 Q. Just pausing there. Previously, and looking at the  
29 lead up to the airport project, in the years leading up to  
30 it obviously being talked about over many years, had anyone  
31 suggested that this was an option when whoever did the  
32 airport was on the Island?

33 A. Yeah, in discussions through the community, yeah, the  
34 community members were saying, well, why don't we do all  
35 the roads, whilst Boral's here why don't we do it all?  
36 Where are we going to get the material? You see, and that  
37 came from a driver many years ago when the airport was  
38 surfaced by - well, Fulton Hogan was one of the - in  
39 Kaipara, and there was a rumour that Kaipara offered to do  
40 all the roads for \$1 million. My question to anyone who  
41 developed that rumour was, where are we going to get the  
42 crushed product from or the funds to do the roads?

43  
44 But when this opportunity was presented and seeing the  
45 pile of scalpings from the previous overlay, you know, we  
46 thought, well, we do have the funds; we were guided in good  
47 faith that we could cover the costs. I did ask --

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

Q. We'll come to that in a minute, what I just want to know is this: in February when you discussed the airport tender and you made resolutions to proceed with it subject to certain conditions, was the issue of the roads, and using the scalplings or any part of Boral's equipment, was that raised at that meeting?

A. No.

Q. It was brought to council by Boral?

A. No, it was brought to council by council staff.

Q. Council staff, okay, but it was brought to council - before council staff brought it to council, the governing body of council, a proposal or a quote or a tender, call it whatever you will, an invitation was submitted by Boral to council. It was at their suggestion that this happen; you understand that?

A. No, I don't, I'm not aware of that.

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

A. Correct.

Q. So you had a budget in place for how you would manage making improvements to the roads?

A. Correct.

Q. And the Boral contract was a substantial deviation from that budget, wasn't it?

A. Correct.

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

A. Yeah, probably an hour.

Q. An hour. And, what do you recall being told about the cost of the project?

A. That, yeah, we have sufficient funds in reserves to

1 cover the costs of that project.  
2  
3 Q. Who told you that?  
4 A. Would be our senior staff who proposed the initiative  
5 to councillors.  
6  
7 Q. Am I right in thinking that, when Ms Jackson was the  
8 general manager at about this time, it was basically left  
9 to her to do the briefings to councillors at council  
10 meetings; that is, she did the briefing herself?  
11 A. Well, this was actually presented to us by Bruce  
12 Taylor.  
13  
14 Q. By Mr Taylor?  
15 A. And Alan Buckley, the engineer at the time.  
16  
17 Q. What do you recall Mr Taylor saying to you about it?  
18 A. That there was an opportunity whilst Boral's equipment  
19 is on the Island, the asphalt was here, that we could use  
20 the scalplings from the runway to achieve repairing  
21 9 kilometres of road, and they would need to use some  
22 bitumen to add to the mix to do the job.  
23  
24 Q. What else do you remember Mr Taylor saying?  
25 A. The roads that would be done would be, yeah, New Farm  
26 Road, Douglas Drive.  
27  
28 Q. Have a look at the --  
29 A. Oh, it's in front of me, yep.  
30  
31 Q. Were the roads that he suggested to be done the roads  
32 that appear in the resolution?  
33 A. Yeah.  
34  
35 Q. Or was there some sort of discussion or change or some  
36 bidding process?  
37 A. No, well, we thought, well, here is an opportunity,  
38 we've been told we can afford to do it, we're going to do  
39 some of the worst roads on the Island and that's the ones  
40 that are listed there.  
41  
42 Q. Do you remember there being a discussion about why  
43 those roads were chosen?  
44 A. Because of the condition of those particular roads.  
45 There was also discussion about doing alternative roads.  
46  
47 Q. Did you suggest any alternative roads?

1 A. Not at all.  
2  
3 Q. Do you remember anyone else suggesting alternative  
4 roads?  
5 A. Councillor Porter did.  
6  
7 Q. What roads did he suggest?  
8 A. Queen Elizabeth Avenue, they're more heavily impacted  
9 roads.  
10  
11 Q. So, that's the big long road --  
12 A. Well, the road that runs up from Taylors Road here.  
13  
14 Q. That's right, sorry, I --  
15 A. Yeah, no, that's fine.  
16  
17 Q. -- am not entirely familiar with all the roadways.  
18 A. That's why I jumped in to clarify for you which roads.  
19 You know, and you think, well, possibly that is the better  
20 way to go, even though all of the roads on the Island do  
21 have quite heavy impact, but that road you understand leads  
22 to the school, to and from the school, things like that  
23 and, you know, tourist accommodation along the roads here,  
24 so the impact from buses.  
25  
26 Q. How long did the discussion take when it came to  
27 choosing the location of the roads out of the, roughly,  
28 hour?  
29 A. Well, the discussion was that Boral had driven the  
30 roads and that's the conclusion they came up with, that  
31 they could do the 9 kilometres with the scalplings, and then  
32 after obviously some consideration which you will probably  
33 bring up shortly, the roads that were to be repaired  
34 changed to the ones that hadn't been done.  
35  
36 Q. How much of the meeting was devoted to the cost of the  
37 project? Was there any discussion about, why is it  
38 \$5.65 million, why isn't it less, why isn't it more?  
39 A. Well, obviously there were discussions but as I  
40 intimated earlier, in the meeting I had sought a report on  
41 what it cost to do a half a kilometre of road.  
42  
43 Q. You sought a report at this meeting?  
44 A. No, no, in early --.  
45  
46 Q. Previously?  
47 A. Yes, previously, because that would then give me

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

8  
9 Q. Roughly half a million dollars a kilometre?

10 A. Yep.

11  
12 Q. Was that in accordance with your understanding at the  
13 time of the cost of these sorts of improvements?

14 A. Well, I would have considered that it would have  
15 been - because that was the cost of this work out here,  
16 which was done using totally different methods, with the  
17 equipment and the knowledge, the experience of Boral, you'd  
18 think, well, maybe it would be a little bit cheaper; and  
19 they've already won the material to do the road through the  
20 scalplings.

21  
22 Q. Did you raise the issue of, well, why isn't it  
23 cheaper?

24 A. No, no.

25  
26 Q. Are you sure? Why wouldn't you?

27 A. Well, of course, why wouldn't I, who --

28  
29 Q. Can't we get 15 kilometres out of this?

30 A. Well, we may - I may - we may have discussed why we  
31 can't go further, but that's the price, that's what we were  
32 being told by experts and senior staff, that's what it will  
33 cost to do the roadworks.

34  
35 Q. So, was there no degree of negotiation at all? Didn't  
36 you say - I mean, on the airport runway deal you put your  
37 foot down about sourcing rock from the Island, and you made  
38 the acceptance of the tender conditional upon quite  
39 legitimate concerns that you had about getting rock from  
40 the Island involved in the project thereby saving council  
41 money; that was what was motivating you then?

42 A. Yep, correct.

43  
44 Q. Was there any discussion amongst the council that we  
45 would try and get a better deal out of Boral for the roads?

46 A. Well again, it's not councillors who are in the  
47 discussion with Boral around the project. I understand

1 where you're coming from, councillors should have  
2 necessarily driven the senior staff, but then when you get  
3 called out and threatened with code of conduct by the  
4 general manager for questioning senior staff, and then when  
5 you get told, "Well, you're asking questions that for the  
6 staff to answer those questions takes them away from doing  
7 important work", you start to think, well, hang on, I've  
8 got to take what they're telling me on good faith, but with  
9 the assumption that we're not, that we're using a waste  
10 product.

11  
12 Now, you're correct, why did it cost so much, why  
13 didn't I ask the questions? I concur with your questioning  
14 and, you know, as a councillor I do regret, but there is  
15 a - you know, when you don't have the ability to sit around  
16 the table and question the contractor as to why it cost  
17 that amount it becomes, again, a grey area that the council  
18 operates in here on the Island because you're taking in  
19 good faith what you're being told by the operational arm.  
20

21 Q. May I respectfully suggest to you that at this meeting  
22 you could have - you and your fellow councillors could have  
23 asked all the questions that you needed to have answers to  
24 of council staff about how you could get a better deal; you  
25 could have imposed conditions on accepting the tender; you  
26 could have directed that further negotiations be held, and  
27 I just ask you why that did not happen?

28 A. Well, the simple answer is, when we asked the  
29 questions about the roadworks being done quite clearly it  
30 was indicated to us, "We have an opportunity, why are you  
31 questioning our initiative?"  
32

33 Q. So you accepted their initiative?

34 A. Correct.  
35

36 Q. When you accepted their initiative, it occurred after  
37 being told in February that there was \$10 million in cash  
38 reserves, after approving an airport resurfacing contract  
39 that you believe would cost \$48 million of which council  
40 would have to fund about 5, 5.6, that you understood would  
41 be funded by a loan from a council entity that didn't have  
42 the cash to give a loan, \$5 million and \$6 million,  
43 \$11 million, might have been \$2 million less, might have  
44 been \$2 million more, that would have eaten away, may I  
45 respectfully suggest, the cash that was available to  
46 council as you understood it at the time.

47 A. That is correct, and that is a comment that I made in

1 the council meeting, that probably around the point when  
2 this was proposed and approved, that we will erode our cash  
3 reserves.

4  
5 Q. Who did you say that to?

6 A. The whole council at the council meeting. I asked the  
7 question that the possibility of eroding the cash reserves  
8 is real, and the answer was that we can continue because  
9 we've got the cashflow coming in and we're investing in  
10 these particular projects that will not require funds in  
11 the future.

12  
13 Q. Who did you ask that question of?

14 A. That would have been of the senior finance officer.

15  
16 Q. Mr Wilson?

17 A. Yes.

18  
19 Q. Do you remember the question you asked him?

20 A. Simply asked, "Will this activity erode our cash  
21 reserves?"

22  
23 Q. And what was his answer to the best of your  
24 recollection, what did he actually say?

25 A. As I've indicated, that with the expenditure or  
26 investments in the projects that we're doing we will not  
27 need to be funding those projects for a number of years,  
28 airport for example, 15 years, that would allow the  
29 reserves to be built up again. And the long-term financial  
30 plan indicated quite clearly that process, that would  
31 occur. Also, the audit report from Pitcher Partners  
32 indicated that the council was in a sound financial  
33 position and could afford therefore the projects that we  
34 were taking on.

35  
36 Q. I want to suggest to you that you must have  
37 understood --

38 A. That we could possibly erode the reserves?

39  
40 Q. -- that your cash reserves would be substantially  
41 impaired by proceeding with this contract in conjunction  
42 with the other contract?

43 A. Yes.

44  
45 Q. And, if you had such a concern, why did it have to be  
46 \$5 million, why couldn't it have been \$3 million?

47 A. I can't answer that question.

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Q. Did that topic get discussed? Did anyone on council suggest, well, we can't afford 5, why don't we get 3?

A. No, I can't answer that question either.

Q. I want to suggest to you that you put the sustainability of the council's long-term position at risk; I don't mean you personally, I withdraw that. I want to suggest to you that council's decision - council's decision, please don't take it as a personal criticism - council's decision placed the long-term financial sustainability of Norfolk Island Regional Council at risk.

A. Well, that is probably debatable. At that time our tourism numbers were increasing, revenue into council was increasing, so you know, and as I had intimated earlier we had invested in projects that would not require funding for a fair period of time; it was indicated that the long-term financial plan, we can manage this possible eroding of the council reserves.

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

A. Well, yeah, but --

Q. Do you remember that meeting?

A. With the general manager? Yes.

Q. What did he say, what do you recall him saying to you?

A. That we're running - we will run out of cash, and what --

Q. Did you accept that or did it surprise you? What was your reaction?

A. Well, it didn't surprise me because the council had all of a sudden lost its revenue stream. You know, we're heavily reliant on the tourism industry, imports, visitors coming in, imports coming in, you know. So, yeah, it's not a surprise when you don't have your visitors coming in that you don't have the income, so therefore you can no longer fund the operations. And, no one had a crystal ball to see that there was a pandemic coming that would have a massive impact on the Norfolk Island economy.

1 Q. May I suggest that's precisely why you would seek to  
2 protect and maintain your cash reserves?

3 A. Well, of course.  
4

5 Q. When the general manager proposed revenue measures on  
6 both rates and electricity in the 2020 budget, the council  
7 chose not to support them; correct?

8 A. Correct.  
9

10 Q. I presume the same reasons you've indicated earlier  
11 apply broadly about rates?

12 A. Well, yes, that's correct.  
13

14 Q. And what about electricity: electricity has always run  
15 at a deficit. What he proposed, given the financial hole  
16 council was in, was to make electricity self-sustaining,  
17 that is, budget neutral. You didn't agree?

18 A. No, I don't agree with just simply increasing the cost  
19 of electricity and increasing the receivables so council  
20 would have outstanding. Here on Norfolk Island we've got -  
21 roughly 25% of houses on the Island have photovoltaic solar  
22 power. Whilst it was a great idea, the supporting network  
23 that runs the photovoltaic was being covered by the portion  
24 of the community who did not have the benefit of solar.  
25

26 Because, quite simply, if your photovoltaic is not  
27 connected to the powerhouse you cannot produce solar power,  
28 so we needed a better charging machine than just simply  
29 coming out and saying, hey, let's just charge another  
30 4 cents to the people who are already subsidising  
31 electricity. But also at the same time we'd been waiting  
32 for a 2kVA battery to arrive so we could stop the expensive  
33 cost of dumping excess solar power. You see, these are  
34 some of the - in the capital budget initiatives that the  
35 council were doing.

36 That solar system now is feeding into a battery which  
37 is now being fed back and reducing the cost of the diesel  
38 demand on the electricity service, so it's a matter of  
39 making those improvements, not just coming out and saying,  
40 oh, we need another 4 cents, because electricity was still  
41 running at a pretty well, even though very fine line, cost  
42 neutral, they were not in deficit. Sure, they needed funds  
43 and there is a requirement for funds to upgrade some of the  
44 transformers, but the electricity team have made it quite  
45 clear that, let's not spend a heap of money at once, we'll  
46 do it as a planned program, so that's why I did not support  
47 just simply increasing.

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

Q. Yes.

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

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

A. What measures?

Q. Yeah, what measures can you point to that council considered or passed that sought to align general revenue with the ever growing - with the deficit associated with expenditure?

A. The increasing deficit: well, unfortunately there were tough decisions that were required --

Q. Yeah, no, no, I understand decisions were made to reduce expenditure, people lost their jobs, a very unfortunate situation, there were other things that were done on the expenditure side, but the obligation on the government body is about aligning/balancing revenue and expenditure. Whilst steps were being taken on the expenditure side that meant many people on Norfolk Island lost their employment, what were you doing to offset that in terms of generating revenue?

A. Well, that's a tough question because when you're in a cash poor/asset rich society, how can you extract more funds? Yeah, it's not as easy as just saying, we'll increase the charges, we'll increase fees, you know, it's not - and, when you come up with initiatives that are not quite an activity of the council it's not readily accepted. You know, trying to have an alternate income stream than

1 just tourism.

2

3 Q. Could I turn briefly to the issue of the other assets  
4 of the council. Compare the state of the sewerage system  
5 today to where it was on 1 July 2016: better, worse?

6 What's been done to improve the assets?

7 A. Well, the only one area we worked on is putting in new  
8 pumps to make the system more efficient. We've gone  
9 through an exercise with Balmoral to cost a new and  
10 improved sewerage scheme, and --

11

12 Q. It's beyond the budget, isn't it, that cost?

13 A. That's beyond the budget, that's totally beyond the  
14 budget, but at that time there was indicators that we would  
15 be able to fund some of that by going to the Commonwealth  
16 for funding to improve our water sewerage scheme.

17

18 Q. What about the power infrastructure?

19 A. The power infrastructure, council bought three new  
20 generators because --

21

22 Q. What was the cost?

23 A. That was, gee, 1.25, if I remember. But the other  
24 generators was bought by the Assembly secondhand. They had  
25 two extra services in excess of what they should be  
26 serviced, so they were beyond their use by life, so we  
27 bought the new generators. We also went down the path of  
28 trying to get Norfolk 100% photovoltaic, so we sought  
29 expressions of interest to do a plan for Norfolk Island to  
30 become 100% self-staining in electricity, which that tender  
31 was won by Hydro Tasmania Australia. The report cost  
32 \$275,000, which I felt was incomplete, they did not meet -  
33 and then we were told, oh, we cannot do the tariffs because  
34 we need an electricity economist. I don't know if you've  
35 heard of one?

36

37 Q. Yes.

38 A. They couldn't find one, the staff. We didn't get such  
39 a beast to come and tell us how much we need to charge for  
40 electricity. We then, at the initiative of the electricity  
41 staff bought the 2kVA battery, Tesla battery, put that in  
42 place, which is now saving revenue, saving on diesel  
43 consumption.

44

45 Q. Was that a proposal that came from the staff or from  
46 council, council officers, the council governing body?

47 A. It was actually hatched out of the engineers who came

1 to help set up the coming - the new generators. They said,  
2 you don't need this, there's things that you can do to  
3 improve and reduce your diesel consumption here and the  
4 changes are not that great. So, that's where the battery  
5 initiative came from and it's moving towards becoming  
6 self-sustainable in photovoltaic electricity, but we need  
7 to have the infrastructure in place. So, council invested  
8 - as I will keep using the term "invested" - in the  
9 powerhouse so that we have reliable electricity supply.

10  
11 We also, which hasn't been touched on here, invested  
12 in a new fleet of vehicles for council staff because some  
13 of the vehicles were 30 years old and it was irresponsible,  
14 I felt, to continue having council staff driving around in  
15 what could potentially be dangerous vehicles, so we  
16 replaced them.

17  
18 The crane that we used to discharge cargo, sea freight  
19 onto the Island, was now unserviceable, so we had to buy a  
20 new crane. On that note, a crane was brought to the Island  
21 at the - councillors did not support the initiative to  
22 bring a crane to test, a crane that came to Norfolk, a  
23 contract had been entered into with a hire firm in  
24 New Zealand, brought to the Island and the crane, we had no  
25 way to get the crane off the ship, so there went another -  
26 and locked into a six month contract.

27  
28 Q. But who made that decision?

29 A. Senior staff, nothing to do with councillors. They  
30 advised us that - and we said, don't do it, but it was  
31 already on the pier.

32  
33 Q. When was that?

34 A. Oh, that would have been about 2018. We also had  
35 purchased, spent around \$4 million to improve our waste  
36 management system. Again, experts told us what composter  
37 we need. The composter was purchased, sat in storage,  
38 which was paid for by council in Australia, until they  
39 could get it to the Island. It sat around at the waste  
40 management centre for 12 months and it's still not running,  
41 you know, so these are --

42  
43 Q. It sounds like you --

44 A. -- costly initiatives that have been put in place  
45 which is not actually operating. What else --

46  
47 Q. Just pausing there. Assuming what you've just said is

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

9  
10 We also have air freight delivery which everyone  
11 appreciates, but the council have to fill that plane with  
12 waste and pay \$400 a tonne to send it off the Island. You  
13 know, so there are some things that were totally out of  
14 control of the council, which again, was revenue depleting.  
15 So, you know, but the airport job I will say was a  
16 necessary investment; sure, we ran into issues.

17  
18 The roadworks maybe could have been left but the  
19 opportunity to do that whilst the equipment was on the  
20 Island will not come again for another 15 years. So then  
21 the equipment that required replacing. The 4G upgrade, the  
22 reports indicated our telecommunications system could very  
23 well collapse at any time. A lot of visitors when they  
24 come to the Island expect to have good communications, so  
25 these are things that council felt they could achieve, but  
26 unfortunately what happened? The pandemic occurred, so all  
27 of a sudden the revenue that was coming in just simply  
28 dried up.

29  
30 MR BOLSTER: Thank you, Mr McCoy. Commissioner, I have no  
31 further questions.

32  
33 THE COMMISSIONER: I don't have any questions either. Do  
34 you?

35  
36 MR SIMONE: I don't have any questions.

37  
38 MR BOLSTER: Might Mr McCoy be excused from his summons?

39  
40 THE COMMISSIONER: Okay, thank you, Mr McCoy. Thank you  
41 for your up-front and insightful information around the  
42 sort of things that happen at the council, I found it very  
43 helpful, so thank you very much.

44 A. Thank you very much, Commissioner, and I appreciate  
45 the opportunity and I also do support the inquiry that's  
46 going on. Thank you.

1 <THE WITNESS WITHDREW

2

3 MR BOLSTER: Thank you. We might take an adjournment,  
4 Commissioner.

5

6 THE COMMISSIONER: Mr Bolster, what time do you need me to  
7 come back?

8

9 MR BOLSTER: 11.20, Commissioner, I think.

10

11 THE COMMISSIONER: Okay, we'll reconvene at 11.20. Thanks  
12 everyone.

13

14 **SHORT ADJOURNMENT**

15

16 THE COMMISSIONER: Okay, Ms Morris.

17

18 MS MORRIS: Commissioner, the next witness to be called is  
19 Councillor Porter.

20

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

22

23 <EXAMINATION BY MS MORRIS:

24

25 MS MORRIS: Q. Thank you, Mr Porter. Can we just get a  
26 bottle of water for Mr Porter. Could you state your full  
27 name for the record?

28 A. David Raymond Porter.

29

30 Q. Mr Porter, you weren't born on the Island?

31 A. No.

32

33 Q. You were born in Queensland?

34 A. In Bundaberg, Queensland.

35

36 Q. You've previously served on the council in Queensland  
37 in Bundaberg, I understand?

38 A. That's correct.

39

40 Q. How long was that for?

41 A. From 1994 till my resignation to come to the Island in  
42 2007.

43

44 Q. And, what brought you to the Island?

45 A. Lifestyle, it's a lifestyle choice.

46

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

1 a member of the final Legislative Assembly?  
2 A. That's correct.  
3  
4 Q. What led you to seeking that role?  
5 A. With my previous public service governance experience  
6 I felt I could contribute to the Island, and in my opinion  
7 we weren't travelling too well and I thought I could help  
8 that.  
9  
10 Q. And that it was around the 2014/2015 timing?  
11 A. Fifteen.  
12  
13 Q. And you had been, when you'd been at Bundaberg,  
14 involved in some similar asset issues as here, for example,  
15 the airport, fleets, roads?  
16 A. For most of my time in Bundaberg I was Chair of  
17 engineering services, so I had portfolio responsibility for  
18 roads, water, sewerage, drainage, airport, plant, fleet,  
19 waste management, yes.  
20  
21 Q. And so, was it from that experience that led you to  
22 the concerns about how things were on the Island in  
23 2014/2015?  
24 A. That and the governance arrangements, yes.  
25  
26 Q. And what about the governance arrangements was  
27 concerning?  
28 A. That we're proving now, we couldn't afford to operate  
29 in our own right.  
30  
31 Q. And, when the governance changed from the  
32 administration to the council, were you approached to run  
33 or was that something you thought yourself?  
34 A. No, I felt there was - I could still contribute.  
35  
36 Q. And what in particular did you see as the main  
37 priority at that time?  
38 A. Probably the physical infrastructure definitely, and  
39 also a mistaken belief that the vertical fiscal  
40 equalisation model that would apply to a council rather  
41 than an external territory would have been able to allow  
42 the council to achieve much more improvement in the Island  
43 in the short term.  
44  
45 Q. Could you explain that a little bit further?  
46 A. Well, the classic example, if it's not jumping too  
47 early, is the FAGs grant, the financial assistance grants;

1 in the first year I think we received \$1.8 million; I think  
2 you'll find now that's somewhere of the tune of  
3 \$5.8 million. It was obviously never going to allow the  
4 council to achieve anything, and certainly not to  
5 re-address the chronic shortfall in expenditure on the  
6 Island infrastructure, and bear in mind that we inherited  
7 an unknown asset value and an unfunded depreciation which  
8 caused all those issues in the early budgets and was  
9 forward for the whole time that I've been there.

10  
11 Q. I'll come back in a short second further to the budget  
12 and those plannings. When you first started at the  
13 administration and then when the council was first formed  
14 what were the major features you saw of how it was run as a  
15 governance structure in comparison between the two?

16 A. Well, I guess the Assembly was - or the Administration  
17 was a steep learning curve because you're dealing with  
18 basically three tiers of government with no support for  
19 those - or limited support with those other two tiers. In  
20 a local government in Australia you're in a very mature and  
21 reasonably rigid structure where you've got your local,  
22 your state and your Commonwealth and clearly defined roles  
23 and responsibilities and support mechanisms, so you don't  
24 start immediately.

25  
26 Q. How did that then compare between being in a local  
27 council in Bundaberg and a local council on the Island?

28 A. Same, probably the same issues, that we are a local  
29 government under the Commonwealth local government that has  
30 no other local government, and I might tongue-in-cheek say  
31 with very little local government experience, and that's  
32 noticeable in the reaction to some things - problems we  
33 have, that we would expect to have some support with, it's  
34 difficult to get.

35  
36 Q. The reactions from the Commonwealth?

37 A. Commonwealth Department, yep.

38  
39 Q. How, on the ground, did you find the comparison, for  
40 example, the councillors interacting with the council staff  
41 compared to Bundaberg?

42 A. Bear in mind, that's Queensland local government  
43 compared to New South Wales, it's also some 12 years later.  
44 Queensland's Local Government Act had evolved beyond that,  
45 but in my time in the Queensland local government all  
46 councillors were extremely involved in the process of  
47 council and the decision-making process. And I also was in

1 a council where after a couple of years got a new Mayor and  
2 CEO who were very proactive in involving the councillors;  
3 no major decisions were made in council without  
4 councillors' involvement, and especially as Chair, my  
5 direct involvement.

6  
7 Q. Was that a model that you thought should have been  
8 adopted here as well?

9 A. I'll be parochial and say it was better, in Queensland  
10 it was a better - no, it was better; to me it achieved the  
11 aim that I thought I was there for.

12  
13 Q. In Bundaberg, but it wasn't a system that was in place  
14 on the Island?

15 A. No.

16  
17 Q. Did you have an understanding why there was a  
18 different system in place on the Island?

19 A. I believe some of it was to do with the difference in  
20 the Local Government Acts. The New South Wales Local  
21 Government Act has a fairly - a very clear distinction  
22 between the role of elected members and the operational arm  
23 and the amount of information that's exchanged between  
24 those or to the level that that information is exchanged.  
25 Beyond broad policy setting it doesn't appear the Act  
26 allows for as much involvement, and I would stand corrected  
27 in that I believe the Queensland system has gone more like  
28 that but is now returning back to the system that I had, so  
29 it's a state of evolution.

30  
31 Q. Were there attempts made by the councillors to seek  
32 greater access to information from council staff or was it  
33 that the attempts weren't made at times because you  
34 understood you couldn't under the Act?

35 A. No, within the restrictions of the Act we all  
36 constantly asked for more information. I was one that  
37 constantly asked why we couldn't have a committee system  
38 where we could deal with specific matters of council with  
39 the council officers for that, to debate that particular  
40 thing, not just come to a meeting where all matters are  
41 just put through the official process.

42  
43 Q. Do I take it, so there were certain committees that  
44 were established with the council; for example, Councillor  
45 McCoy referred to the rock source feed earlier today. Do I  
46 take it though that you didn't see that that was having  
47 that information sharing level or the input that you would

1 prefer?

2 A. They were advisory committees set up under the Local  
3 Government Act as applies to us and they were only advisory  
4 committees, they had very little opportunity to really  
5 influence the council; you could advise but you couldn't  
6 really influence.

7

8 So, it was good, it did help to disseminate  
9 information, although there was information that we were  
10 given that Councillor McCoy touched on, there was  
11 information that we were given that several months later  
12 another council employee could find no record of, so it  
13 was - yeah, it did undermine our faith in the system there.

14

15 Q. Do you have any particular examples of that that you  
16 recall?

17 A. I think Councillor McCoy spoke about a drilling rig:  
18 there was a need to prove what rock sources were available  
19 on the Island and we had an officer who was telling us,  
20 assuring us in a rock feed source advisory committee  
21 meeting that that machine had been procured and then it was  
22 on its way, it was listed for a ship. Subsequent to that  
23 the new general manager could not find any paper trail,  
24 there was no evidence that that had been done.

25

26 Q. Is that the same rig that then later - there's  
27 discussions about shipping and getting off the ship because  
28 of weather, or is this a separate rig?

29 A. That was a crane to provide a short-term relief for  
30 accessing freight to the Island: a different matter.

31

32 Q. Do you recall who that particular council officer was  
33 that there was that issue with?

34 A. I'd rather not be seen to be --

35

36 Q. That's all right. Was that then an ongoing issue you  
37 found with lines of communication between council staff and  
38 councillors, for example?

39 A. No, that was probably one that really stood out,  
40 because the winning of rock on the Island was such a  
41 sensitive issue, so obviously it stuck in my mind.

42

43 Q. Were you here earlier this morning when Mr Bolster was  
44 showing sections of the Local Government Act to Councillor  
45 McCoy?

46 A. Yes.

47

1 Q. At a general level, what did you understand the  
2 principles and responsibilities to be of the council?

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

11  
12 Q. How did you ensure for yourself and for the  
13 councillors as a whole that the general manager was using  
14 those resources wisely?

15 A. You had your investment reports and your financial  
16 reports monthly; sometimes those reports may have not  
17 coincided with a council meeting, so some nights you might  
18 have two, some nights you might notice there's only one.  
19 With January being a recess, you might find in February  
20 you've got two or three, but by and large you had  
21 reasonable access to the financial standing of the council  
22 supported by the chief financial officer explaining that  
23 what he was giving you was in fact the case.

24  
25 Q. Did you have any concerns at any time when that  
26 information was being reported to you as to the figures  
27 being reported?

28 A. Probably only from layman's terms right, as I said  
29 before, from the beginning that the value of the assets of  
30 the Island and the depreciation liable seemed to be fairly  
31 fluid.

32  
33 Q. Did you put questions back to the financial officers  
34 about what that meant for your budget for your long-term  
35 financial plans, for example?

36 A. Obviously, yeah, and any change in the value of  
37 assets. The classic example right now: you've got a  
38 \$50 million airport that the Island couldn't fund that all  
39 of a sudden has to depreciate.

40  
41 Q. Do you recall being given satisfactory answers when  
42 queries were raised?

43 A. I believe so, yeah.

44  
45 Q. One of the early documents which we were touching on a  
46 bit earlier before was the long-term financial plans and  
47 the operational plans and resourcing plans that were

1 developed in the early days of the council. Do you recall  
2 the discussions about the strategy that the council wanted  
3 to adopt for that long-term financial planning?

4 A. Well, obviously you have to stay solvent, you know,  
5 there's basic parameters in any business, whether it's a  
6 council or your own household budget, but we all wanted  
7 better outcomes and we had the limitation of revenue  
8 raising capacity. A very small community in an isolated  
9 location is going to have difficulty forever in getting a  
10 reasonable quantum of their fund, their turnover, from own  
11 source revenue.

12  
13 Q. What had you understood the approach to be of the  
14 previous administration in meeting that challenge?

15 A. It had its challenges in doing that, and that was part  
16 of the reason that we weren't - the state of most of the  
17 assets that came to the council was evidence of the fact  
18 that the previous administration was struggling for the  
19 same reason.

20  
21 Q. And you'd been aware that the previous administration  
22 had often operated at a deficit?

23 A. I don't believe I would have been in that government,  
24 I may have reason to recollect that from living on the  
25 Island, but I'm not qualified on that.

26  
27 Q. Do you recollect in the discussions around long-term  
28 financial planning being told that, if things continued in  
29 the same way, that there would be an ongoing deficit in the  
30 budget?

31 A. Talking about deficit on the budget: originally, as I  
32 said, when the council came into being we had this enormous  
33 issue of depreciation which hadn't been funded by the  
34 previous administration and was always going to be a  
35 challenge for this Administrator, for this council, so that  
36 was going to cause trouble. As I said, when you're looking  
37 at getting \$1.8 million in your financial assistance  
38 grants, of course you were going to be under enormous  
39 pressure, there's a limit to how much money you can raise  
40 from own source revenue, be that rates or be it commercial  
41 activities.

42  
43 On the other side of the coin, if you're getting the  
44 \$5.8 million or what the correct figure is in financial  
45 assistance from grants - because most people would - a lot  
46 of people if they took the time would understand that  
47 vertical fiscal equalisation is about allowing us to live

1 at a reasonably degree of comfort like any other  
2 Australian, and I'm not talking about Sydney or Melbourne,  
3 I'm talking about Diamantina Shire or Carpentaria Shire in  
4 the remote north who has very little ability to have own  
5 source revenue.

6  
7 Q. Much of the FAG grants were directed more for  
8 operational spending and the ongoing maintenance and  
9 renewal, from what I understand of the budgets?

10 A. Yes, and they're quite specifically linked. You do  
11 have some of the FAGs grants are untied, but there is road  
12 components and there are other - for different councils,  
13 and in various years some programs may impact on what you  
14 can expend that money for.

15  
16 Q. And then there were separate grants as well for  
17 capital investiture?

18 A. We could, and that was another issue for us, that a  
19 lot of the infrastructure grants that a normal council  
20 would get would be generated by their own state or  
21 territory: we don't have one. So, I think that was - and  
22 the Mayor will be able to give you more information on that  
23 because it was something that she was quite passionate  
24 about was, I think in one year I think there was something  
25 like \$4.8 million available of state-type grants that we  
26 weren't able to access. There was even, in the early days,  
27 great discussion about whether we could even get Roads to  
28 Recovery or Black Spot funding, or Building Better Regions  
29 funding; all those things had to be worked through to give  
30 us the ability to even to compete for those funds.

31  
32 Q. From what we can see of the records, 2016/2017 there  
33 is that ongoing back and forth around the level of FAG  
34 grants and capital grants?

35 A. Absolutely.

36  
37 Q. By 2018, mid-2018, there's a recognition of what the  
38 level will be for the next five years?

39 A. I thought it was three years.

40  
41 Q. Until the end of 2021, I think, with the --

42 A. Initially I think it was three years, and even that I  
43 queried inasmuch as I think that the 1.8 went to, like, 2.8  
44 and then to 3-point-something and then a little more, and  
45 to me our emergent funding needs, it should have been the  
46 other - if we possibly had high funding earlier we may have  
47 been able to stand less funding later, but it was how

1 quickly we needed to address issues like piling our garbage  
2 up on a cliff and burning it, set it alight and kicking it  
3 into the ocean: it's not a good look; we were committed to  
4 trying to achieve better outcomes.  
5

6 Q. But the FAG grants, as you were saying, particularly  
7 going towards maintenance, renewal and general operations;  
8 the capital grants were then for funding projects such as  
9 the telecommunications upgrade?

10 A. Yes, bear in mind at the end of the day it doesn't  
11 matter what buckets they're in, it's money that comes to  
12 this island that eventually balances a budget, and you  
13 can't take money from that pile to balance that pile, but  
14 in taking strain off of that particular pile allows your  
15 own source revenue to be more used there. Also, if you  
16 want to look at the pure economics, if it leads to a more  
17 affluent island, people can afford to pay more fees, so you  
18 might be able to get closer to full cost pricing.  
19

20 Q. Just to clarify on that, your understanding was that  
21 there were certain funds that could be received for only  
22 particular purposes and some that couldn't?

23 A. Absolutely.  
24

25 Q. But the hope was that by receiving them and spending  
26 them in a restricted way it would relieve a burden on the  
27 other funds?

28 A. Typical, we didn't have any success in getting funding  
29 for the composter so it came out of our budget. Had that  
30 been funded, that was an enormous relief to our budget, so  
31 it's cause and effect.  
32

33 Q. Part of the budget process was each year a revisiting  
34 of the operational plan and how that affected the long-term  
35 plan?

36 A. Yes. Yes, those plans aren't set in concrete, they're  
37 a work-in-progress; as you know, they're a living document;  
38 the council don't just get to the end of 10 years and say,  
39 where are we going now? It's a living document and it's  
40 populated from those other shorter term operational plans  
41 and budgets.  
42

43 Q. If we take, for example, in 2018 there's been a couple  
44 of years where the budgets haven't come in at the level  
45 expected to be because of grants being lower, because of  
46 other sources being lower. Do you recall discussions  
47 around that time as to whether there should be a shift in

1 the strategy of how the council should approach its  
2 budgets?

3 A. I think it would have been around those times that we  
4 had a grants officer and that we were actively working  
5 with - and also at the political level working with the  
6 government of the day about the unique circumstances of  
7 Norfolk and how we don't fit into those normal Commonwealth  
8 state, local funding mechanisms, so that's an ongoing work  
9 and that has achieved some good outcomes. The Mayor, as I  
10 said, would have a much more - probably a much more  
11 detailed grip on that. I've been involved and I understand  
12 how it works because I came from that world, but some of  
13 those discussions were with the - I think fortnightly  
14 discussions with the Mayor and the general manager and the  
15 Administrator.

16  
17 Q. But at the council level, at the point in time when  
18 you've been told what to expect in terms of FAG grants  
19 going forward but you were aware of some of the shortfalls  
20 in the years before, were there discussions at that time of  
21 whether a strategy still based on self-sustaining business  
22 models, for example, was still an appropriate strategy?

23 A. I think the council through its budgeting process was  
24 cutting its costs, were cutting its cloth: bear in mind  
25 that, as Councillor McCoy said, we were involved in the  
26 budget discussions at a very, very high level.

27  
28 My previous experience was, I was totally immersed in  
29 the budget process through my offices in my department that  
30 I represented at the council, through to where the whole  
31 council in those budget processes are; you might not have  
32 quite got to line-by-line, but you certainly targeted the  
33 big ticket items more so than what we've had the  
34 opportunity to do here.

35  
36 Q. Can you just explain a little bit further why there  
37 wasn't that opportunity under the council here to have that  
38 same back and forth on the budget?

39 A. Partly the Local Government Act of New South Wales  
40 which is quite punitive about that separation between  
41 operational matters, and is the budget an operational  
42 matter or is it a council matter? It's open for  
43 interpretation. I thought we could have had more access,  
44 but I'm not an expert on the Norfolk Island Local  
45 Government Act; I now how to comply with it but I'm not an  
46 expert on it.

47

1 Q. There were reports given to you though at council  
2 meetings with the planned budgets?

3 A. Oh, yes, yes, you had a pre budget meeting and then  
4 obviously you had an extraordinary meeting to adopt the  
5 budget, so yes.

6  
7 Q. Was there scope there for those discussions about  
8 where targets were set or the assumptions of the budgets?

9 A. Limited. Limited, I would have thought.

10

11 Q. Limited because you - and by you I mean the  
12 councillors as a whole - weren't seeking to have that  
13 information, or the response was that you weren't allowed  
14 to have that conversation?

15 A. No, some of it we - some of it we, and most  
16 councillors, pushed quite hard. Some matters we did have a  
17 small win, but on many it more tended to be a fait  
18 accompli, or we - I felt.

19

20 Q. Can you just expand on that a little bit further what  
21 you mean by it was a fait accompli?

22 A. That, although we would have - and there was divergent  
23 views within the council - would have been maybe setting up  
24 a fee for something or not introducing a fee for something,  
25 or alternatively looking at, are we upgrading our fleet too  
26 quickly? Is there some that can last a little longer?  
27 Yeah, obviously, look at some of the big ticket items could  
28 we - and things were deferred into the next year, but quite  
29 often that was opportune, they were deferred because the  
30 item wasn't available or hadn't been purchased, it wasn't  
31 because there was a conscious decision made to say, we  
32 won't purchase that piece of equipment for 12 months.

33

34 Q. Were these concerns that you raised with the general  
35 manager, or was it with finance?

36 A. It would have been raised at the meeting where both of  
37 those people would have been present, would have been  
38 within the normal ongoing discussion around the budget and  
39 the budget process.

40

41 Q. And what was the response that you received? Do you  
42 recall a particular instance of a response where there was  
43 a question raised and the answer?

44 A. No, none actually pop into my mind, I'm fairly broad  
45 on that. One will occur to me as soon as I walk out, but  
46 there were issues that were raised that we felt we could  
47 have had a better outcome and that, within the limitations

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

2

3 Q. Do you recall that in late 2018 there was some further  
4 training done with councillors about Local Government Act  
5 and the responsibilities?

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

17

18 Q. What sort of training was missing that you wanted to  
19 have access to here?

20 A. You could pick any skill set in the entire council  
21 where councillors were involved in the decision-making  
22 process.

23

24 Q. Could we bring up NIRC.005.002.0001, page 7. This, as  
25 I understand, is part of the PowerPoint slideshow in the  
26 late 2018 training that you had. Does this look familiar  
27 to you?

28 A. It doesn't spring immediately to my mind, and bear in  
29 mind - I probably should have mentioned it earlier - but my  
30 wife has significant health issues which requires us to  
31 depart the Island reasonably regularly, and to a great  
32 extent with the forbearance of the specialists we've been  
33 able to work around council meetings, but there are some  
34 times when there were council matters that I was  
35 unavoidably away from the Island, but I will put my wife's  
36 health first in any event. So, I don't know, if you could  
37 show me more of that, I'd know.

38

39 Q. If perhaps you just go to page 79.

40 A. The name --

41

42 Q. And, if we just turn that round. You will see, this  
43 is the list that was --

44 A. Yes, so I am there: good. Oh, no, I may not be.

45

46 Q. Your name is on there at that level.

47 A. But I haven't signed it.

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Q. But it's not been signed, it's not been signed by anyone; I don't think we have a signed version but --

A. Well, that doesn't help me, I'm sorry.

Q. That's all right. If we go --

A. Sorry, but that name, the name of that person doesn't spring to my mind, sorry.

Q. Doesn't spring to mind?

A. No.

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

A. In 2018?

Q. Yes?

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

Q. If you go to page 20, and I accept you may not have been at this meeting, so this is just at a higher level. But we see that this is one of the slides presented by Ms Sheehan which talks about the interactions between the governing body and the council itself, and says that it allocates the councillors the task of setting strategy, allocating financial resources and allocates to the admin staff implementation of the strategy and ensuring compliance. Now, that seems to me to be at odds with the description you've given so far as to the understanding of the council as to where those responsibilities lay.

A. Certainly in the matter of allocating finances or resources at what - how - at what micro level were we involved at; certainly wasn't at the line item. I don't even recall probably even down as far as departmental level, no. It was presented to us, explained to us, and was probably accepted by us. Because you would have to explain to me what allocating financial resources means in your mind to tell me whether I've got a correct understanding, because to me that could go all the way from just making sure that the chief financial officer used the right funds and had the sufficient funds to make sure that those resources were available to populate the budget, or was it saying how much money we were going to spend on cleaning the toilets in Burnt Pine; what's allocating

1 financial resources mean? Everyone would have a different  
2 opinion, I'm sure.

3

4 THE COMMISSIONER: Q. I would suggest, it's all of the  
5 above, Mr Porter?

6 A. It's all of the above, yes, thank you.

7

8 MS MORRIS: Q. But I take it, you don't recall, for  
9 example in late 2018 or early 2019, there being any shift  
10 between council and council staff following this conference  
11 about how budgets or those discussions should be had?

12 A. Not looking back from here, no.

13

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

17

18 As you would have seen from this morning, there's been  
19 a lot of discussion around the airport contracts and road  
20 contracts. Do you agree that those have been two of the  
21 more significant investments of the council in the last  
22 five years?

23 A. Absolutely, and obviously the footnote to the airport  
24 tender is, whenever the Commonwealth gives Norfolk Island  
25 large sums of money for large projects, but don't do a risk  
26 assessment as to whether the shortfall can be funded by the  
27 local authority, what's the implications if we don't do the  
28 project, what's the implication if the council can't afford  
29 it? To my mind that was never done, and bearing in mind my  
30 wife had a significant event at that time and I was off  
31 Island for a month, including that meeting, so I was at a  
32 loss to be able to - and bear in mind, my background is  
33 commercial construction and civil construction, so I  
34 understand experts and I chaired an airport before, so I  
35 understand what was the motivation and the drivers here,  
36 but I wasn't here for the actual meeting.

37

38 But, as I said, to me the great risk is that we were  
39 given money that was insufficient and no risk assessment as  
40 to what impact that would have on the ongoing resources to  
41 the council, and one I did raise right from the beginning,  
42 and I said just before, you acquire \$50 million worth of  
43 assets that you don't pay for but you have to depreciate  
44 them. That's going to have a significant impact on an  
45 Island that couldn't afford its depreciation budget anyway  
46 and is proving that in the condition of our assets, but  
47 we've got a Commonwealth that are prepared to half fund us,

1 part fund us.

2

3 Q. Breaking that into two parts. Is it not though the  
4 council's responsibility to take that risk assessment of  
5 whether it can meet those additional costs?

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

21

22 Q. I readily accept that the airport project needed to be  
23 done. My question more was in light of that, that it  
24 needed to be done, in light of the fact that the council  
25 was told how much grant money the Commonwealth was prepared  
26 to extend, was the risk assessment process not something  
27 that was a council's responsibility rather than  
28 Commonwealth's responsibility?

29 A. I'll maintain it's the Commonwealth. Having said  
30 that, I'm not taking exception to this, at the end of the  
31 day we had a process, we had advice from our council, from  
32 our chief financial officer and from the CEO, we could meet  
33 our share of the funding, we could activate that airport  
34 loan. I know there's lots of technical issues around that,  
35 but we're not accountants. We were told by our chief  
36 financial officer and by our general manager that we had a  
37 mechanism to fund the shortfall, and a significant  
38 shortfall over and above. Like, we were talking initially  
39 only probably, depending on the biosecurity arrangements,  
40 we were probably only talking about a shortfall of  
41 \$4 million or \$5 million.

42

43 And something that should be tabled in those  
44 documents, there was also advice from Dr White and from  
45 Boral telling us about potential costs savings within the  
46 project, so that we had options, we looked at those  
47 potential costs savings and they weren't really - we were

1 spending a lot of money to achieve a little - sorry, losing  
2 a lot of money to achieve a little.

3  
4 Q. And there were certain aspects within the tender, as  
5 you say, that could have been cost savings but council  
6 decided to go with the full suite of services?

7 A. I believe those costs savings were going to cost us  
8 more than they would have saved us, and the level of the  
9 facility that we had to maintain, we're talking about  
10 international standard lighting which was - our old  
11 lighting system was no longer compliant, and it was not  
12 suitable for our atmospheric conditions: we are much better  
13 placed now.

14  
15 Q. And knowing then, as you said, that there was a cap  
16 and it was a hard cap on the amount of money that the  
17 Commonwealth was prepared to grant for the project, and  
18 knowing that the cost would go above that grant, how did  
19 you satisfy yourself and the councillors satisfy yourselves  
20 that that shortfall, as you said, would be able to be  
21 funded?

22 A. As I've said, we had reports from our general manager  
23 and chief financial officer that a loan mechanism could be  
24 put in place. I had great difficulty with a loan, because  
25 a small cash-strapped community is going to have trouble  
26 meeting interest let alone retiring the principal, but at  
27 the end of the day you've got to balance that against the  
28 fact of, if no airport, this island doesn't exist. COVID's  
29 a classic example of what happens when you turn that plane  
30 off.

31  
32 Q. Did you understand then that, by reference to a loan,  
33 it was an actual loan?

34 A. I understood that the airport - and I understood and  
35 it was explained to us, that the airport would be able to  
36 raise funds, and I recall, I think, discussions around  
37 whether that was something Treasury would do. All other  
38 local governments have access to their state treasuries for  
39 subsidised loans for public infrastructure. Another gap.

40  
41 Q. But the loan that was - and you may recall having seen  
42 the resolution, if not I'll bring it up again, but the loan  
43 was expressed to be a loan from the Airport Business  
44 Enterprise?

45 A. Which it would have had to have raised because they  
46 don't have cash on hand, but I would have understood even  
47 at that time that I would have taken that to mean that they

1 were going to secure the services of either government or  
2 corporate loan facilities.

3  
4 Q. So, was there discussion at that time around cash  
5 reserves as opposed to loans that you recall?

6 A. Yes, and that was always in there, and at that time  
7 the council was a going concern, COVID wasn't a cloud on  
8 the horizon, we were a going concern. We also had our  
9 chief financial officer telling us that we were, as  
10 Councillor McCoy said, our visitor numbers were increasing,  
11 our incomes were increasing, we were in a reasonably solid  
12 if still shaky position.

13  
14 Q. You mentioned earlier and it's shown in the minutes  
15 that you weren't at the meeting itself where the tender for  
16 the airport was decided upon, which is the 20 February 2019  
17 meeting. Did you, however, receive the minutes agenda, the  
18 agenda papers before that meeting?

19 A. I read the agenda papers; in fact, I was obviously  
20 very interested in that particular one and read them online  
21 in Bundaberg. I kept abreast of the development and of the  
22 argument, because there was a great passion on the Island  
23 about rock, as you've discussed/explored before, but  
24 spending money you haven't got to buy something you possess  
25 in relative abundance, that doesn't really make sense to  
26 get it from somewhere else.

27  
28 Q. Did you at the time reach out to any of your fellow  
29 councillors or to anyone on staff about the matters that  
30 were in the agenda since you wouldn't be at the meeting  
31 itself?

32 A. No, I felt I couldn't influence it from away, they  
33 knew where I stood on the whole matter.

34  
35 Q. And where was it that you stood?

36 A. That the airstrip is critical infrastructure, we'll  
37 have this argument now rather than have an argument about  
38 why we let the airport run into - fall into disuse, which  
39 would have destroyed - my wife and I operate a small  
40 accommodation property, we're at the frontline of no planes  
41 flying and I can assure you that from the effects of COVID.

42  
43 Q. Was there a discussion though about the pricing of the  
44 different tenders, for example, that were up for choice?

45 A. No, as I recall that came to council as a  
46 recommendation. I believe we had - we would have had a  
47 decision matrix that would have populated the decision

1 because there is a probity officer - all these major  
2 contracts would have had a probity officer, so there would  
3 be a quite detailed decision-making process, and I am  
4 confident - I don't have that document in front of me - but  
5 I am confident we would have seen a decision matrix that  
6 would have explained to us that Boral resources were the  
7 obvious standard.

8  
9 Q. And, as I understand it, all of the tenders were above  
10 the \$43 million amount?

11 A. This gets back to where the Commonwealth - they knew  
12 that we were a cash-strapped impoverished - well, not  
13 impoverished, but cash-strapped island with our only vital  
14 link to Australia in jeopardy; they would have far more  
15 resources to have satisfied themselves that, if they gave  
16 us money, we could complete the project rather than have  
17 this inquiry now as to why we couldn't.

18  
19 Q. So, was there any thought then given at the time of  
20 going back to the Commonwealth with the tenders and saying,  
21 we can't do it for the \$43 million?

22 A. I believe that was quite an active discussion, the  
23 Mayor would be able to tell you more about that. The  
24 councillor level didn't get involved in that, I believe the  
25 Mayor was, and certainly with the Administrator if not  
26 directly back to the department. But certainly we  
27 recognised the challenges of not having sufficient funds to  
28 meet that project cost.

29  
30 Q. Do you recall what the response was given?

31 A. No. Obviously, we didn't get the money, no, refer to  
32 the original clause.

33  
34 Q. But was there an explanation as to why, for example?

35 A. I'm not privy to that, I don't recall that at this  
36 point in time.

37  
38 Q. After the 20 February 2019 meeting that is voted upon  
39 in your absence and the tender is accepted, was there a  
40 feedback to you as to what was discussed at that meeting?

41 A. I believe I was - well, I was satisfied. And, this  
42 whole and, as you know, this was the largest investment the  
43 council's made in its entirety, so this was a topic of  
44 conversation for months; at every opportunity that we met  
45 it was explored and discussed ad nauseam, so it wasn't just  
46 something we said, we've done that, let's get onto the next  
47 one, we lived with this project. And even to the point of,

1 it would be interesting to be able to travel through that  
2 timeline from when we were first - it was first indicated  
3 to Boral that they were the successful tenderer, there were  
4 many months before the tender, the contract was actually  
5 executed.

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

18  
19 Q. And I appreciate it's difficult to recall, but there's  
20 a situation, it's in early 2019, you know the amount that's  
21 going to be received from the Commonwealth, there's been  
22 the discussions as to whether it can be any greater and  
23 you've been told no so you know this 43 is the cap; you are  
24 presented with a tender, as you've said, that had some  
25 options in it for costs savings that might have reduced the  
26 price and maybe reduced it below the cap, but council  
27 determines not to take those savings because of concerns  
28 about you not saving money in the long run. Were there  
29 otherwise discussions about whether there were other ways  
30 of reducing the costs with Boral, for example, or other  
31 ways of managing that risk that there was going to be this  
32 shortfall gap?

33 A. Also the issue of pursuing the procurement of rock on  
34 the Island. There was two things: one was that you kept  
35 the residual value of that rock purchase within the local  
36 community. The second one was, it felt like it should have  
37 been cheaper, but in hindsight, as I say, I have extensive  
38 experience in commercial construction and civil  
39 construction. Boral produced all the rock they needed for  
40 this island probably in a two shift or three shift run in a  
41 major established quarry in Australia. You compare that to  
42 hauling quarrying equipment and processing equipment all  
43 the way across the Pacific Ocean, commissioning it, making  
44 the stone over probably a 10-week period, and then  
45 decommissioning and removing all of that plant and  
46 equipment back to Australia. The economies of scale to me  
47 would suggest that the rock out of the Australian quarry

1 was probably going to be cheaper anyway; that only left the  
2 residual value of purchasing the rock on the Island left.  
3 I don't know whether that explains ...  
4

5 Q. Just to clarify that, the tender that was put forward  
6 by Boral was put on the basis of on Island rock?

7 A. No, and I think John explained that quite clearly  
8 before, that out of date we were advised that Boral had  
9 been informed that their tender was to be for off Island  
10 rock only, so when the tender came in there was not a local  
11 component.  
12

13 Q. You're aware though that there was a separate head of  
14 amount that was allocated for biosecurity risks and issues  
15 of that nature from Boral?

16 A. Even that is a problem for me having not been at that  
17 meeting, because in traditional contract costings prime  
18 cost items, PC items are included in the whole sum but are  
19 identified as a separate amount in case they need to be  
20 adjusted.  
21

22 My initial understanding was that that biosecurity fee  
23 was within the tender and I don't recall anyone giving me a  
24 view contrary to that initially. Now, very soon after that  
25 it became apparent that that was above, but that got back  
26 to, again, we still have a failing asset that is the only  
27 access to (indistinct).  
28

29 Q. I understand. When did it become apparent to you that  
30 it wasn't included in the tender price, that it was a  
31 separate head?

32 A. Probably in returning after that February 20 meeting,  
33 going through the document that was presented to council  
34 properly, and I had my suspicions from viewing it online in  
35 Australia, but that to me was probably the most serious  
36 overrun in the way a normal contract would be developed.  
37

38 Q. There was quite a long period of discussion to still  
39 seek on Island rock after the February 2019 meeting?

40 A. Oh, definitely, yes, as you explored with Councillor  
41 McCoy, yeah. It was still a push, but obviously the  
42 timelines weren't too tight.  
43

44 Q. From your role on the rock source committee, you would  
45 have been aware that that had been an ongoing discussion  
46 since 2016/2017?

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

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

10  
11 Q. And given there had been that quite lengthy period of  
12 knowing of the issues of on Island rock, how feasible was  
13 it thought in the beginning of 2019 that the on Island rock  
14 would actually be a possibility?

15 A. I held great hopes, but not much real faith.

16  
17 Q. So, it was recognised that there was a good chance  
18 that there'd be non-Island rock with the \$4 million or  
19 \$5 million price tag would be required?

20 A. We exhausted every avenue to procure rock on Island,  
21 I believe: for a whole host of reasons it wasn't to be.

22  
23 Q. So, fast-forward then to towards the end of 2019 and  
24 around September, had at that point it become apparent that  
25 it was unlikely to be on Island rock or was that later?

26 A. I'd have to consult my diary or think about that  
27 further, that's such a long time back to look at a precise  
28 timeline. It advanced, there was robust discussion from  
29 before February right through to the day the rock was on  
30 the Boral bulk carrier.

31  
32 Q. Do you recall the meeting where the additional Boral  
33 roadworks were discussed?

34 A. Yes.

35  
36 Q. In fact, as I understand, you moved the motion. So,  
37 what had led to you moving the motion for that project?

38 A. The ability to upgrade the roads was a one in 40-year  
39 event - sorry: I should start by backgrounding this by  
40 saying that the airport project was now locked in, we had  
41 the assurance that we could have the loan mechanism to  
42 cover any shortfall to well over the cost of any expected  
43 overrun.

44  
45 At the same time we had a chief financial officer  
46 showing us that we were a going concern and we were  
47 actually increasing our reserves so we could meet

1 commitments as and when they came due. Also, we have a  
2 report telling us that the scalplings - I'm trying to  
3 explain what they are, it's that little layer that you take  
4 off the top, and because it's contaminated with the rubber  
5 from the planes and fuel it can't be used again in an  
6 airport but it's quite suitable for roads.

7  
8 We had the other option of seeing, if you drive to the  
9 waste management centre now there's still a reasonable pile  
10 of scalplings from the last airport upgrade, and you look at  
11 that and think, what a waste of resources, now full of  
12 grass and totally contaminated. We had this opportunity to  
13 take an asset that was still quite usable and do the  
14 maximum benefit.

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

26  
27 But in Norfolk, if you look at the state of our roads,  
28 15 or 17 millimetres between you and I will go up and down  
29 by 50 millimetres, so you can't take mainland road costs -  
30 well, you can't take the mainland road costs anyway, but  
31 you can't even extrapolate them out for transport and say,  
32 we can do up an extremely degraded road for the same cost  
33 as that you would overlay a road that is still economically  
34 viable to do. You wouldn't overlay these roads in  
35 Australia, you would reconstruct them.

36  
37 Q. So, you say that there was an engineer report from a  
38 member of staff; was there a financial report that  
39 accompanied it?

40 A. I believe so. I certainly know that the CFO was  
41 involved in this, because you don't spend \$5 million just  
42 by saying, let's do this, it's a good idea. We understood  
43 the financial implications. As I said, at the time, no  
44 such thing as COVID, a chief financial officer telling us  
45 that we were on top of our depreciation issues, we were  
46 balancing our budget, we had the reserves. I think when we  
47 started talking about all this I think the reserve figure

1 got up to somewhere like \$17 million or \$18 million: I  
2 stand corrected on that, but we were --

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

11  
12 If we scroll back down, you will see there the figure  
13 that you were adverting to, around \$17 million.

14 A. Yeah, \$17 million.

15  
16 Q. What was your understanding then of the restricted  
17 versus unrestricted lines on that?

18 A. Quite obvious. Restricted, well, it depends, is it  
19 internally or externally restricted? Externally restricted  
20 obviously is, you can only use it for that process and a  
21 lot of that will be trust funds, so obviously you're not  
22 going to fiddle with them.

23  
24 Your internally restricted: I guess you'd be silly to  
25 touch them, but I guess you could move them around but, as  
26 I said, it would be foolhardy, so I'd accept that the  
27 unrestricted funds, you say, 0.456 million, but that fund  
28 was being repleted by normal business activities going  
29 through; it wasn't a finite matter that, when it was gone,  
30 it was gone.

31  
32 Q. No, it was being repleted through, but you'd accept  
33 that a \$5.5 million roads is a substantial chunk of the  
34 8.4?

35 A. Absolutely.

36  
37 Q. And at the same time there's this in the background  
38 knowledge that there could be a \$4 million to \$5 million  
39 shortfall for the airport as a whole whether that comes  
40 from a loan or otherwise?

41 A. If it came from a loan it was not going to be a  
42 current liability, it was a contingent liability, it had to  
43 be - the repayments would have had to have been met as and  
44 when they fell due; it wasn't going to affect our  
45 unrestricted cash other than to the extent that you  
46 couldn't replenish your unrestricted cash if you were  
47 retiring loans, of course, but that was something that was

1 going to be done over 15 or 20 years.

2

3 Q. But you're aware now that there wasn't a loan actually  
4 entered?

5 A. It was probably, to my mind, not really ever mentioned  
6 again, it disappeared. And I recall questioning that at  
7 the next budget and my recollection of that was that we had  
8 been able to weather that storm, we were over that, we  
9 wouldn't need - we could fund it, we could fund it  
10 ourselves, we had the reserves and the resources to fund it  
11 ourselves. It was going to be tight, we all knew that, and  
12 obviously if we hadn't have spent that \$5 million our  
13 crisis in COVID would have been averted by, what,  
14 four months only.

15

16 Q. And on the back, what you just said about becoming  
17 aware of it being funded from cash reserves, what sort of  
18 timing was that that you were thinking of?

19 A. So, was that the - what year is this one?

20

21 Q. This is 2019.

22 A. 2019. So, it would have been for the 19/20 - or would  
23 have been for the 19/20 budget, I'd assume.

24

25 Q. So, the 19/20 budget would have been set by this  
26 point because we're at July 2019.

27 A. Yes.

28

29 Q. So, is it your evidence that at that point it was  
30 known that it was going to come through cash reserves, not  
31 the loan then?

32 A. No, I can't, I can't give you any definite assurance  
33 on that. I know now looking back, with the value of  
34 hindsight, that the loan option seemed to have disappeared  
35 and not resurfaced. I can't tell you if it was then or if  
36 it was the next year.

37

38 Q. But you don't recall any further discussions or being  
39 presented with any further discussions about a loan or cash  
40 reserve for that?

41 A. No, I don't know if you've found any in the records  
42 but I certainly don't recall any.

43

44 Q. Not from what we've --

45

46 THE COMMISSIONER: Can I just ask a question?

47

1 MS MORRIS: Yes.

2

3 THE COMMISSIONER: Q. So, am I correct in understanding  
4 that you felt that the council could get access to a loan  
5 potentially from a state Treasury like (indistinct) has in  
6 New South Wales and things like that?

7 A. That was a discussion. Commissioner, I don't know  
8 whether that was viable, available, legal.

9

10 Q. It just seems odd that there's no State Government  
11 layout but it was thought that you could get a loan from  
12 State Government, like Treasury, so I thought that was a  
13 rather odd comment.

14 A. No, I think - sorry, I was making the comment that  
15 normal councils would access that. For us, I believe it  
16 would have been through the Commonwealth Treasury or by  
17 some other Commonwealth mechanism --

18

19 Q. Okay.

20 A. -- maybe funding through our department or perhaps  
21 commercial.

22

23 Q. So, if you take it that there may have been a loan,  
24 even though you just said that there was no further  
25 discussion, was there no-one that asked any questions  
26 around, if we've got 8.4 unrestricted and we have to make  
27 decisions about the road which is around 5, what would the  
28 repayments on the loan be?

29 A. This is what I'm saying, we didn't have that sort of  
30 level of discussion.

31

32 Q. It seems odd to me that no-one really knew whether the  
33 loan ever went ahead, no-one knew how much it was going to  
34 be - what the servicing costs of the loan were, what the  
35 interest rates would be; so that puts in my mind there was  
36 an assumption that there was no loan, so that then that  
37 money would then have to be found by council, so when you  
38 add the amounts together it doesn't even actually match up  
39 to 8.4.

40 A. No.

41

42 Q. It exceeds that by quite a bit.

43 A. Yes.

44

45 Q. So, I'm just a bit puzzled as to how the maths - the  
46 people's mind went on the day?

47 A. We were assured that we were going to be sailing close

1 to the wind but it was achievable.

2

3 Q. Okay.

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

7

8 Q. You made a comment earlier that the budget - it was  
9 hard to distinguish around responsibilities of the council  
10 regarding whether the budget was an operational matter or a  
11 council responsibility. Given your previous experience in  
12 the Queensland councils and then us having seen the objects  
13 of the Act here plus the responsibility of the council to  
14 be able to have an annually balanced budget, I'm puzzled by  
15 that comment as well, that wouldn't the councillors need to  
16 assure themselves that the budget did balance rather than  
17 thinking, well, that's an operational matter?

18 A. No, no, we were assured that the budget would balance.

19

20 Q. But you would need to see the figures?

21 A. Well, yeah, I understand that, but I don't know on  
22 what level - as I say, I'm not an accountant, so at what  
23 level I could interrogate the officers that they could  
24 prove that that was the case. We were assured that it was,  
25 that we would be a going concern and that we could meet  
26 our --

27

28 Q. But if you run a business, whether it's a government  
29 entity such as a council, you do need to understand that  
30 the numbers will balance, and you do need to get visibility  
31 of that. Most people operating in those kind of roles or  
32 in their own business don't go on hearsay, so what I'm  
33 really puzzled about is that no-one actually seemed to  
34 think, when they were making sequential decisions that were  
35 very significant, they didn't understand how the maths  
36 would add up and what position that would lead them into.  
37 I mean, it seems there was five people on the council and  
38 no-one asked that question from what I've ascertained so  
39 far, maybe I'll get the answer tomorrow. But is that  
40 your --

41 A. We did question our ability to do it, we were assured  
42 that it was achievable. And, bear in mind that this is a  
43 snapshot; the projects are rolling, the liability for those  
44 projects were spread over a couple of years, the funds of  
45 the council would have recovered to the extent that those  
46 debts would have been paid as and when they became due. We  
47 weren't working on a finite resource, we were working on a

1 going concern, so I was comfortable - not, I wasn't  
2 comfortable, that's sailing too close to the wind for mine,  
3 but the benefits outweighed my reservations because I had  
4 no idea of COVID.

5  
6 Q. One of the things you also mentioned was that you  
7 didn't pursue costs savings in the contract as this  
8 wouldn't really save funding in the long-term. Can you  
9 explain that to me?

10 A. Some of it was, I think one of the matters was even to  
11 the resealing of the cross runway. Now, that wasn't done  
12 at the previous overlay, so it would have got to the point  
13 where that runway would have probably had to be  
14 decommissioned. Now, in the event of significant failure  
15 at any time in our main runway, that cross runway, would be  
16 available to military and medical, aeromedical flights,  
17 that would be our only line of defence, so I felt that -  
18 and I think most of the councillors agreed with the  
19 professional opinion that we couldn't afford to not do that  
20 runway again.

21  
22 Also, there was some components of the new lighting  
23 system that I understood. As I recall I think there might  
24 have been some parts of the new lighting system that could  
25 have been left to a later date, but the technical advice  
26 was that that was risky in the extreme, so the argument of  
27 the day carried that we needed to do the entire project,  
28 yeah, as scary as it was.

29  
30 THE COMMISSIONER: Okay, thanks.

31  
32 MS MORRIS: Thank you, Commissioner.

33  
34 Q. Mr Porter, in the exchange you just had with the  
35 Commissioner, at one point there was discussion around the  
36 unrestricted amounts and what you were told and the  
37 satisfaction you were given by the staff and the financial  
38 officer, and you used the phrase that you were told it  
39 would be "close to the wind"; do you recall who said that?  
40 Were those the actual words you used or?

41 A. That was my take out from the general discussion, that  
42 this was really a dangerous place to be but it was  
43 manageable.

44  
45 Q. Do you recall the actual words that you were told?

46 A. No.  
47

1 Q. Was the word "dangerous" used, for example?  
2 A. No, no idea. No, I'd only speculate, I don't know. I  
3 would imagine it would have been couched in far softer  
4 tones than that, I don't know.  
5  
6 Q. But that was your take away?  
7 A. My take away, that to me personally it was a dangerous  
8 place to be.  
9  
10 Q. And was that the take away of other councillors to  
11 your understanding?  
12 A. No, I can't speak for them.  
13  
14 Q. Was there a discussion with any of the other  
15 councillors?  
16 A. Not that I'm - not that I can bring to mind  
17 immediately, no.  
18  
19 Q. One of the other consequences of using \$5 million of  
20 the \$8.4 million restricted, even if we leave to one side  
21 the question of how the airport shortfall would be funded,  
22 you'd accept there's a far smaller pool for any other  
23 unexpected spending for assets, for example?  
24 A. Absolutely, yes.  
25  
26 Q. Was there a discussion as to that consequence of  
27 choosing to spend the 5 on roads?  
28 A. Obviously, because we have an ageing infrastructure  
29 set, yes, we've done major amounts of work, and you've  
30 heard from PJ Wilson that we've done major amounts of works  
31 on a lot of our assets but a lot of them still have  
32 critical failure potential.  
33  
34 Q. And so, for example, the generators, there was a  
35 requirement in 2017 I believe to suddenly fund about  
36 \$1.25 million to purchase three generators; that was  
37 unexpected and unplanned?  
38 A. Not unexpected but certainly not planned for.  
39  
40 Q. Not unexpected, that's the wrong word, but it wasn't  
41 planned to happen then and there?  
42 A. Certainly not planned for definitely.  
43  
44 Q. So, was there discussion then of what would happen if  
45 something of that nature occurred after you'd committed the  
46 \$5 million for the roads?  
47 A. In a normal robust debate one of us, and I certainly

1 probably would have mentioned it myself, yeah, you're  
2 looking at what is our potential for - what's the added  
3 risk of the consequences of this action, yes, definitely.

4

5 Q. Do you recall where people landed on either side of  
6 whether that was an appropriate risk to take?

7 A. We approved the project.

8

9 Q. And, was it approved unanimously?

10 A. No, you've got the record, I don't have it in front of  
11 me, yeah, you could enlighten me.

12

13 Q. Do you recall though that the general sentiment was  
14 that it was the right decision to make?

15 A. I believe so. It carried the vote of the day.

16

17 Q. So, stepping aside from the airport and the roads more  
18 generally, we discussed at the beginning earlier about the  
19 state of the assets inherited from the Administration, the  
20 issues of valuations and depreciations. How do you see the  
21 state of the assets today compared to five years ago?

22 A. Oh, infinitely better, but not probably - a lot of  
23 them probably aren't fit for purpose, but they're  
24 infinitely better than they were. Our sewerage scheme, the  
25 receiving orders, our effluent is totally out of bounds to  
26 be putting in a marine bar. And the plant was never  
27 designed for that, and then with 30 years of minimal  
28 maintenance it's obviously not going to achieve that  
29 objective.

30

31 Q. And, are the assets now at a state where they can be  
32 extended further through maintenance or are they reaching a  
33 point where they need to be redone from scratch?

34 A. Seven different experts would give you eight different  
35 opinions on the total life expectancy of any asset,  
36 especially varied ones. As you know from local government,  
37 it's one of the great Achilles heels of local government is  
38 all your buried assets, be they water or sewerage or, so --

39

40 Q. What's your sense, what's your view?

41 A. It's a fairly simple system, that's why it's still  
42 operating; it doesn't produce appropriate, like, qualified  
43 effluent but it does work, and with maintenance it will  
44 keep working. You might have spikes in the amount of money  
45 you need to invest to keep it working, but by and large  
46 it's a fairly simple system.

47

1 Q. And for the other assets, so, for example,  
2 electricity, telecommunications?

3 A. Well, telecommunications now is solved. Another issue  
4 where we were given some money from the Commonwealth and  
5 then told to go and find the rest ourselves, with an asset  
6 that was no longer serviced anywhere in the western world,  
7 where we had technicians buying parts for our phone system  
8 on eBay. Not a good --  
9

10 Q. And that was the Building Better Regions Fund?

11 A. M'mm, but it wasn't a complete fund, we had to still  
12 upgrade it.  
13

14 Q. No.

15 A. So, that's fixed that one. The power has had more  
16 money spent on it in recent times, and I think it's very  
17 reliable when you consider where we live and the harsh  
18 environment we live in, we have extremely reliable power.  
19 You lose power now and again, but you're in an aged system  
20 in a hostile environment, I think they do - it's an  
21 absolute credit to them. So, I don't know what other left  
22 field COVID type thing's going to pop up to hammer us down  
23 again.  
24

25 Q. With the change now that's occurred with the general  
26 manager, has there been a change in the level of  
27 information sharing?

28 A. I think, and two reasons for that: I believe there's  
29 more maturity in the council now, there's more acceptance  
30 of our role and the role of the general manager; I know it  
31 from previous experience, I can see it happening.  
32

33 I was elected to a council that had been there for 120  
34 years. Some of the councillors look like they've been  
35 there that long, but really I think the longest at that  
36 time was 30, but still, there's 30 years of knowledge, of  
37 governance knowledge there that gets imparted on you fairly  
38 quickly. So, we were a brand new council, I was the only  
39 one with council experience, so we were on a steep learning  
40 curve. By the time the new general manager came along, he  
41 had a different mindset, but it was a mindset that the  
42 councillors generally were prepared to accept.  
43

44 Q. And, does that mindset extend to the back and forth,  
45 for example, about budget settings, is there the chance to  
46 have input or greater oversight on that?

47 A. I believe so. Bear in mind that 2020, the year that

1 the general manager was involved, we were dealing with a  
2 catastrophic failure of budget, so it wasn't a normal  
3 budget setting.

4  
5 Q. No.

6 A. It was a whole different world, we'd never experienced  
7 that, I've never experienced that with any general manager,  
8 let alone this one.

9  
10 Q. Has there been otherwise any more general changes in  
11 culture within the council body as a whole that you've  
12 noticed over the last five years?

13 A. As far as I'm concerned, yes. I felt we had more  
14 access to information, we had more - it could have been  
15 better, but then that may well be the constraints of the  
16 New South Wales Local Government Act, I'm not being  
17 critical of the general manager, just that I'm operating in  
18 an environment that is new to me as well. But no, I felt  
19 there was a better flow of information, but bear in mind it  
20 was possibly brought on by the circumstances as well.

21  
22 Q. You would have heard discussions earlier today and  
23 yesterday as to how council tends to vote: if there's  
24 parties, if there's alignments in there; do you have a view  
25 on that?

26 A. And you've got all the documents, I'm sure if you  
27 wanted to look through it you might be able to establish a  
28 voting trend; I have no interest in that. I took every  
29 decision of council seriously, I weighed my - used my  
30 experience to weigh the debate both from other councillors  
31 and from the recommendations from the officers, and then I  
32 voted appropriately. I've got strong views on things like  
33 cross-subsidisation and full cost pricing because I've  
34 lived through that, so I'll vote that way; some others may  
35 view that differently. But I don't - there's probably a  
36 definite trend there but you'd have to dig through it and  
37 find it. It's there for you if you want to look, yeah.

38  
39 Q. You don't have a sense of there being particular  
40 alignments otherwise?

41 A. If I do, it's personal.

42  
43 Q. Personal? Where did you fall in terms of revenue  
44 raising options available to the council where there are  
45 issues with, for example, the cross-subsidisation of  
46 industries and of other assets?

47 A. Well, there's some fairly clearly defined roles there

1 and responsibilities, and my view is obviously that you  
2 shoot for full cost pricing wherever you can.  
3 Cross-subsidisation will mean that you will tax an affluent  
4 business and prop up a business that may need to be  
5 overhauled, or they do things the way they've done like  
6 that because they've done it for 100 years and there's a  
7 whole new way you could do it, so cross-subsidisation hides  
8 those sorts of things.  
9

10 Also, if I consume a lot of power but don't drink much  
11 alcohol, I'm probably getting cheap power. If you wanted  
12 to look across the broad range of how the council raises  
13 revenue, one of your main cost raisers is the sale of  
14 alcohol. So, if anything's being subsidised, where is it  
15 being subsidised from? So, you've got to keep that in mind  
16 in terms of cross-subsidisation.  
17

18 In terms of revenue raising effort, what we can do to  
19 raise more money: if I knew how to raise significantly more  
20 funds on this Island, I wouldn't be here, I'd be the  
21 general manager or the chief executive officer of the  
22 biggest council in Australia and I'd patent it and go  
23 worldwide.  
24

25 Q. If we leave to one side in that respect the sums  
26 required for purchasing new assets and the large up-front  
27 costs, and we just take the yearly operational costs of  
28 running each of the services and running each of the  
29 business enterprises, the goal that was set was  
30 self-sustaining for each of telecommunications, waste,  
31 airport, electricity: that hasn't been achieved but, in  
32 your view, is that something that should still be the  
33 manner in which those operational costs are funded?

34 A. To me, we should be striving at every opportunity to  
35 either trim our costs or increase our revenue raising  
36 ability because they really should be self-funded. If  
37 you're an old pensioner living in a small home where you  
38 produce basically no waste, should you be subsidising  
39 somebody who imports lots and lots of stuff and doesn't  
40 consolidate or separate their waste, they just dump it?  
41 I'm trying to be a bit too specific here, but you've got to  
42 look at cause and effect, so to me, yeah, you've got to try  
43 and achieve full cost pricing in a very, very micro  
44 economy.  
45

46 Q. And again, leaving to one side the large costs of  
47 purchasing, do you then see the appropriate revenue raising

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

17

18 Q. And, if you take a different example for example with  
19 waste and the levies, however?

20 A. Waste is a hard one because, if you look at waste,  
21 we're taxing waste as it arrives on the Island and we're  
22 taxing it when it's disposed of. So straight away I'll  
23 say, rightie-o, so I've imported a pallet of Vita Brits and  
24 a pallet of chook food: how much of that went to the waste  
25 management centre? You know, so you're cross-subsidising  
26 anyway or you're double dipping.

27

28 So, if you're - really in a perfect world you'd work  
29 out how much waste everything produced and you'd have a  
30 finite cost for that and where that waste stream led, if it  
31 could be diverted away from ultimate destruction. In a  
32 typical council you'd be looking at a landfill site and  
33 you'd be looking at how you could maximise the life of your  
34 landfill site. Here, we've got to look at how we afford to  
35 dispose of that asset possibly off Island.

36

37 MS MORRIS: No further questions, Commissioner.

38

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

40

41 MS MORRIS: If Mr Porter can be excused from further  
42 attendance.

43

44 THE COMMISSIONER: Okay, thank you, Mr Porter, that was  
45 very helpful.

46

A. I hope. Thank you.

47

1 Q. And thanks for your understanding and for explaining  
2 some of those things to me, that was very good.

3 A. No. As John said, I appreciate the opportunity to  
4 appear. The hope would be that a better outcome for  
5 Norfolk comes from this process.

6  
7 Q. I think that's all of our hope.

8 A. Thank you, Commissioner.

9

10 MR BOLSTER: 10am tomorrow, Commissioner?

11

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

15

16 **AT 12.42PM THE PUBLIC INQUIRY WAS ADJOURNED**  
17 **TO THURSDAY, 3 JUNE 2021 AT 10.00AM**

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