



PUBLIC INQUIRY INTO LIVERPOOL CITY COUNCIL

**COMMISSIONED UNDER S 438U OF THE LOCAL
GOVERNMENT ACT 1993 (NSW)**

**PUBLIC HEARING
SYDNEY**

**MONDAY, 21 JULY 2025
AT 10.00 AM**

DAY 5

APPEARANCES

**Ms T McDonald SC, Senior Counsel Assisting
Ms B Anniwell, Counsel Assisting
Mr E McGinness, Counsel Assisting
Mr J Emmett SC with Mr D Parish, Counsel for Liverpool City Council
Ms K Richardson SC, Counsel for Mayor Ned Mannoun
Ms C Hamilton-Jewell, Counsel for Mr P Ristevski
Mr A Searle, Counsel for Mr J Ajaka
Mr P English, Counsel for Mr F Portelli
Mr A d'Arville Counsel for Mr V Nadan**

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<THE HEARING COMMENCED AT 10.12 AM

COMMISSIONER: Yes, Ms McDonald.

5 **MS McDONALD:** Unless there's any administrative matters -

COMMISSIONER: Some movement behind you.

10 **MR D'ARVILLE:** Only, Commissioner, that I seek leave to appear for Mr Nadan.

COMMISSIONER: Yes, leave is granted.

MR D'ARVILLE: My name is d'Arville.

15 **COMMISSIONER:** Thank you.

MS McDONALD: We'll resume Mr Portelli's evidence.

20 **COMMISSIONER:** Yes. Thank you, Mr Portelli. We might just have you re-sworn, given that it's been a little while since you were here.

MR PORTELLI: Yes, certainly.

25 **COMMISSIONER:** You took an oath last time, didn't you?

MR PORTELLI: Beg your pardon?

COMMISSIONER: Took an oath last time you were here?

30 **MR PORTELLI:** Yes, I did

<FAROOQ PORTELLI, RE-SWORN

35 **MS McDONALD:** Commissioner, last Thursday I indicated that I'd finished my questions of Mr Portelli. As is often the case, reviewing the transcript, there are just a couple of questions of clarification.

COMMISSIONER: Of course.

40 **MS McDONALD:** Mr Portelli, as I just said, I wanted to clarify some of your evidence from last Thursday. Right at the beginning of your evidence I was asking you some questions about your employment history and in particular your employment history with Liverpool City Council. Can I just confirm it was around
45 March 2014 that there was the council meeting where it was determined that your employment as CEO or general manager of the council would be terminated?

MR PORTELLI: That's correct. Yes.

MS McDONALD: So your evidence was you actually continued to be an employee until July 2014. That's correct?

MR PORTELLI: That's correct.

5

MS McDONALD: But you stopped actually physically working at the council around March 2014.

MR PORTELLI: That's correct.

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MS McDONALD: Now, I asked you some questions about the interim period - and I don't want you to go into great detail about it, but you gave evidence that immediately finishing work at Liverpool City Council, you had a long sabbatical?

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MR PORTELLI: That's correct. Yes.

MS McDONALD: Then for a number of years for particular personal reasons, you were doing non-paid work?

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MR PORTELLI: That's correct. Yes.

MS McDONALD: And there was an approach, I think by the acting CEO - was it towards the end of 2022?

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MR PORTELLI: It was November '22.

MS McDONALD: Now I'm getting confused. And who approached you at that point?

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MR PORTELLI: I got a phone call from Tina Bono, who was the acting CEO at that time.

MS McDONALD: That's right. And that was when you came on board to do some consultancy work.

35

MR PORTELLI: That's correct. For six weeks, about 20 hours a week.

MS McDONALD: Then that moved into working as the acting director of corporate support?

40

MR PORTELLI: He was still there, yes.

MS McDONALD: No, no.

45

MR PORTELLI: Yes. That's correct. Yes. That's right. Sorry. Yes, I worked until - in that temporary role for six weeks, and I met Mr Ajaka in December and he spoke to me and asked me if I'd be interested in doing the - some contract work in

the new financial year - new calendar year, beg your pardon, and I agreed. So I was asked to come back on 3 January - I think that was the Monday - first Monday of the new year after the holiday. And I think it was a three-month contract.

5 **MS McDONALD:** But the three-month contract, was it as the acting director of corporate services?

MR PORTELLI: That's correct. Yes.

10 **MS McDONALD:** Who did you replace?

MR PORTELLI: I replaced Paul Perrett.

15 **MS McDONALD:** And at some time in 2023, the position of - permanent position of director corporate support was advertised. You applied and you were appointed.

MR PORTELLI: That's correct. Before the three-month initial contract finished, Mr Ajaka gave me a new contract and it was for - I think, off memory, it was for up to 12 months or until a permanent appointment was made, and then there was a competitive process in - I'm not sure if it started in April or May, but the interviews were toward end of May, and I was appointed right at the end of May or early June.

25 **MS McDONALD:** Who was on your selection committee for the permanent position?

MR PORTELLI: There was Mr Blackadder and the CEO - I can't remember her name - I think from Campbelltown. Who else was there? And John Ajaka, of course.

30 **MS McDONALD:** The period between leaving Liverpool City Council - and I'll say around March 2014 - and returning in December 2022, at any point during that period, were you doing - were you undertaking paid work?

MR PORTELLI: No.

35 **MS McDONALD:** And you were not doing any paid work for any other council during that period?

MR PORTELLI: No. No.

40 **MS McDONALD:** They were my clarification questions. Thank you, Commissioner.

45 **COMMISSIONER:** Thank you. Does anybody wish to seek leave to ask Mr Portelli a question? And if so, if there are more than one of you, is there an agreement as to order? Mr English should probably go last if he wants to ask anything. You're going first?

MR EMMETT: Commissioner, can I say we haven't discussed order.

COMMISSIONER: All right.

5 **MR EMMETT:** I leapt to my feet.

COMMISSIONER: No one seems to be stopping you, Mr Emmett, so -

10 **MR EMMETT:** And, Commissioner, I do seek that leave. I will not be long.

COMMISSIONER: That's fine.

MR EMMETT: I anticipate 10 to 15 minutes.

15 **COMMISSIONER:** You proceed.

MR EMMETT: Mr Portelli, can I ask this: you're aware, are you, that there's been a larger than usual volume of complaints under the code of conduct in the last 10 months.

20 **MR PORTELLI:** Yes, I am.

MR EMMETT: And is this right - does the general counsel report to you?

25 **MR PORTELLI:** Yes, he does.

MR EMMETT: And the CFO reports to you?

30 **MR PORTELLI:** Yes, he does.

MR EMMETT: And through your role, is it right that you have familiarity with the administrative process by which council deals with these complaints?

35 **MR PORTELLI:** Generally yes.

MR EMMETT: And with the process by which council allocates these complaints or decides how they should be dealt with?

40 **MR PORTELLI:** Generally yes.

MR EMMETT: Now, I just want to ask you some questions about the complaints process. And I want to be very clear I'm not asking you about particular complaints or about whether any particular complaints were justified or unjustified. I'm not asking you whether you think particular complainants behaved well or badly, I'm just asking you for some answers about the complaints process. Do you understand?

45 **MR PORTELLI:** Yes.

MR EMMETT: Based on your experience, is there anything you would say to the Commissioner about ways in which the complaints process works well or could be improved?

5 **MR PORTELLI:** I think generally it works well. I guess the issues that I find with the process as it is now is that it's too lengthy, time-consuming, and it's very costly. So when somebody lodges a code of conduct complaint, it would go to the CEO, he or she would look at it and basically make an initial determination of whether there was any substance to it, that it's not, you know, trivial or vexatious or something like
10 that. He or she may even deal with it. It may be a complaint that we can just bring two parties together and talk to them and sort it out.

If it's a substantive - he or she believes it's a substantive complaint, it's then referred to the governance - my governance team, and then they will also go through and do a
15 first check, because there may be some technical issues why it may not be a code of conduct complaint, for example. And if then it - they go through that process, it is then referred to reviewers. Now, this is a costly and time-consuming process.

Now, typically, we only get - I think the - last year we only had five in the whole
20 year, and I think if you look at averages in the past several years, it's a low number. Now, under those circumstances, you know, it's probably not an issue. Unfortunately, this year, it's well over 100. It's growing continually. We've had to seek - and we have sought - the CEO has written to the Office of Local Government to assist in this process, to - they were referred to the Office of Local Government.
25 Initially, the Office of Local Government, unfortunately, declined and left the burden, I guess, with council.

So to answer your question, there are - when there are a considerable number of complaints, there is a considerable burden on staff resources, a considerable cost, and
30 unfortunately it still - until they're resolved, even the - even the - I guess, the outcome leaves - you know, is open because if a code of conduct is determined to be substantiated, it will then go to council with a recommendation that, you know, the complaint has been substantiated, and then council will determine an outcome.

Now, that outcome may just be that it's noted. I mean, because there's nothing specific in terms of determining what, I guess, penalty, if you put it that way, should apply to any particular confirmed grievance. So I think it leaves - there are areas that need looking at by the Office of Local Government. And obviously, you know, council - certainly, when they're in a situation where they're inundated with
40 complaints, there should be some assistance provided.

MR EMMETT: Are you aware, Mr Portelli, of an announcement of a review by - that the minister has referred to into the complaints process?

45 **MR PORTELLI:** Yes, I am aware of that. Yes.

MR EMMETT: And again, I'm not asking you to draft reforms here, but do I understand from what you've said that in the process - that there is force in that process being reformed or consideration being given?

5 **MR PORTELLI:** Consider, I understand, is being given for that process to be reformed. Yes.

MR EMMETT: Can I ask you this. One other thing that's been raised is the utility of an internal ombudsman. Have you been at the council at a time when the council
10 had an internal ombudsman?

MR PORTELLI: No. When I came in in January 2023, there were two substantive positions. There was an ombudsman position and a - I'm not sure if it was an assistant or deputy ombudsman position. When I came in, both were vacant.
15 Unfortunately, sadly, the ombudsman had passed away just months before I started, so it was vacant from her death. And the other position, there was an employee acting in that position, the deputy - I call it the deputy, I'm not sure if it was deputy or assistant, but not a permanent appointment, and that continued - we were doing the structural review at that time and I put a report up to council - I think it was
20 March - March or April. I think it was March in 2023, where we had defined a number of functional streams for the new structure, and positions were - they weren't detailed, but the - generally, some were identified, and the ombudsman position was still in that - included in that.

25 But by the - I think it was August 2023 structure that was put up, that position - that function was removed, and the reason for that was that we put an additional resource into governance and the functions - basically, the complaints functions that would have been handled by the internal ombudsman have now come to the governance team and was obviously considered as part of the, I guess, budget constraints at the
30 time. But it was a decision - that decision was made ultimately by the CEO. So from that - from that time on, any complaints of that nature would come to the governance team, which has grown from then till now as well. And we also have, obviously, the - there are matters that can be referred to the state ombudsman. Or if they're - you know, they could be referred to another agency, like ICAC or the OLG. If that's the
35 case, then that happens as well.

MR EMMETT: Thank you, Mr Portelli. And just thinking about the current situation, where, as you've said, there are functions which have been brought in - what you described as brought into the governance section, do you have a view
40 about whether - based on your experience, about whether the reintroduction of an internal ombudsman would make an impact on the complaints process, either positively or negatively?

MS McDONALD: I object. (Indistinct) nobody was occupying the position. So my
45 submission, without that experience of how the internal ombudsman operated - and indeed, Commissioner, you'll be hearing evidence from people who were there at that time - we would submit that Mr Portelli's view of that really won't assist you.

COMMISSIONER: I think that's right in part, Mr Emmett, but I understand why you would ask Mr Portelli. And perhaps to have the evidence assist me, you might need to frame it as to what would the structure be of the internal ombudsman. Would it be something that I understood reported directly to the CEO outset of the directorate structure? If you put parameters like that around it, then I think that's fine.

MR EMMETT: Yes. And I'm grateful, Commissioner, because the intention of the question was not to -

COMMISSIONER: Of course. I understand. I understand.

MR EMMETT: - pick up on what was outside Mr Portelli's experience. Mr Portelli, comparing what you do have experience of, with a situation in which there is a - well, can I understand this. In the current system, the - do you understand that the functions that were performed by the internal ombudsman are now performed by the people who now work in the governance section?

MR PORTELLI: Yes, by and large. If there is anything that needs to be referred to another agency, then that will happen.

MR EMMETT: Do you have a view about whether it would make a difference, positively or negatively, on the complaints process to have a separate - to have a separate internal ombudsman that reports directly, for example, to the CEO or directly to the council?

MR PORTELLI: No, I don't.

MR EMMETT: Thank you, Mr Portelli.

COMMISSIONER: Why?

MR PORTELLI: Well, Commissioner, in the first place, as I said earlier, generally you can count on one hand how many came in in a year. So this - the number that we've got this year is just extraordinary. It doesn't happen. And when the matter of the internal ombudsman - it wasn't just council that it went to. It went to the Audit and Improvement Committee, and it was discussed there. And I remember that one of the Audit and Improvement Committee members, Sheldon, commented that - because I think - we did research. I mean, I think, off memory, there were only eight, maybe, councils in New South Wales that had an internal ombudsman, so it's - it's the minority in any case. And she commented that the - words to the effect that the only councils that still have an internal ombudsman are those that are basically being dismissed. Now, that certainly was the case in 2004 and it hasn't been since. From 2004 until I left 10 years later, we never had an internal ombudsman, and so I personally don't see, you know, the benefit of it, no.

COMMISSIONER: So when was the - doing the best you can - I appreciate it was some time ago, but when was the consideration of the ombudsman position considered by - did you say the Audit and Risk Committee considered the -

5 **MR PORTELLI:** The Audit and Risk Improvement Committee, yes.

COMMISSIONER: Considered the position?

10 **MR PORTELLI:** They considered it in - I think it was at the April meeting. April in 2023.

COMMISSIONER: April 2023.

15 **MR PORTELLI:** It was brought - we brought it to them as well, because we were also updating them with what we were doing functionally and with the structure, and the internal ombudsman matter was raised. It will be in the minutes.

20 **COMMISSIONER:** All right. And whilst I've interrupted, you said that - in answer to some of Mr Emmett's questions, there had been five in the previous period?

MR PORTELLI: Yes.

COMMISSIONER: What period were you referring to?

25 **MR PORTELLI:** The - I think it was the year - the previous year. 12 months.

COMMISSIONER: Calendar year or financial year?

30 **MR PORTELLI:** Good question. I think - I think it was the - I think it was the financial year.

COMMISSIONER: And the current year? You said you were over 100 or thereabouts?

35 **MR PORTELLI:** Well, from September until June, it's something in the order of 115.

COMMISSIONER: So the current council?

40 **MR PORTELLI:** Yes.

COMMISSIONER: All right. Thank you.

45 **MR PORTELLI:** It may have been - so with your earlier question, it may have been the 12 months - September to September, the council year.

COMMISSIONER: Thank you. Does anybody else have any questions for Mr Portelli? Yes.

5 **MS RICHARDSON:** Mr Portelli, I'm Ms Richardson. I'm acting on behalf of the Mayor, Mr Mannoun. I just have a couple of questions. You gave evidence last week that in relation to the 3 Hoxton Park Road property, you recall that that was included in a budget that went on exhibition in 2024.

10 **MR PORTELLI:** Yes.

MS RICHARDSON: And you gave evidence last week that the then-CEO Mr Ajaka gave you a direction to include that property in the budget. Do you recall that?

15 **MR PORTELLI:** What happened was there was a - the direction was from John Ajaka to the director of city - of futures.

MS RICHARDSON: Mr Mallard?

20 **MR PORTELLI:** To get - yes, Mr Mallard. To get a valuation of the - of that property. When he gave that instruction, I wasn't aware of that. What I was aware of was that when he got that valuation it was sent to me to - me or the chief financial officer, I'm not exactly sure, to include in the budget, and we did.

25 **MS RICHARDSON:** Sorry, it was sent to you by who?

MR PORTELLI: From Shayne Mallard.

MS RICHARDSON: So once the valuation was received?

30 **MR PORTELLI:** Yes. Not a valuation. Quotes. Basically, they - to get competitive - get an estimate of what the value would be for the sale of that property.

35 **MS RICHARDSON:** Thank you. But is it your evidence that you gave last week - is that - the decision to include that in the budget was at the direction of Mr Ajaka; is that correct?

40 **MR PORTELLI:** Well, it was to include in the budget - I mean, at the end of the day it's the council who determine, but it was - we were - we had a deficit prior to that being included, and then that was included right at the end, and it turned the projected result into a surplus.

MS RICHARDSON: Okay. Well, you gave evidence last week that it was added to the budget at the last hour at the direction of the CEO.

45 **MR PORTELLI:** Yes.

MS RICHARDSON: And that was your evidence last week?

MR PORTELLI: Yes.

MS RICHARDSON: Is that correct?

5 **MR PORTELLI:** Yes.

MS RICHARDSON: And you confirmed last week that the relevant CEO was Mr Ajaka.

10 **MR PORTELLI:** Yes.

MS RICHARDSON: And in the lead-up to the budgetary process, I think - is it - my understanding is that the budget went on public exhibition on about 14 May last year. Does that sound correct?

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MR PORTELLI: That sounds correct.

MS RICHARDSON: And that in - that means, as part of the ordinary budget preparation process in the first quarter leading up to May period, that there would be discussions about what should be in the budget?

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MR PORTELLI: Yes. We start late in the calendar year with getting the council informed about the budget process and what we have to do. And then in the first few months of the new calendar year we meet with them more often and develop it until we get to that time that you just mentioned in terms of it going to public exhibition.

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MS RICHARDSON: And is it the case that in that - I want you to focus on the first quarter of last year, so the periods immediately prior to the budget going on public exhibition.

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MR PORTELLI: Yes.

MS RICHARDSON: That Mr Ajaka gave you various instructions or directions as to what he would like included in that budget.

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MR PORTELLI: Yes.

MS RICHARDSON: And one of those related to 3 Hoxton Park Road; correct?

40 **MR PORTELLI:** Yes.

MS RICHARDSON: And were there also directions in relation to what should happen in relation to various management - like, wages and management costs for senior management?

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MR PORTELLI: Yes. Yes.

MS RICHARDSON: Did you make a file note about any of those directions that Mr Ajaka gave you at the time?

MR PORTELLI: A file note? What do you mean by a file note?

5

MS RICHARDSON: Well, did you write down the things that Mr Ajaka had asked you to do at the time?

MR PORTELLI: No.

10

MS RICHARDSON: Are you sure about that?

MR PORTELLI: Not that I can recall.

15

MS RICHARDSON: Were there things at the time that Mr Ajaka directed you to put in the budget that you did not, in fact, follow his direction?

MR PORTELLI: Not to put in the budget, but to amend the budget. To do things -

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MS McDONALD: I missed that.

MR PORTELLI: Not to put in - necessarily to put in the budget, but that may have occurred as well, but directions to make changes to the budget, which I refused to do.

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MS RICHARDSON: So he had given you directions to amend the budget; correct?

MR PORTELLI: Yes.

MS RICHARDSON: And you refused to do that?

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MR PORTELLI: Yes.

MS RICHARDSON: And what were the nature of those amendments that he directed you to do?

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MR PORTELLI: He called me into his office at one time and -

MS RICHARDSON: I'll just stop you there. What time frame are we talking about here?

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MR PORTELLI: Well, I imagine it would be March-ish. March, perhaps.

MS RICHARDSON: 2024?

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MR PORTELLI: 2024.

MS RICHARDSON: Thank you. So he called you into his office?

MR PORTELLI: Yes. And he asked - he directed me to use creative accounting to find \$25 million.

5 **MS RICHARDSON:** So was that an exact phrase he used? "Creative accounting"?

MR PORTELLI: Yes. At the time -

10 **MS RICHARDSON:** Just stop there for a moment. Creative accounting to find \$25 million?

MR PORTELLI: Yes.

15 **MS RICHARDSON:** And was this - were you discussing the budget preparation at that point?

MR PORTELLI: No, when I was - came into his office, he actually had Ms Tina Bono in there at the time. I think they were talking about the Hammondville property. She was there.

20 **MS McDONALD:** Sorry, discussing the what?

MR PORTELLI: He - I think he was talking to Ms Bono about the Hammondville property, off memory. When I entered, he left Ms Bono, faced me and basically gave me the direction to use creative accounting to basically find \$25 million.

25 **MS RICHARDSON:** Sorry, who gave you that direction?

MR PORTELLI: John Ajaka.

30 **MS RICHARDSON:** Who was present in the room when that happened?

MR PORTELLI: Tina Bono and myself.

35 **MS RICHARDSON:** Was she the then-CEO at the time?

MR PORTELLI: No.

MS RICHARDSON: Sorry, who was -

40 **MR PORTELLI:** John Ajaka was the CEO at the -

MS RICHARDSON: Sorry. Who was Tina Bono at the time?

45 **MR PORTELLI:** She's the director of culture and community. He then -

MS RICHARDSON: Sorry, was she present when Mr Ajaka said to you that he directed you to use creative accounting -

MR PORTELLI: Yes.

MS RICHARDSON: - to find \$25 million?

5 **MR PORTELLI:** Yes. Then he added, "Do what the other two did."

MS RICHARDSON: "Do what the other two did."

10 **MR PORTELLI:** Now, that reference to "the other two" -

MS RICHARDSON: Just stop there. I want you to focus on his words rather than your interpretation of his words. Did he explain to you what he meant by, "Do what the other two did"?

15 **MR PORTELLI:** So you're asking -

MS RICHARDSON: Yes.

20 **MR PORTELLI:** - me for my interpretation?

MS RICHARDSON: No, no, I'm not asking for your interpretation.

MR PORTELLI: Okay.

25 **MS RICHARDSON:** I'm asking you - he said to you, "Do what the other two did."

MR PORTELLI: Yes.

30 **MS RICHARDSON:** Did he explain to you what he meant by that?

MR PORTELLI: No.

35 **MS RICHARDSON:** Now, I don't want you to guess what was in his head. What did you understand that phrase, "Do what the other two did," to mean?

MR PORTELLI: Well, he referred to two other people who had put - I guess had inflated revenues which they couldn't substantiate. They put presumed revenue that could come in from efficiencies that you can't justify.

40 **MS RICHARDSON:** Did he - I'm just trying to clarify what he told you and what you - separately what you understood. Did he talk about the fact that two people had inflated revenues that they couldn't -

45 **MR PORTELLI:** No, no.

MS RICHARDSON: But are you saying - is this evidence what you understood him to be referring to?

MR PORTELLI: That's were what I understood him to be referring to. And the reason I understand to be - him to be referring to these two people is because when I came in in January -

5 **MS RICHARDSON:** Sorry, in January of what year?

MR PORTELLI: 2023. And I was with the CFO going through the budget, we were identifying these revenues - you know, \$3 million in procurement efficiencies. Well, what efficiencies? I mean, how are you going to get that money? So there were these
10 efficiency savings that were factored into the budget that I can't - I couldn't keep in there because I can't rely on them.

MS RICHARDSON: Can I just check, are you a certified practising accountant?

15 **MR PORTELLI:** I was until 10 years ago.

MS RICHARDSON: But that's your training as an accountant; is that correct?

MR PORTELLI: Yes. That's correct..
20

MS RICHARDSON: So in - going back to January 2023, what did you do in relation to those line items you were concerned about in terms of not being able to substantiate them?

25 **MR PORTELLI:** We basically took them out.

MS RICHARDSON: When you say "basically", did you take them out or not?

MR PORTELLI: Yes, they were taken out.
30

MS RICHARDSON: So what did you do after Mr Ajaka said to you, "Do what the other two did"? What else happened in that meeting?

MR PORTELLI: Then I replied, "It's not happening."
35

MS RICHARDSON: So at the time, though, you were aware the 3 Hoxton Park Road property was included in the budget?

MR PORTELLI: Not at the time of this incident it wasn't.
40

MS RICHARDSON: So that happen thereafter, did it?

MR PORTELLI: This incident happened early - the Hoxton Park Road came in right at the end of the - of at period. Probably end of April, early May, but this
45 incident happened maybe two months before that.

MS RICHARDSON: Okay.

MR PORTELLI: It was during the early cut of the budget.

MS RICHARDSON: So to use your framing, in the later cut of the budget, are you aware that 3 Hoxton Park Road property was included in the budget?

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MR PORTELLI: It was right at the end. It was - it was, yes.

MS RICHARDSON: And who included that in the budget?

10 **MR PORTELLI:** John Ajaka.

MS RICHARDSON: Did you agree with that approach?

MR PORTELLI: Do I agree with that approach? Well -

15

MS McDONALD: Well, I - no, sorry.

MR PORTELLI: I mean -

20 **MS RICHARDSON:** Sorry, I'll ask a different question.

MR PORTELLI: Yes.

MS RICHARDSON: Did you agree with that approach at the time?

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MR PORTELLI: Yes.

MS RICHARDSON: Why was that?

30 **MR PORTELLI:** Well, it's a - putting a property for sale is a legitimate method. We buy and sell properties. He directed that it be put in there. I didn't see anything wrong with putting it in there because I could identify the asset. It was - it could be sold. There was a valuation, so the numbers was appropriate and justified, so I did what I was - what he asked me to do.

35

MS RICHARDSON: And can you explain to the Commissioner why that - you say that's appropriate to include in the budget even though we don't know - you agree that there was no contract to sell it at this point; correct?.

40 **MR PORTELLI:** There was no - sorry?

MS RICHARDSON: There was contract to -

MR PORTELLI: Contract. No.

45

MS RICHARDSON: - actually sell it to a person?

MR PORTELLI: No.

5 **MS RICHARDSON:** But is it part of an ordinary practice of council, in your experience, to include that type of matter in a budget because there's an expectation that it will be sold and moneys will be received? Is that correct?

MR PORTELLI: It's a normal - it's normal practice for any business, including councils, to buy and sell assets.

10 **MS RICHARDSON:** And would there be a difference in how that would be treated in a profit and loss statement, as opposed to just budgeting? Is that correct?

MR PORTELLI: I'm not sure I understand your question.

15 **MS RICHARDSON:** Well, in the sense of could you book as actual revenue on a profit - actual profit and loss statement where you actually have not sold a property and you don't have a contract to sell it?

20 **MR PORTELLI:** Yes, you do. Absolutely.

MS RICHARDSON: On a profit and loss statement?

MR PORTELLI: Yes. Absolutely.

25 **MS RICHARDSON:** Where you haven't sold it?

30 **MR PORTELLI:** That's right. You haven't incurred the revenues for the next year until you incur them - you get - receive them either. You haven't incurred the expenses for the next year that you - till you pay the expenses. That's what a budget is about, so -

MS RICHARDSON: No, I'm not talking about a budget. I'm talking about a profit and loss statement, which is looking back as to what's happened.

35 **MR PORTELLI:** That's historic.

MS RICHARDSON: Yes. Historic.

40 **MR PORTELLI:** Well, if it's historic, then this - then what's - the proposed asset sale will have nothing to do with it.

MS RICHARDSON: Correct. Because it didn't actually happen.

45 **MR PORTELLI:** That's correct.

MS RICHARDSON: Okay. But you're saying it's appropriate to put it in a budget because it's forward-looking.

MR PORTELLI: Yes. Absolutely.

MS RICHARDSON: Thank you. So at the conclusion of the meeting that you said you had with Mr Ajaka and Ms Bono, in what you described as the first cut of the budget in the first quarter -

MR PORTELLI: Sorry, when you say "with Mr Ajaka and Ms Bono", it was - Ms Bono was there -

MS RICHARDSON: Okay.

MR PORTELLI: - but the discussion was between myself and Mr Ajaka.

MS RICHARDSON: Okay. She was there?

MR PORTELLI: She was there.

MS RICHARDSON: Thank you. He asked you to engage in creative accounting and do what the other two did. That's your evidence?

MR PORTELLI: Yes.

MS RICHARDSON: And you said, "That's not happening."

MR PORTELLI: Yes.

MS RICHARDSON: And what was the conclusion of that meeting? Did anything else happen?

MR PORTELLI: The conclusion of that meeting was I was walking out of his office and he said words to the effect, "Find the money," and I replied, "I'll look under my pillow tonight."

COMMISSIONER: Sorry, I missed that.

MS RICHARDSON: Find the money and -

MR PORTELLI: "I'll look under my" - he told me to find the money as I was walking out, and then I sarcastically remarked, "I'll look under my pillow tonight." I wasn't happy. I mean, I was angry and so was he.

MS RICHARDSON: Now, last week, you also mentioned the fact that you received - and for other people's benefit, this is at transcript 157, line 21 - that you received - that the mayor had sent an email to Mr Ajaka and cc'd you and Councillor Macnaught. And I'll just give the document reference: LCC.008.001.0016.

COMMISSIONER: Would you like that brought up, Ms Richardson?

MS RICHARDSON: Yes, please.

COMMISSIONER: Just bear with me just a second, Ms Richardson.

5 **MS RICHARDSON:** I can't read that. I can read it down here.

COMMISSIONER: Sorry, Ms Richardson.

10 **MS RICHARDSON:** Not at all.

COMMISSIONER: We're ready to go. I can't read that one either. That's why I -

MS RICHARDSON: Just putting some new glasses on, Mr -

15 **MR PORTELLI:** I can read it.

MS RICHARDSON: That's good.

20 **MR PORTELLI:** Not now I can't.

MS RICHARDSON: Okay. Now, you see there - could we scroll down, please. Do you see there, Mr Portelli, what's on the screen is an email dated 12 April from Mayor Mannoun, Mr Ajaka, cc'd to you and Deputy Mayor Macnaught?

25 **MR PORTELLI:** Yes.

MS RICHARDSON: Is that the email you were talking about last week when you said the mayor sent an email where he was encouraging the CEO to look at making some structural changes?

30 **MR PORTELLI:** Yes.

MS RICHARDSON: Is that the one you were talking about?

35 **MR PORTELLI:** Yes.

MS RICHARDSON: Thank you. And that was on 12 April.

40 **MR PORTELLI:** Yes.

MS RICHARDSON: So do I understand that this is an email that would have been sent after the email - after the meeting you were talking about just a moment ago, where Mr Ajaka asked you to use creative accounting? Is that correct?

45 **MR PORTELLI:** Yes.

5 **MS RICHARDSON:** And - so in terms of - just going back to the meeting you had with Mr Ajaka, where we'd finished off with - where he said, "Do what the other two did," and you said words to the effect, "That's not happening," is it the case that you did not follow his direction to use creative accounting? You refused to do so; is that correct?

MR PORTELLI: Absolutely.

10 **MS RICHARDSON:** And is it your understanding that no other members of council staff did anything to that effect in relation to that budget last year?

MR PORTELLI: No, no one did.

15 **MS RICHARDSON:** Those are my questions. Thank you.

COMMISSIONER: Thank you. Anybody else?

MR SEARLE: We might reserve our position until after Mr Ajaka's case.

20 **COMMISSIONER:** All right. Well, hang on. What do you mean by that, Mr Searle?

25 **MR SEARLE:** If there's conflict in the evidence - I mean, I've heard things here today for the first time. I haven't had the opportunity to get instructions from Mr Ajaka about those matters which I've heard (indistinct) simply not in a position to cross-examine him on some of his evidence.

30 **COMMISSIONER:** All right. Well, there has been a practice of not excusing people just yet. Ms McDonald, anything arising out of any of that?

MS McDONALD: I do have some questions. I'm unsure whether you wanted to hear from Mr English.

35 **MR ENGLISH:** I have no questions. Thank you.

COMMISSIONER: Sorry, I saw a shake of the head. I assumed -

MR ENGLISH: Yes. That's right.

40 **COMMISSIONER:** I shouldn't have assumed. I should have asked you. I'm sorry.

MR ENGLISH: Perfectly fine, Commissioner. I have no questions.

45 **COMMISSIONER:** Thank you.

MS McDONALD: Could you just excuse me for a minute?

COMMISSIONER: Of course. I'm sorry, just before you start, Ms Richardson - in case this prompts anyone to ask something, in answering some of Ms Richardson's questions you spoke about when you came back to council, and in about January 2023 you formed the view that the efficiencies that were in the budget at that time couldn't be - weren't reliable - that's my summary. Did I understand you correctly?

MR PORTELLI: Yes.

COMMISSIONER: And I thought you'd said - and I may have misheard, but did you say you took them out of the budget at that time?

MR PORTELLI: Yes.

COMMISSIONER: Did that happen by way of an adjustment to the budget?

MR PORTELLI: What happens, Commissioner, is we do a - get a first cut and I would question - go through line by line with the CFO, asking, well, what's the basis of this? Like, for example, in your budget for salaries you're budgeting X number of individuals, you know what their salaries are, you know what increments they're going to get. It's a substantive, verifiable number. With revenues, you try to do the same thing. And - for example, if you were trying to estimate the development application income for next year, you look at the last few years, you look at the current environment, whether the building - the city was developing or it was a quiet economy at the time, and you make those adjustments based on substantive assumptions.

We had assumptions of efficiency savings and revenues as a result of the - what was going to be the previous structure, the one that was done in August - the end of August in 2022 were going to generate. Well, not only was our structure now not proceeding, but even the basis that - of some of the projections, the revenues - like, it would say efficiencies for our procurement of goods and services - will say \$3 million. Based on what? I mean, how can I justify - I can't justify that. The CFO couldn't justify that. When I asked him why is that in there, he said it was a direction from the CEO - the acting CEO to put it in there. Well, I can't put that - those sort of things to councillors as a - I guess a cut of the budget, because there's no substantive evidence to justify - to justify them.

COMMISSIONER: When you refer to a "cut of the budget", the council budget is constantly under review through the year, isn't it?

MR PORTELLI: That's right.

COMMISSIONER: Yes. But adjustments are made along the way?

MR PORTELLI: Yes, but this is - sorry, Commissioner, this is talking about the next year's budget that we're preparing.

COMMISSIONER: All right.

MR PORTELLI: So in January, February, March, we're talking about a budget that will start in July that year to the following year.

5

COMMISSIONER: Yes.

MR PORTELLI: So we're doing projections for the next 12 months. And once again - I guess your best estimate is what you're doing now, for starters, and then you can verify individually items - like, I gave an example with salaries by projecting - what the current salaries are, based on increases next year, numbers next year, any changes to - structural changes that will impact on the salaries budget. So they're all the variables that you would look at for every income and expenditure.

15 **COMMISSIONER:** And that's projecting forward?

MR PORTELLI: And that's projecting forward.

20 **COMMISSIONER:** But what about in the budget year? Is the budget kept under constant or regular review throughout the year?

MR PORTELLI: Absolutely. Absolutely it is.

25 **COMMISSIONER:** And can you just describe that process to me?

MR PORTELLI: Yes. Every month we provide a report to the governance committee as to how we're going against budget. Every quarter, we're required under the legislation within two months of the end of each quarter to provide a detailed report to the - from the CFO to the council on how we're progressing with our budget. And also to provide a statement. If there - if the situation is not satisfactory, the CFO is required to make a statement along those lines and what to do to bring it back to satisfactory.

35 **COMMISSIONER:** And as part of that process, are adjustments made from time to time?

40 **MR PORTELLI:** Every quarter. Every quarter. I think there's - every three months there's no question there will be adjustments, because we're now basing - we now have three months more of actuals, so we report those actuals, and there's both actual variances and also timing variances.

COMMISSIONER: And if some of the assumptions that have been made when the budget prepared were either proven correct or not correct, adjustments will be made.

45 **MR PORTELLI:** We make adjustments. That's correct.

COMMISSIONER: All right. Thank you. Did anything arise out of that, Ms Richardson, before I turn to - yes.

5 **MS McDONALD:** You gave evidence about the code of conduct complaint procedure. I want to just clarify with you - you spoke about - a complaint is lodged, it goes to the CEO and there's an initial review of it by the CEO or the general manager to make sure it's not vexatious or trivial; correct?

10 **MR PORTELLI:** Yes.

MS McDONALD: It's then returned - sorry, referred to your governance team?

MR PORTELLI: Depending on that initial review. I mean, the -

15 **MS McDONALD:** Well, I think I'm assuming, based on that initial review, if it is trivial or vexatious it would - the procedure would be terminated then.

20 **MR PORTELLI:** That would be terminated. Or if there was something, it may be that the CEO will deal with it himself. He may - it may just be a matter of bringing two people together and talking to them and he will resolve it himself.

MS McDONALD: You then spoke about if the CEO doesn't deal with it, it goes to your governance team.

25 **MR PORTELLI:** It's referred to the governance team, yes.

MS McDONALD: And then again, do they, in a sense, undertake a review of what the complaint involves?

30 **MR PORTELLI:** That's correct.

MS McDONALD: You then said it was referred to reviewers. Are reviewers outside organisations that - I think there might be a panel that deal with code of conduct complaints?

35 **MR PORTELLI:** That's correct. Yes.

MS McDONALD: And these are third-party, arms-length organisations to the council?

40 **MR PORTELLI:** That's correct. Yes.

MS McDONALD: When a complaint is referred to a reviewer, is the first step a preliminary investigation by that reviewer?

45 **MR PORTELLI:** Yes. That's correct.

MS McDONALD: And if the reviewer concludes that there is something there and it should be then escalated or progressed to an investigation, do they report back to the council with that finding and recommendation?

5 **MR PORTELLI:** Yes. That's correct.

MS McDONALD: And if the recommendation is that it should move to a full investigation, is it the practice that that outside reviewer who undertook the preliminary investigation then undertakes the full investigation?

10

MR PORTELLI: Either them or another external reviewer, yes.

MS McDONALD: Right. What determines whether the first reviewer undertakes the full investigation or whether it's sent off to another reviewer?

15

MR PORTELLI: I'll just give you an example. Generally, that would be the case.

MS McDONALD: Sorry. Sorry, what would be the case?

20 **MR PORTELLI:** That the reviewer - the initial reviewer will continue with that review.

MS McDONALD: Yes.

25 **MR PORTELLI:** But depending on numbers, they may not be able to cope. It might be too many. Depending on when that initial review is done - we had an example where there was a conflict. The person being reviewed claimed a conflict of interest. There was a - between themselves and the reviewer. So - and just, again, quantum.

30 **MS McDONALD:** Right. So it may be a matter, because of numbers and resources of the first reviewer, that it may have to be referred to another - sorry, it's an investigation - it might have to be referred to another reviewer?

35 **MR PORTELLI:** Yes. We have numbers - and a number of reviewers reviewing, yes.

MS McDONALD: At the moment there appears to be, as you said, the numbers, I understand, for the current financial year - so as you said, was over 100, about 115?

40 **MR PORTELLI:** My understanding, it's from September - I think it's from September to June this year. It's about that number.

MS McDONALD: But the figures that are collated, as you said, are for a financial year?

45

MR PORTELLI: Yes.

MS McDONALD: With those complaints, at the moment are a number of them - have been subject to a preliminary investigation but have not progressed to a full investigation?

5 **MR PORTELLI:** There are a number that have - quite a number, yes.

MS McDONALD: All right. What's the hold-up with them actually progressing to a full investigation?

10 **MR PORTELLI:** That's - basically, with the reviewer. I mean, the time that the reviewer needs to conduct their review. Once they've done the preliminary review, it's then - basically, quite quickly progressed to the official - the final review, and then they would obviously have to speak with the person who the complaint is about and make arrangements. That can take time, because sometimes they're either not
15 available or there are issues. It's basically with the reviewer then. I mean, we can't get involved.

MS McDONALD: No, I'm not asking that.

20 **MR PORTELLI:** Yes.

MS McDONALD: I take it when a reviewer does a preliminary assessment the council is informed of the result of that preliminary investigation?

25 **MR PORTELLI:** Yes.

MS McDONALD: And then does the council give the green light for the investigation to then proceed?

30 **MR PORTELLI:** Yes.

MS McDONALD: Does the council keep figures on the time between being informed of a preliminary investigation being complete with a recommendation that an investigation is then conducted?

35 **MR PORTELLI:** They would do.

MS McDONALD: All right. And who within the council would be keeping those types of statistics on delays between preliminary investigation and completion of
40 investigation?

MR PORTELLI: It would be our legal and governance team.

MS McDONALD: When you were asked questions about the role of the internal
45 ombudsman, you also referred to the ability to refer matters to other authorities. For example, the state ombudsman or ombudsperson, the ICAC and also the OLG. The ICAC is quite a specialised jurisdiction.

MR PORTELLI: Yes.

MS McDONALD: There might be some overlap with a code of conduct, but it would be a pretty small overlap?

5

MR PORTELLI: Yes.

MS McDONALD: The state ombudsman, is that the same position? That they've got a particular jurisdiction which would not substantially overlap with the jurisdiction of a code of conduct complaint?

10

MR PORTELLI: Yes, I'm not sure if I'm qualified to answer that question. Yes.

MS McDONALD: All right. And again with the OLG?

15

MR PORTELLI: Yes.

MS McDONALD: Because the procedure is that the code of conduct complaints, in a sense, are clearly put in the jurisdiction of the council?

20

MR PORTELLI: Yes.

MS McDONALD: And it's for the council primary to deal with?

25 **MR PORTELLI:** Yes.

COMMISSIONER: Do you have a sense of how much the council has incurred by way of costs in dealing with code of conduct complaints this financial year?

30 **MR PORTELLI:** Yes. Yes. I - we put a report up to council - I think it was in June, Commissioner, and I think it was upwards of \$200,000.

COMMISSIONER: As of June, did you say?

35 **MR PORTELLI:** Yes. As of June. Yes.

COMMISSIONER: Thank you.

MS McDONALD: And that cost is the cost of engaging the -

40

MR PORTELLI: External reviewers.

MS McDONALD: - external reviewers.

45 **MR PORTELLI:** Yes.

MS McDONALD: You were asked a number of questions by Ms Richardson about the lead-up to the 2024/2025 budget.

MR PORTELLI: Yes.

5

MS McDONALD: The procedure in compiling and devising the budget - you answered a number of questions along the lines of, "I was directed by the CEO to include something," or, "I was directed by the CEO to look into this for the budget."

10 **MR PORTELLI:** Yes.

MS McDONALD: The budget ultimately is put before the governing body of council and they vote in favour of it or against it.

15 **MR PORTELLI:** That's correct.

MS McDONALD: As we saw from the chronology of dealings with councillors that I took you to last Thursday, and that was for the most recent budget, there's obviously a lot of interaction between you, and I take it the CFO, is it -

20

MR PORTELLI: Yes.

MS McDONALD: - the chief financial officer -

25 **MR PORTELLI:** Yes.

MS McDONALD: - explaining, discussing matters with the councillors and the mayor.

30 **MR PORTELLI:** That's correct.

MS McDONALD: Ultimately, looking at division of authority within the council, to include something in the budget, is that dependent on you receiving from the CEO a direction?

35

MR PORTELLI: No.

MS McDONALD: Where else can that direction come from?

40 **MR PORTELLI:** Well, basically, we - the officers start working, doing their own budget of their own area because they have the best expertise.

MS McDONALD: Yes.

45 **MR PORTELLI:** I and my staff work with them. We give them some parameters. For example, you know, there are indices that we might use or - for salaries, we know what the salary increase is going to be for the next year because it's been

determined by the Local Government Association with the industry. We adjust, for example, materials by a certain index depending on costs. But they look at their own business unit on the basis that, obviously, they're going to continue providing services that they have in the past, and in obviously all - in conforming with the community strategic plan and the operational plan.

So then we compile that. And when we look at what the - we also look at changes that might - that we might propose - new initiatives we might propose to the council to consider. And then we - when we look at and we cost all of that - for example, in that year we may have had an initial cut to say if we did all of this our expenditures exceed our incomes by \$25 million. Now, clearly, that's not a proposal we would want to end up with, but we would then go to the governing body, the council, and provide those figures and go through the documents.

MS McDONALD: Yes.

MR PORTELLI: And then we'd get - we would get direction as to, well, you know, for example, that's - obviously that's not satisfactory, and we have to find a - efficiencies in the savings. We have to go through the budget to find - to reduce that deficit. And we seek guidance as much as possible from the councillors as to where they - where we should look, because as you point out, they are the owners of the budget.

MS McDONALD: You've just in that outline referred to things like, "We get guidance from councillors," and I can understand that, but ultimately do the councillors direct you directly to include or take out of a draft budget, or does it come to you through the conduit of the general manager?

MR PORTELLI: It's - as I indicated, it is provided - it is - it is provided - it is developed by staff -

MS McDONALD: Yes.

MR PORTELLI: - okay, by the different divisions and managers. We compile it and put it together. The CEO is aware of that, and that - probably the only direct input that the CEO would have would be in regards to his budget or her budget, the CEO's budget. And in relation to Hoxton Park Road, that was right at the end of the - toward the end of this process because it came in late. But then we would, as I said, compile the effect of the draft at that stage and provide it to the councillors for their input.

MS McDONALD: I think we might be at cross purposes. If, for example, at one of the discussion sessions with councillors you have one councillor saying, "Well, I think you should sell a property," another councillor is saying, "Well, no, I don't think you should sell that property. I think we should rationalise staff members in the planning department or get rid of our legal department." So you've got two councillors with different propositions or suggestions for the budget. In those

circumstances, if you're actually going to include one or both or neither in the budget, is - do you receive a direction from the CEO as to what - which one you would include?

5 **MR PORTELLI:** We probably would do, but that doesn't happen very often. Again - certainly, the example you gave with the selling of the property, that didn't come in until very late in the day and it was - it was included. I continually try to encourage the councillors to be more active in terms of making, you know, suggestions as to what services they want to give priority to, because at the end of
10 the day you only have enough funds to provide - to go around, and if - in the example I gave, if you've got a deficit situation, then some services are going to have to be compromised to save it. We will make suggestions. And if councillors provide that guidance, then we take that into account. If there is a difference of opinion, yes, that probably would be the CEO at the end to determine that it's in or not until it goes
15 to the council proper.

MS McDONALD: The conversation you had with Mr Ajaka and Ms Bono was present -

20 **MR PORTELLI:** Yes.

MS McDONALD: - which - you said around March 2024?

25 **MR PORTELLI:** To my recollection, about that time.

MS McDONALD: You said that this discussion was in his office. Why was Ms Bono there? What was - sorry, I'll start with what was your understanding of her role at that time?

30 **MR PORTELLI:** Her position?

MS McDONALD: Yes.

35 **MR PORTELLI:** Yes. She was the director of community and culture.

MS McDONALD: Other than determining budgetary aspects of that directorship, that position really doesn't have a role in formulation of the budget?

40 **MR PORTELLI:** Only in regard to that division.

MS McDONALD: Yes.

MR PORTELLI: Her being there - it was a completely different discussion.

45 **MS McDONALD:** Yes.

COMMISSIONER: I didn't catch that.

MS McDONALD: No.

COMMISSIONER: What I heard was -

5 **MR PORTELLI:** Commissioner, when she was there with the CEO, they were having a discussion. I think it was about Hammondville.

COMMISSIONER: She was - Ms Bono was talking to the CEO and then you happened to walk in and -

10

MR PORTELLI: I didn't happen - he asked me to come.

COMMISSIONER: I see.

15 **MR PORTELLI:** But she was there. And I recall that was a discussion that he was having with her, and then he addressed me but she remained.

COMMISSIONER: Thank you.

20 **MS McDONALD:** Now, the direction, according to you, was that he used words along the lines of, "Use creative accounting to find 25 million."

MR PORTELLI: Yes.

25 **MS McDONALD:** At that point, the 25 - a figure of 25 million, did you understand whether that figure was needed for a particular project?

MR PORTELLI: No, that was - at that moment, that was the first-cut deficit of the budget. In other words, he wanted me to find the deficits through creative
30 accounting.

MS McDONALD: So at that point, that version of the budget - and we're talking March?

35 **MR PORTELLI:** Again, about. It was an early cut of the budget.

MS McDONALD: It was identified that there'd be a \$25 million deficit?

MR PORTELLI: Yes.
40

MS McDONALD: So "use creative accounting". And then you said he added, "Do what the other two did"?

MR PORTELLI: Yes.
45

MS McDONALD: Now, you've given evidence that Mr Ajaka did not elaborate on that. You've spoken about your understanding, where you referred to two people who

had inflated revenue previously, assuming revenue from efficiencies that could not be justified.

MR PORTELLI: Yes.

5

MS McDONALD: That was your understanding?

MR PORTELLI: Yes.

10 **MS McDONALD:** The two people that you're talking about, what roles did they play in council?

MR PORTELLI: One of them was acting CEO from February '22, I think, until Ms Bono replaced him acting in that role. I'm not sure exactly what date that was.

15

MS McDONALD: And who was the second person?

MR PORTELLI: My predecessor.

20 **MS McDONALD:** And I'm sorry, that was Paul?

MR PORTELLI: Perrett.

25 **MS McDONALD:** Perrett. The - your statement that they had inflated revenue and assumed revenue from efficiencies that can't be justified, in which budget - I'm sorry, withdraw that. Was that something that you identified in a previous budget?

MR PORTELLI: No, this was the first year I was there. I started in '23.

30 **MS McDONALD:** Well, where did you identify - for your understanding, you said it's two - my understanding of what he said is he was referring to two people -

MR PORTELLI: Yes.

35 **MS McDONALD:** Just identifying them.

MR PORTELLI: Yes.

40 **MS McDONALD:** And that in the past they had inflated revenue by assuming revenue from efficiencies that couldn't be identified; correct?

MR PORTELLI: Yes. Yes.

45 **MS McDONALD:** In what financial document did you see evidence that they had done that?

MR PORTELLI: In the budget that I was - when I started - I came to continue.

MS McDONALD: Sorry. So this is the budget that was eventually before the council in June 2024?

MR PORTELLI: Yes.

5

MS McDONALD: So in a version of the budget before you started there, there were, in your view, inflated revenue, assuming revenue from efficiencies that can't be justified?

10 **MR PORTELLI:** Yes.

MS McDONALD: So that budget was only a draft budget?

15 **MR PORTELLI:** Well, it was still taking shape. I mean, I was identifying - I was identifying items with the CFO and asking for evidence and - you know, to substantiate them.

MS McDONALD: So in answer to my question, at that stage it was a draft Budget?

20 **MR PORTELLI:** Yes.

MS McDONALD: It was something like a work in progress?

MR PORTELLI: Yes.

25

MS McDONALD: And when you looked at this particular work in progress, you identified certain line items that you were concerned about?

MR PORTELLI: Yes.

30

MS McDONALD: And, again, what were they?

35 **MR PORTELLI:** Well, as I indicated earlier, one of them was efficiencies, you know, in procurement. So supposedly, based on the structure that these two were working on that they put to council in August in '22, there were going to be efficiencies flowing from that that would have meant that procurement would - we would be able to procure goods and services, \$3 million, for example, cheaper than we did in the past. There was a proposal which followed an external consultant's report for us to invest, I think off the top of my head, something like \$20 million into
40 information technology, and that would provide savings over the next five years and there was model of savings.

MS McDONALD: So if there was an investment pursuant to this consultant's report of \$20 million into IT, that was then going to lead to further savings?

45

MR PORTELLI: Yes.

MS McDONALD: And those savings had been included in this draft budget?

5 **MR PORTELLI:** The cost and the savings. The problem we had at that time was, first of all, we didn't have the funds to invest for the \$20 million, and secondly, even the savings, they - the consultants put in savings that - on efficiencies where, for example, you will save 2.6 jobs in this area and 8.4 jobs in that. And if we're talking about an organisation - like, private enterprise organisation where you can make those - make those active changes, you may be able to do that, but in Local Government that's very difficult to make, you know, those people redundant and get
10 those efficiencies.

MS McDONALD: Any other line items that you identified?

15 **MR PORTELLI:** I'm not sure off memory now, but -

MS McDONALD: But as it was a draft and a work in progress, I take it never went to the councillors as part of the consultation process?

20 **MR PORTELLI:** Yes. Well, the first cut went to them and it was in the order of \$25 million deficit - net.

MS McDONALD: But that's the first cut, did it include these efficiencies?

25 **MR PORTELLI:** No, they were taken out.

MS McDONALD: Right. That was my point. So you see work in progress, this draft. You identify some items that concerned you, as you have expressed.

30 **MR PORTELLI:** Yes.

MS McDONALD: They were then taken out.

MR PORTELLI: Yes.

35 **MS McDONALD:** Leaving a draft budget at that stage with a deficit of 25 million.

MR PORTELLI: Yes.

40 **MS MCDONALD:** And then that version or draft of the budget then was presented to the councillors at one stage of the consultation process.

MR PORTELLI: Yes. Yes.

45 **MS McDONALD:** Right.

MR PORTELLI: And it was me doing those things that the previous CEO was referring to.

MS McDONALD: Well, that's your understanding.

MR PORTELLI: That's my understanding. Yes, that's my understanding.

5 **MS McDONALD:** You didn't ask for further details from Mr Ajaka at that - when he said that to you?

MR PORTELLI: No. No.

10 **MS McDONALD:** And with the timetable with the budget, again, at - in a general way, when do you start working on it? It's passed in June - for example, the one you passed in June of this year, when do you start asking all the various divisions, "Turn your mind to what's going to be - what you want included in the budget for next year"? Roughly when do you start doing that?

15 **MR PORTELLI:** We're actively doing that from the beginning of February, but obviously they are managing their budget and we are reporting - by February, we're also reporting on, by then, the six months of the current year. That's also feeding into the budget because you will identify that in the current year that - if you're better than
20 budget or worse, because that's going to affect, obviously, your position and what you do next year as well.

MS McDONALD: What I'm interested in is, roughly, that first draft of a budget, when is it usually created by?

25 **MR PORTELLI:** Around February.

MS McDONALD: You were asked some questions about 3 Hoxton Park Road. Your understanding was that there had been no specific council resolution at the time
30 either - approving its sale?

MR PORTELLI: To my knowledge, there was no discussion about it at all at that time.

35 **COMMISSIONER:** Sorry, for my benefit, what's the time?

MS McDONALD: When it was included, I think, as Mr Portelli has said - included in the draft budget, right towards the end.

40 **COMMISSIONER:** I see. Thank you.

MS McDONALD: I think that's been the description.

MR PORTELLI: Yes.

45 **COMMISSIONER:** About May, you said that was?

MR PORTELLI: Could have been April, Commissioner. Yes.

COMMISSIONER: Late in the process?

5 **MR PORTELLI:** Yes, late. Yes.

MS McDONALD: You were taken to that email - maybe if we can get it up again, please. LCC.008.001.0016. And that can be live-streamed, please. Yes. We've got 12 April, from the Mayor to Mr Ajaka. You're copied in, and also the deputy mayor is
10 copied in. The request of Mr Ajaka is to provide:

"Modelling and recommendations for the budget, taking into account a reduction of management costs by ..."

15 Certain methods or ways. That suggestion or - I'm sorry, withdraw that. The email from the mayor, where he requests modelling and recommendations for the budget, in your experience, is that something that - in formulating the budget, that happens? Somebody like the mayor will raise with the CEO or the general manager particular matters that he's interested in that can be fed into the budget?

20 **MR PORTELLI:** I guess in theory, any councillor can do that. I mean, it's obviously more - it's better when the council get together and they do that, because then they can consult and debate with each other, you know, the pros and cons of doing whatever this - they're proposing. In this instance, it was a suggestion by
25 the - by the mayor.

MS McDONALD: All right. You were copied into it, though it's addressed by Mr Ajaka. When you receive that email, do you act on it immediately?

30 **MR PORTELLI:** No.

MS McDONALD: Do you wait until Mr Ajaka directs you to -

MR PORTELLI: Yes.
35

MS McDONALD: There's been a request for modelling. And was that direction or request made by Mr Ajaka?

MR PORTELLI: No.
40

MS McDONALD: So you never received a direction from him to undertake this modelling or recommendations for the budget?

MR PORTELLI: That's correct.
45

MS McDONALD: Excuse me. The line items in that initial draft that you saw of efficiencies that you didn't think were valid efficiencies, you dealt with the issue as part of the preparation of the budget?

5 **MR PORTELLI:** Yes.

MS McDONALD: So because they were in a draft, there was no need to report that to, for example, the ARIC risk committee or anything like that, because it's all in-house at the moment?

10 **MR PORTELLI:** It was interesting that - the actual date of this email, that that was at an ARIC committee. We were at an ARIC committee meeting when we actually received this. But I think to answer your question, we give the Audit and Risk Improvement Committee updates.

15 **MS McDONALD:** Yes.

MR PORTELLI: But obviously we're working with the council in preparing the budget.

20 **MS McDONALD:** Did you raise with the ARIC that there was this suggestion of savings through efficiencies in an early draft of the budget that in your view weren't valid?

25 **MR PORTELLI:** Not with the ARIC, no.

MS McDONALD: Would you just excuse me. No further questions, Commissioner. But I think, as foreshadowed with other witnesses, if Mr Portelli could not be excused.

30 **COMMISSIONER:** There are a number of consultation sessions with councillors on - during the process?

MR PORTELLI: Sorry?

35 **COMMISSIONER:** There are a number of consultation sessions with councillors during the budget -

MR PORTELLI: Yes. Yes.

40 **COMMISSIONER:** - preparation process? And are they led by you? Or are you part of those?

45 **MR PORTELLI:** I and the chief financial officer and the CEO basically lead that. Yes.

COMMISSIONER: And give me a general idea of what happens during them. What is the purpose of them?

5 **MR PORTELLI:** Well. The purpose of them, Commissioner, is provide them with the proposed budget works program for the coming year. It's to obviously let them know what the consequence is on the bottom line, as it is at that stage.

COMMISSIONER: As it's developing?

10 **MR PORTELLI:** As it's developing. And the intention, of course, is both to inform them and also get feedback from them as to where we can perhaps reduce services in one area and investment in another, where the priorities are.

COMMISSIONER: Yes.
15

MR PORTELLI: Whether they - whether we consider property, for example. Whether we delay or reschedule our works program - our capital works program.

COMMISSIONER: Whether the governing body has an appetite for a deficit at all.
20

MR PORTELLI: Absolutely. At all. Exactly. Yes. That's correct.

COMMISSIONER: Right. And if feedback like that is received, how is it then dealt with as part of your process?
25

MR PORTELLI: Well, then we go back to try and - and through the directors through to their managers, to review each of their - those areas and see what we can do differently to, I guess, give the council what they're asking for.

30 **COMMISSIONER:** And are options then presented at the next briefing session? So for example, "Councillors, if you took option A, that would be the result. If you took option B, that would be the result." That sort of thing?

MR PORTELLI: Yes. Yes. Yes.
35

COMMISSIONER: And then how does that all lead to the culmination of the budget that is ultimately placed before the council?

40 **MR PORTELLI:** Well, as we do that, then - using the example where we came to them with that large deficit, that deficit was being reduced consecutively at each meeting. And in that particular year, up until it came with a deficit of only \$4 million - and then the Hoxton Park Road property came in right after that and turned that to a \$4 million surplus.

45 **COMMISSIONER:** Right. And that's the budget that went before council?

MR PORTELLI: And that's the budget that went to public exhibition.

COMMISSIONER: I see. Did anything come out of that? All right. Mr Portelli, that concludes your evidence for the moment. As is happening with all witnesses at the moment, I'm not going to formally excuse you from further attendance.

5 **MR PORTELLI:** Yes.

COMMISSIONER: In the unlikely event we need to get you back, someone will let you and those representing you know. And as soon as you can be formally excused, that will be communicated to you. But I'm grateful for your attendance and your
10 assistance so far.

MR PORTELLI: Thank you.

COMMISSIONER: And you're free to go for today.
15

<THE WITNESS LEAVES THE HEARING

COMMISSIONER: Is that a convenient time? All right. We'll adjourn until 5 to 12. Sorry, did you want to say something?
20

MR ENGLISH: No, no.

<THE HEARING ADJOURNED AT 11.34 AM

25 **<THE HEARING RESUMED AT 12.02 PM**

COMMISSIONER: Yes.

MS McDONALD: I call Vishwa Nadan.
30

COMMISSIONER: Yes. Would you like to take an oath or an affirmation?

MR NADAN: I'll take an oath.

35 **COMMISSIONER:** Oath. Thank you.

<VISHWA NADAN, SWORN

MS McDONALD: Please state your full name.
40

MR NADAN: Vishwa Nadan.

MS McDONALD: And Vishwa is V-I-S-H-W-A?

45 **MR NADAN:** Yes. Yes.

MS McDONALD: Nadan, N-A-D-A-N?

MR NADAN: That's correct.

MS McDONALD: Your current occupation?

5 **MR NADAN:** Chief financial officer at Liverpool City Council.

MS McDONALD: How long have you been working in that role?

10 **MR NADAN:** As the CFO, I was - my job was regraded in 2018. August, I believe.

MS McDONALD: Before your role was regraded, were you working for Liverpool City Council?

15 **MR NADAN:** Yes. I started in March 2014 as manager of financial services.

MS McDONALD: And that position of manager financial services, it was regraded in about 2018?

20 **MR NADAN:** Correct.

MS McDONALD: And you became the chief financial officer for the council?

MR NADAN: Correct.

25 **MS McDONALD:** What tertiary qualifications do you have?

30 **MR NADAN:** I hold a Bachelor of Arts degree in Financial Management, Management and Public Administration. I have Executive Masters in Public Administration. I'm an accredited fellow of CPA Australia. I'm also the deputy chair of the Local Government Finance Professionals currently. And a Justice of the Peace in New South Wales.

MS McDONALD: You - sorry? The last -

35 **MR NADAN:** Justice of the Peace in New South Wales.

MS McDONALD: Before you commenced work at Liverpool City Council in March 2014, had you worked with any other local council?

40 **MR NADAN:** No.

MS McDONALD: And you were working as an accountant before that appointment?

45 **MR NADAN:** My professional career started in 1985 with the Civil Aviation Authority of Fiji Islands as a clerical officer, and I was promoted as an accountant in 1995 and became the first management accountant of Airports Fiji Limited in 1999

after the organisation got restructured. I left them in 2001. Then I worked for RailCorp for six months when I first migrated into Australia, as a budget accountant. And six months after, I joined the State Government as the budget services officer, going up from budget services officer to senior management accountant. And the last position I held was assistant director strategy and finance with Communities New South Wales, and I left them in -

MS McDONALD: With whom, I'm sorry?

MR NADAN: Communities New South Wales. And that was the last position I held, assistant director strategy finance.

MS McDONALD: When you started work at Liverpool City Council, at that point, was Mr Portelli the CEO?

MR NADAN: We missed each other, actually. So I started on Monday, he finished on a Friday.

MS McDONALD: All right. Now, your current position as chief financial officer, would you, at a rather general level, describe what your role entails?

MR NADAN: All right. Currently I oversee the whole suite of finance functions, which is budgeting, reporting - performance reporting, statutory reporting, nominal prices, which is, you know, receivables and payables, asset accounting, tax accounting. I do not oversee rates, by the way. Rates, it's in customer experience area. So those are the day-to-day things that I do. On top of that, as a responsible accounting officer I need to provide regular reports to the governing body, which is, you know, investment reports every month, budget review reports every quarter. And in terms of supporting the other business directors, I provide them financial advice as and when required.

MS McDONALD: Part of your statutory role, does that include providing, in a sense, a verification of the general purpose financial statements prepared each year?

MR NADAN: Yes. I actually sign on the financial statements.

MS McDONALD: Would you bring up document INQ.001.001.0362. And it's - and, sorry, to begin with, you can see that's the annual financial statements for the year ended 30 June 2024?

MR NADAN: Yes.

MS McDONALD: Would you go to page _0006. Yes. And there you've got the statement by councillors and management, and I think in the - maybe if we can move up a bit. No, no. Yes. Your signature appears on the bottom right?

MR NADAN: That's correct.

MS McDONALD: And you're identified there as the responsible accounting officer for the council?

MR NADAN: That's correct.

5

MS McDONALD: Now, I want to ask you some questions about the financial position of the council. I'll start with some general questions. The financial position of the council, part of it involves the drafting and devising of a budget which is then put to the council at a meeting, usually around June 2024, and the adoption by the council of that budget?

10

MR NADAN: Correct.

MS McDONALD: What is - at a general level to begin with, what is your role with the creation of the budget?

15

MR NADAN: Okay. So me and my team generally engage with the service level - with the functional directors and the managers. We - in a general sense, we basically do the collation of the budget with all the assumption that comes in from the various directors and the CEO.

20

MS McDONALD: Now, who do you report to?

MR NADAN: Currently Farooq Portelli, who's the director of corporate services.

25

MS McDONALD: And your reference to your team, how many members are there of your team?

MR NADAN: 14, including me. So 13.

30

MS McDONALD: And are they providing financial work for the council?

MR NADAN: Correct.

MS McDONALD: Under your direction?

35

MR NADAN: Correct.

MS McDONALD: With the devising of the budget, you've referred to you're dealing with directors and managers from other directorships.

40

MR NADAN: Correct.

MS McDONALD: And you're collating information that they provide to you and incorporating that into a draft budget?

45

MR NADAN: That's right.

MS McDONALD: The consultation or discussion with the governing body of the council, so the councillors and the mayor, do you participate in that?

MR NADAN: Yes, I do.

5

MS McDONALD: And we've heard some evidence about Mr - from Mr Portelli that in the lead-up to the June meeting of council there are a number of sessions with councillors where you're providing information about the budget, and indeed a current draft of a possible budget.

10

MR NADAN: That's right. So you're referring to the last financial year?

MS McDONALD: Yes.

15

MR NADAN: Yes.

MS McDONALD: But does that usually happen?

MR NADAN: Yes, it does.

20

MS McDONALD: Changes to the budget - so for example, a proposition to sell a property or another proposition that would affect, for example, revenue in the budget, do you get directions from somebody to make such an amendment and incorporate it in a draft?

25

MR NADAN: As I've said, the assumptions - significant assumptions like this come from respective areas. So if you're talking about or making reference to a sale of a property, it comes from the city futures area. And the question that I have for them is - if you're talking about '24/'25 budget, my question to them is, "Is this realistic in terms of can you deliver this? Can you close the deal? Because if you want to put it in the budget, I need you to close the transaction by June next year. Only then you can put in the budget. Otherwise it goes in the following year." So that's the only question I have for them.

30

35

And, yes, I get information and assumptions from them. So if you like, the whole budget preparation is based on a lot of assumptions. Some of them are known - like, you know, rate increases, all increases, those things are known to us and we factor those in. Key and other - and other significant assumptions - like, sale of land and others will come from the directors in - obviously in consultation with the CEO, and I get that information and I put it in the budget.

40

MS McDONALD: When - the example that we are discussing about the sale of a property and putting in the revenue that could be generated by that sale of property, in your answer you said something along the lines of, "Look, I need it confirmed that it's going to close and the sale will occur in the next financial year."

45

5 **MR NADAN:** Correct. So if you're talking about a sale of property, obviously it takes time. And then the confirmation - if the director confirms that, "Yes, I will be able to close the deal in the next financial year," from July to June the following year, then we book it in that financial year. Otherwise, we would put it in the next financial year, depending on when he wants to close the deal.

10 **MS McDONALD:** And the way we're dealing with that is if you get - and again, we're dealing at the moment hypothetically. If you get from a director, "In our area, revenue is going to be generated by a proposed sale of property," you will then ask the director, "Can you confirm that that is going to be able to be sold in the next financial year?"

MR NADAN: Correct.

15 **MS McDONALD:** And upon that confirmation, it can be included in the budget?

MR NADAN: Correct.

20 **MS McDONALD:** Excuse me for a minute. Would you bring up, please, document INQ.001.001.1216, which is the long-term financial plan 2025 to 2034, and just pause before you put it on live-streaming. Yes, it can be put on live streaming. Now, looking at this document, which is long-term financial plan resourcing strategy, though dated 2025 to 2034, was it your understanding that this document was put before the council in the June 2024 meeting?

25 **MR NADAN:** Yes.

MS McDONALD: And this document, does it contain the budget?

30 **MR NADAN:** Yes.

MS McDONALD: Right.

35 **MR NADAN:** Year 1 of the long-term financial plan.

MS McDONALD: I'm sorry?

40 **MR NADAN:** Year 1 made reference in this book relates to the budget for the next financial year.

MS McDONALD: All right. So Year 1?

MR NADAN: Correct.

45 **MS McDONALD:** Would you please go to page _0007 in this document. Can you see there, there are two charts, one being - and before that it's referring to the:

"Net operating result before capital grants and contributions and the level of unrestricted cash reserves are the two main indicators of financial performance and sustainability."

5 And then:

"the projected result of the strategic plans on those two items is illustrated by the charts below."

10 I'll take you to the left-hand chart, which is net operating results before grants and contributions. Can I just pause there. And a little bit of basic accounting for Local Governments. A Local Government - or a local council, I'm sorry, can receive funds from different sources but which then has to be treated, in a sense, differently in its use? For example, are funds received which may be externally restricted?

15 **MR NADAN:** Yes. So obviously a council receives money from various sources, and the majority - or the main one is obviously rates income. Within the rates income there are some special levies. For example, domestic waste, storm water, and they are collected for a specific purpose and they have to be kept aside or accounted for
20 aside as a restricted reserve.

Then we also have things like investment income, for example, where we get interest revenue. Then the amount of interest that we're getting on the restrictive funds - I look at it with the restricted funds - and the rest remains in unrestricted funds. Same
25 applies with grants. We get general purpose grants - for example, the financial assistance grants we get from the Federal Government, that is untied. That is operating grant; we get that. Capital grants, again they are specific-purpose grants; they need to be kept aside separately. But in relation to calculation of the net operating result, the income that we get for capital purposes is not included, and
30 hence it's written "net operating result before grants and contributions". This is capital grants we're referring to.

MS McDONALD: Does it - the net operating result, does it also include funds which are externally restricted?

35 **MR NADAN:** Yes.

COMMISSIONER: Just so I make sure I heard you correctly, what is excluded - that is, the grants and contributions that are excluded are for capital
40 purposes?

MR NADAN: Capital purposes, yes.

COMMISSIONER: Other grants of the kind you mentioned would be included in
45 the net operating result?

MR NADAN: Operating grants, yes, will be included.

COMMISSIONER: Thank you.

MS McDONALD: A grant for a capital purpose, could you give an example of that?

5 **MR NADAN:** WestInvest is the current one.

MS McDONALD: So this is money from a State Government grant program where there was an application for grants for a particular project within the Local Government Area?

10

MR NADAN: Correct. There could be others too, but this is a major one.

MS McDONALD: But that's an example?

15 **MR NADAN:** Yes.

MS McDONALD: Looking at the graph there - and it's - it commences with the financial year - is it 2023 to 2024 - and records a deficit of \$6.9 million?

20 **MR NADAN:** Correct. That was based on the Q3 quarterly review.

MS McDONALD: It was - sorry?

MR NADAN: It was based on the Q3 quarterly review results.

25

MS McDONALD: Then the '24/'25 figure, which now has a surplus of 2.6 million -

MR NADAN: Correct.

30 **MS McDONALD:** - that's the surplus that is foreshadowed in this particular budget for that next financial year?

MR NADAN: Correct. Projected for year 1.

35 **MS McDONALD:** And then after that projected figure for year 1, if we look at '25/'26, it returns to a deficit and it records a deficit of about 12.6 million?

MR NADAN: Correct.

40 **MS McDONALD:** And then in subsequent years, it's still in deficit but anticipates, I think, around year -

MR NADAN: '29, '30.

45 **MS McDONALD:** - '29, it's then going to be back in surplus.

MR NADAN: Correct.

MS McDONALD: Excuse me for a moment. The projected surplus in 2024/2025 of 2.6 million, do you recall what particular changes were made from the budget for the previous year to this year that allows that surplus to be projected?

5 **MR NADAN:** From memory, there were two big-ticket items. One was sale of 3 Hoxton Park Road and the other one was sale of a piece of land in Hammondville.

MS McDONALD: Sorry, where?

10 **MR NADAN:** Hammondville. And those were the two items - give us, again on sale, of about \$11 million.

MS McDONALD: And how much was it?

15 **MR NADAN:** \$11 million, both together.

MS McDONALD: And the sale of those two properties were included in the budget?

20 **MR NADAN:** That's right.

MS McDONALD: The - in devising the budget - you've given evidence that you're obviously working with your team.

25 **MR NADAN:** Correct.

MS McDONALD: What role does the director of corporate support or corporate services, to whom you reported, play?

30 **MR NADAN:** Generally, the director of corporate services is part of the executive team. And before we engage with the governing body, which is the councillors, I go and brief the executive team in term of where the budget position is. And as an executive, they decide, well - you know, they go through a culling process. Sometimes they say, "I don't want these vacant positions in various areas," things
35 like that. And Farooq is part of the discussion. Does that answer your question?

MS McDONALD: Yes. For the '24/'25 budget, you were reporting to Mr Portelli?

40 **MR NADAN:** That's right.

MS McDONALD: Before Mr Portelli was appointed as an acting director corporate support, who were you reporting to then?

45 **MR NADAN:** From memory it was George Hampouris - was acting director corporate services.

MS McDONALD: Sorry, what was his surname?

MR NADAN: Hampouris.

MS McDONALD: And before him?

5 **MR NADAN:** Before him was Paul Perrett.

MS McDONALD: And is your recollection Mr Perrett was an acting or was he in that -

10 **MR NADAN:** Paul Perrett?

MS McDONALD: Yes.

MR NADAN: No, he was a substantial position holder.
15

MS McDONALD: He was -

MR NADAN: Permanent, yes.

20 **MS McDONALD:** Now - excuse me. The 2024 to '25 budget that was passed by council did include the surplus of about 2.6 million?

MR NADAN: No. It included 2.6 for Hammondville property and 8.4 million for the 3 Hoxton Park Road property. Both together, it was \$11 million.
25

MS McDONALD: But in it budget that council approved included in the, "Where are we going to get our revenue from" - the sale of those two properties?

MR NADAN: Yes.
30

MS McDONALD: Now, as the chief financial officer, as you start a new financial year and as the year progresses, if there are major changes to particular items in the budget, do you have an obligation to raise that in any way?

35 **MR NADAN:** Normally, for every quarter ending, we have two months under the Act to report to the governing body all the changes about impacting the operating result and the capital works program. So there is a requirement that I need to provide that, and it's part of the Office of Local Government requirements as well, so I do that. Unless there is a specific need for me as a responsible accounting officer to
40 raise that as an issue, which I did around December 2024, I believe.

MS McDONALD: So this is December 2024. You raised a specific issue with the governing body of the council?

45 **MR NADAN:** Correct.

MS McDONALD: And was that raised at the council meeting in December 2024?

MR NADAN: Yes, it was a confidential paper.

MS McDONALD: And in that confidential paper, what issue did you raise?

5 **MR NADAN:** For the year ended June 2024, we were very low in our reserves.

MS McDONALD: You were what, sorry?

10 **MR NADAN:** We were very low in our reserves. We had exhausted our unrestricted cash, so basically we had zero. We were using our internally restricted reserves and - we were trading solvent, so we were not touching on the restricted reserves. We still had - which we are allowed to do - is use internally restricted funds to manage our cash-flow issues. So we were quite low in our reserve, 30 June 2024.

15 Now, first quarter passed, there was some subsequent decisions made by the council, and obviously we have loan agreements with the banks - that we had to meet some liquidity ratios. And when June ended, it was my assessment that it is a temporary issue and it could not be resolved. There were some big-ticket items that we had to manage. There was a \$3 million outstanding from Canterbury Bankstown Council
20 that was going to come. There was - the rates outstanding increased about \$15 million, about 3 million compared to the previous year, and there was little uncertainty about the tenants coming in for the Civic Place.

Council also resolved by then not to sell 3 Hoxton Park Road, which would have
25 given us \$14 million in cash. Council also resolved to pay New South Wales Police about \$3 million as a rent incentive to take tenancy in Civic Place. So given all these uncertainties, it was my assessment that we might again not meet the bank requirements, and there was a risk that we might actually touch on restricted reserves by June the following year. That's the reason I raised that as a liquidity issue.

30 **MS McDONALD:** Can I just unpack some of those items that you've identified. You first - you described them as big-ticket items. You referred to - was it \$3 million from Canterbury Council?

35 **MR NADAN:** Correct.

MS McDONALD: What was that for?

40 **MR NADAN:** There is a bridge down in - somewhere in Moorebank - Voyager Point, I think, there's a pedestrian bridge. It was initially owned by the Commonwealth Government, and the Commonwealth Government then decided to hand over this bridge - I believe it's a pedestrian bridge - and under the joint ownership of Canterbury Bankstown and Liverpool. I haven't been to the place, but
45 apparently it's on the border somewhere, so jointly owned by the councils.

There was an initial estimate that the - sorry, there was an assessment that the bridge was under - or required some major maintenance works, and there was a court case that jointly Liverpool City Council and Canterbury Bankstown put against the Commonwealth Government. There was an out-of-court settlement where the
5 Commonwealth said, "All right. We'll give you \$4.5 million to do your repair works," and then they gave the ownership of that bridge to both these councils.

At that point in time, Liverpool City Council was the lead council in doing the repair works and my discussions - I had discussions with the CFO, my counterpart in
10 Bankstown, and I said, "Well, we're lead council. We'll keep the money and we'll do the repair works." Their position was, "No. Under the agreement we'll take 50 per cent. You do the works and we'll reimburse you on a progressive basis." That's where it landed. We did the works. We invoiced them for \$2.8 million. I think the cost - the actual cost was a little bit more than what we got in terms of cash. So we invoiced
15 them.

Now, in between, there was some discussion happening between our director infrastructure and his counterpart out there in Bankstown, and the discussion was around Liverpool City Council taking ownership of the bridge, and Bankstown was
20 going to compensate Liverpool City Council for, you know, ongoing repair works. There was some error made in terms of calculating how much they should pay council. There was no discussions with me as the CFO, but a number of 5.3 million was actually offered by our director infrastructure at that point in time to Bankstown City Council. And Bankstown City Council officers presented to their council and
25 they accepted that, and they said, "All right. We'll give you \$5.3 million. Liverpool City Council takes ownership with the liability of maintenance."

When I came to know that, I went to the CEO and I said, "We are short-changed significantly. We need to review that." Bankstown City Council combined those two
30 matters, initial repairs and ongoing maintenance, as one matter, and said, "We'll give you \$5.3 million. Until you agree to it, we will not give you the \$2.8 million,." So that was there. And I believe when Mr John Ajaka became the CEO, he instructed that we take legal action against Bankstown City Council. And there were some out-of-court negotiations and they eventually paid us. They paid us on 30 June 2025,
35 the \$2.8 million. The other matter of ongoing maintenance is still under negotiation.

MS McDONALD: All right. So that - the question of the money owed by Canterbury Bankstown Council, as at December 2024, still not had been - hadn't
40 been resolved.

MR NADAN: No.

MS McDONALD: And there were still outstanding funds.

45 **MR NADAN:** Correct. I guess the issue there was that we used our unrestricted funds to do the repair works and they're keeping all the money, so we have actually

used our own funds to do that. So it was not paid. And I believe that the case was listed for hearing in July at that point in time. July 2025. Yes.

5 **MS McDONALD:** Now, you also said there was a component of rates that were still outstanding?

MR NADAN: That's right.

10 **MS McDONALD:** You spoke about uncertainty with tenants in Civic Place. At that - are you talking about around December 2024?

MR NADAN: Correct.

15 **MS McDONALD:** And your understanding is that there were still some floors in Civic Place that hadn't been leased?

MR NADAN: Correct.

20 **MS McDONALD:** Then you spoke -

MR NADAN: Sorry, might I add - we were also having issues with 33 Moore Street, which is our former head office. The initial funding strategy for Civic - for the Liverpool Civic Place was that we would have 33 Moore Street fully tenanted and we'll get rental income from there, the old library, the commercial towers in the new
25 Civic Place and the 3 Hoxton Park Road. So those were all assumed income coming in to pay for this lot.

MS McDONALD: And you also spoke about paying the New South Wales Police. You described it as an incentive payment. It was actually for a fit-out in Civic Place,
30 wasn't it?

MR NADAN: Correct.

35 **MS McDONALD:** And they actually then became a lessee in Civic Place?

MR NADAN: Initially they wanted \$3 million to do the fit-out works. I think subsequently they have agreed that we will spend up to \$3 million but we will do the fit-out on their behalf.

40 **MS McDONALD:** Yes.

MR NADAN: So, yes, it's part of the rent incentive.

MS McDONALD: Incentive to get lessees in?
45

MR NADAN: That's right.

MS McDONALD: Excuse me for a minute.

COMMISSIONER: Are you going to move away from this now?

5 **MS McDONALD:** I was going to - no, still on the topic.

COMMISSIONER: Yes.

10 **MS McDONALD:** But just take Mr Nadan to another document.

COMMISSIONER: Can I ask a question about this -

MS McDONALD: Yes.

15 **COMMISSIONER:** - document before we do? Associate, could we just move up to the top of this page. And you'll see there, Mr Nadan, it describes these two measures - that is, net operating result before capital grants and contributions and level of unrestricted cash are the two main indicators of financial performance and sustainability. Do you see that?

20 **MR NADAN:** Yes.

COMMISSIONER: If you could just help me understand why that is so?

25 **MR NADAN:** All right. If we talk about the operating - net operating result, in a commercial sense it's the profit. But Office of Local Government is measuring Local Governments' financial performance using that indicator. And as you'd imagine, a lot of councillors find that as challenging - to meet a surplus result.

30 **COMMISSIONER:** Challenging?

MR NADAN: Challenging, yes.

35 **COMMISSIONER:** Why is that?

MR NADAN: Especially for growth councils, the rate, which is about 60 per cent-plus of council's total revenue base, councils are limited the amount of - you know, the percentage increase they need to apply. It's determined by IPART unless, of course, council goes and applies for a special rate variation.

40 **COMMISSIONER:** Special variation. Yes.

45 **MR NADAN:** Yes. The method that IPART actually used until two years ago, if I may say, was a little bit flawed. It didn't have a - identifies a disability factor for growth councils. So they didn't allow for any increase for growth councils. So one fit for all kind of approach was used, and they have just recently realised now, "We need to factor in an additional percentage for growth councils." So before that, we

actually lost out on all of - special rate variation - not special - percentage increases for growth. It was just based on our part in -

COMMISSIONER: Limiting your ability to raise revenue?

5

MR NADAN: Correct. And on the other side, there are certain things - like wage, for example. Council doesn't control that. Of course, council controls the number of staff they have, but the salary increases are not. This is determined by the industry - it applies to an industry. The other big factor that applies to there is the financial assistance grants that come from the Federal Government. The percentages changes. Sometimes they say it's the Commonwealth Government, they are paying, right, "We'll give you 100 per cent." Sometimes they go, "85 per cent." This year they said 50 per cent, so that has - those are the - those variables that you pick on the bottom right.

15

COMMISSIONER: Yes.

MR NADAN: And in the other - in terms of the cash operating - I mean, that's - unrestricted is the key, because if you finish unrestricted and internally restricted - and as soon as you touch the externally restricted, you are trading insolvent. But those are the two key indicators that Office of Local looks at.

20

COMMISSIONER: Are there any others that you would look to in your -

MR NADAN: There are others in there. For example, you know, all sorts of revenue. It has - the benchmark is 60 per cent. Basically, that says they did - that determines how much council is reliant on grants and others. There is a ratio called, yes, working capital, your unrestricted - current ratio. Again, if you have your reserve balances in order of the benchmark, those ratios fall in line.

30

COMMISSIONER: Ms McDonald might come to that in due course, perhaps. Thank you.

MR NADAN: Yes.

35

COMMISSIONER: Thank you.

MS McDONALD: Mr Nadan, you presented a confidential report to council at their December meeting?

40

MR NADAN: Yes.

MS McDONALD: Sorry, December 2024.

MR NADAN: 2024, yes.

45

MS McDONALD: Do you recall that there was a report about that confidential report published by the ABC?

MR NADAN: I do recall.

5

MS McDONALD: Please bring up document LCC.001.003.0330. Thank you. You can see the heading of the publication from the ABC website, which talks about Liverpool Council facing serious cash-flow problems with risk of defaulting on multimillion-dollar loans.

10

MR NADAN: Yes.

MS McDONALD: And if we move down that page, we can see, in short:

15

"A confidential report has revealed Liverpool Council is facing serious cash-flow problems and the South West Sydney Council needs to find \$25 million in six months or risk defaulting on development loans worth hundreds of millions of dollars."

20

And then, yes, next page:

"The Council is projected ..."

25

No. Yes, if we can just pause there:

"Council is projected to deliver a loss of \$12 million for the 2024/2025 financial year."

30

That last statement of a loss of \$12 million, does that indicate that the projected surplus is now going to be a deficit?

MR NADAN: Correct.

35

MS McDONALD: Now, it then goes on to talk about - quoting you from this report, that:

"The council's current financial position is unsatisfactory and requires urgent attention."

40

And that:

"The council has exhausted the unallocated cash, about \$25.3 million as of July 2023, it keeps on hand, according to the report."

45

And then it says:

"It's relying on money earmarked for other services and projects to operate, spending about \$5.8 million of those funds so far."

5 Can I just ask that you, there - it's - according to this, there was unallocated cash as at July 2023 of about \$25.2 million. You see that?

MR NADAN: Yes, I can see that. But without making reference to the financial statements, I can't confirm that figure.

10 **MS McDONALD:** You can't. All right.

MR NADAN: Sorry.

15 **MS McDONALD:** Do you recall that it was - the July 2023 amount was in that, I suppose - around that amount?

MR NADAN: Probably, yes.

20 **MS McDONALD:** And when you say:

"And it is relying on money earmarked for other ..."

I'm sorry, withdraw that. When you say:

25 "It's relying on money earmarked for other services and projects to operate ..."

Is that a reference to that internally restricted funds?

30 **MR NADAN:** That's correct.

MS McDONALD: Not to the externally restricted funds?

MR NADAN: No.

35 **MS McDONALD:**

"Spending about \$5.8 million of these funds so far."

40 The use of the internally restricted funds, is there a time limitation in which you can use those funds from the internally restricted pool without having to reimburse or reallocate it to the particular pool?

45 **MR NADAN:** No, there is no time limit. Council has reserved to put money aside for a particular purpose. And if you don't have money, then you can't put it aside. So if you have - so councils are allowed to use that internally restricted reserve, but there is no time limit.

MS McDONALD: Right.

MR NADAN: But eventually that gets reimbursed.

5 **MS McDONALD:** It gets what?

MR NADAN: It gets reimbursed back. So we restate whatever we had before. We'll restate that. As we get more money in the unrestricted funds, we'll restate that first, and then say, "This is the balance unrestricted."

10

MS McDONALD: So the idea is that hopefully the council will be able to generate additional funds which it then can be reimbursed into that internally restricted pool?

MR NADAN: That's correct.

15

MS McDONALD: Now, in the - this report, it also refers to a concern that you have raised - that is, the defaulting on development loans worth hundreds of millions of dollars. How does that arise?

20 **MR NADAN:** I - so go back to June 2024 for the financial results. We were very low in our - well, we did not have any unrestricted cash. So we actually kept three ratios - liquidity ratios that we needed to meet as part of the loan requirement. June 2024, we did not meet one of them. So there was a risk - if we don't get money, there is a risk that we will be defaulting again. And if that happens, then obviously the
25 banks are concerned because they have a large exposure. They will, I guess - using common sense, they will work with the council to improve the situation, but there was a risk - I don't know what the banks would have done. They would - very unlikely they would recall the loan, but, yes, we would have been at the risk of default - not meeting those ratios. Yes.

30

MS McDONALD: And your understanding is not meeting one of those ratios may, within the terms of loan -

MR NADAN: It will trigger event of default.

35

MS McDONALD: Yes. I'll take you now to document INQ.001.001.1128. And before putting it on the live stream, you can see it's the agenda for the governance committee meeting in January 2025? And I'm going to take you to a section dealing with a finance report. And that can be live-streamed. The governance committee, that
40 is a committee of the governing body of the council that meets regularly?

MR NADAN: Every month.

MS McDONALD: And as part of its meeting, do you, at a regular basis, provide a
45 finance report?

MR NADAN: That's correct.

MS McDONALD: Do you provide the finance report to every meeting or is it quarterly or something like that?

5 **MR NADAN:** Again, depends on when the papers are due. So normally the - we provide them weeks in advance, the papers. And it depends when it falls. And if it is in - say the meeting is in the first week of the month, then it becomes very difficult to give them an updated, so that's - I think one or - ones we skipped, we didn't provide them, but we did - did a catch-up on the following meeting.

10 **MS McDONALD:** Could - would you go to page _0092. And, Mr Nadan, this is headed Finance Report December 2024. And in the information at the top of that page, it records that it's a report provided by you.

MR NADAN: Yes.
15

MS McDONALD: And then if we can turn to the executive summary to begin with:

"This report provides on update on the council's budget performance to December 2024."
20
December, is that - the second quarter budget review process is currently underway?

MR NADAN: Mm-hmm.

25 **MS McDONALD:**

"Management conducted a comprehensive review of the budget to identify potential savings and efficiencies and is continuing to review vacancies to identify further savings."
30

If we turn to page _0093. Under Budget Performance, the first paragraph refers back to the budget, and notes that:

"Council budgeted for a conditional operating surplus of the 2.6 million."
35

MR NADAN: Correct.

MS McDONALD: And that's the figure that I took you to in that -

40 **MR NADAN:** That's right.

MS McDONALD: And then you say:

"The first-quarter budget review resulted in a revision of the net cost of service position to an operating deficit of 4.229 million."
45

MR NADAN: Correct.

MS McDONALD: Now, then you go on to talk about subsequent to that first-quarter budget review there were decision - a decision not to sell 3 Hoxton Park, and you identify the repercussion from that?

5 **MR NADAN:** Yes.

10 **MS McDONALD:** Can I jump back to the September first-quarter budget review, which resulted in a revision from a surplus to an operating deficit. You identified previously some particular big-ticket items that were affecting the budget. Which of the big-ticket items that you identified there affected that? If you can't identify it, that's fine.

15 **MR NADAN:** I can't recall what the key items were. I'm not sure whether we raised the 8.4 that expected from sale of 3 Hoxton Park Road as part of Q1 or we did it later. I'm not sure.

MS McDONALD: It's just in the next paragraph it commences:

20 "Subsequent to the first-quarter budget review there was a decision not to sell 3 Hoxton Park Road."

MR NADAN: Okay.

25 **MS McDONALD:** Which I thought suggested that the operating deficit of 4.229 million identified in the first budget - quarterly review hadn't taken into account that decision about 3 Hoxton Park Road.

30 **MR NADAN:** Most likely. But that Q1 is a public document available, and it lists all the changes that's been in there.

COMMISSIONER: That's part of the mandatory quarterly review process each year that's being referred to there? The September Q1 budget review, that's part of the mandatory budget review process?

35 **MR NADAN:** Yes. So Q1 is part of the first quarter. So when we - when I say "first quarter", it's three months of operations.

COMMISSIONER: Yes.

40 **MR NADAN:** I'm not sure whether - so whatever we identified during the first quarter is changed, but I'm not sure - according to - if I just read this, looks like the 8.4 was on top of the 4.2.

45 **COMMISSIONER:** Yes. Thank you.

MR NADAN: Yes.

MS McDONALD: Would you go to page _0096. This is the section of this report headed Cash Reserves.

MR NADAN: Yes.

5

MS McDONALD: You have, in the table, two periods of time identified: 31 December 2024, then 30 June 2024.

MR NADAN: Correct.

10

MS McDONALD: Now, the externally restricted reserves, they are of an amount which suggests that they've increased up until December 2024, but again, they can't be touched.

15

MR NADAN: That's right.

MS McDONALD: Except for the purpose -

MR NADAN: That's it.

20

MS McDONALD: - that they've been given. Internally restricted reserves, they were 6.9 in June. In 31 December they're 12.8. Then you've got investments in Civic Risk Mutual. Do you know what that refers to?

25

MR NADAN: It's a - what is it called? It's a - Civic Risk Mutual is a body corporate owned by all the metro councils, and they act like an insurance broker.

MS McDONALD: Right.

30

MR NADAN: Yes.

MS McDONALD: Then if we turn to unrestricted cash, it records as at 30 June there was nothing.

35

MR NADAN: Correct.

MS McDONALD: And now you're in negative - in December 2024, negative 7.7 million.

40

MR NADAN: Correct.

MS McDONALD: And the negative 7.7 million, does that reflect that in the period from June to December 2024 you've actually been using some of the internally restricted funds?

45

MR NADAN: Not quite. So if you look at this table here, your internally restricted reserve, in June it was 6.9. So what we did - if we were zero in unrestricted - so we

used the internally restricted reserve, come December, the internally restricted reserve has increased to 12.8. What we have done, we have actually restored what we reduced in June. And unrestricted was minus 7. So if I have to - so basically, yes, I've used \$7.7 million from the 12 that I've restored.

5

MS McDONALD: From the -

MR NADAN: From the 12 internally restricted funds that we have been using from there. Yes.

10

MS McDONALD: And then under Outstanding Rates and Major Debtors, there you've identified at least two of those key - I think big-ticket items.

MR NADAN: Yes.

15

MS McDONALD: So you've got the outstanding rates and then you've got this issue with Canterbury Bankstown Council, the Voyager Bridge matter.

MR NADAN: Correct.

20

COMMISSIONER: And if those rates were collected and whatever was projected to be due to the council from Canterbury Bankstown, that would replenish unrestricted cash?

25 **MR NADAN:** Correct. But from the rate, some would go into externally restricted, like domestic waste, for example.

COMMISSIONER: Yes.

30 **MR NADAN:** Some of them will go.

COMMISSIONER: Yes.

MR NADAN: But a significant amount of that will come into unrestricted.

35

COMMISSIONER: Thank you.

40 **MS McDONALD:** Now, when I took you to - in the long-term financial operating document, the chart, and the Commissioner asked you some questions about why these particular ratios were important, as a result of your - of the council's financial statements for the financial year ending 2024, were issues raised by the audit office about your financial statements and, in particular, your compliance with some key ratios?

45 **MR NADAN:** They do report, audit office, in terms of council's financial performance against those ratios. I guess they also provide a trail of analysis that do that, but they did not specifically raise on the council's liquidity position, but they

just provide a general report. They don't say, "You are - you need to do something about it."

5 **MS McDONALD:** Wasn't Liverpool City Council identified in the Local Government 2024 Financial Audit provided to Parliament, that amongst councils in New South Wales, Liverpool City Council was one of the least liquid councils?

MR NADAN: That's correct.

10 **MS MCDONALD:** And being a least liquid council, does that reflect the issue with the deficit in the unrestricted cash?

MR NADAN: It's more to do with unrestricted cash.

15 **MS McDONALD:** With unrestricted cash?

MR NADAN: Correct.

20 **MS McDONALD:** And the fact that in your June 2024 - the position at June 2024 was that you had zero unrestricted cash?

MR NADAN: That's right.

25 **MS McDONALD:** Is that an appropriate time?

COMMISSIONER: Yes. Mr Nadan, we're just going to break for lunch.

MR NADAN: Thank you.

30 **COMMISSIONER:** We'll resume again at five past 2, so if you wouldn't mind being back here, ready to go, just a couple of minutes before that -

MR NADAN: Thank you.

35 **COMMISSIONER:** We would be most grateful.

MR NADAN: Sure.

40 **COMMISSIONER:** All right. We'll adjourn till five past 2.

<THE HEARING ADJOURNED AT 1.04 PM

<THE HEARING RESUMED AT 2.08 PM

45 **MS McDONALD:** Mr Nadan, before lunch I'd taken you to the governance committee meeting of 28 January 2025, and in particular the report that you had prepared known as the Budget Committee Report.

MR NADAN: Yes.

5 **MS McDONALD:** I want to take you to another budget committee report, this time for February 2025. Would you please bring up document INQ.009.001.0001. If we can just pause for a minute. You'll see that's the cover page of the agenda. Would you now go through to page _0032. That's the Budget Financial Year '25/'26 Information Council Activity Report that you've prepared.

10 **MR NADAN:** Correct.

MS McDONALD: It's different to the report that you made in January. Why is that?

15 **MR NADAN:** The report that I did in January 2025 was giving the governing body or the governance committee an update on how they're travelling against '24/'25 budget. This report here is in preparation for the '25/'26 budget, and I think this was in response to the request that they wanted to see where the, you know, dollars are invested in the activities of the council. But this report is about that.

20 **MS McDONALD:** So this is focusing, as you said, in particular of activities and projects under each directorate of the council?

MR NADAN: Correct.

25 **MS McDONALD:** Would you go to _0034. That's the commencement of the figures, and you can see there it starts off with - under operations, and you've got city environment, city works, facilities management, etcetera.

MR NADAN: Correct.

30 **MS McDONALD:** And I'm not going to take you through every page of this, but what you've done in the report is you've gone through the activities and projects of each of the directorship - directorates.

35 **MR NADAN:** Mm-hmm.

MS McDONALD: Would you please go to _0044. Now, I've jumped ahead. This is the final page. And I want to draw your attention to the final line item, which is, "Total all directorates".

40 **MR NADAN:** Yes.

MS McDONALD: You see that?

45 **MR NADAN:** Correct.

MS McDONALD: And under the column Total Revenue, which is about four along, you've got a figure - I won't read it all out, but commencing with 268?

MR NADAN: Million, yes.

5 **MS McDONALD:** Then you've got columns which itemise different costs, and right at the - after a figure for total expenses, we then have net cost of services, and in the amount of just over \$5 million?

MR NADAN: Correct.

10 **MS McDONALD:** And as that's in brackets, does that indicate that that's a deficit?

MR NADAN: That's right.

15 **MS McDONALD:** So the deficit of about 5.9 million, as it's indicated at - towards the top of the page, this is the anticipated deficit - deficit, I'm sorry, with revenue and expenses for the financial year ending 30 June 2025?

MR NADAN: Correct. And this is based on the Q2 budget review.

20 **MS McDONALD:** Based on what, sorry?

MR NADAN: Q2 budget reviews. Second quarter budget review.

COMMISSIONER: As at the end of 31 December 2024?

25 **MR NADAN:** Six months ended, yes.

MS McDONALD: Linking that to the budget that I took you to before the lunch break, which anticipated a small surplus -

30 **MR NADAN:** Yes.

MS McDONALD: - these statistics - or these financial figures, I'm sorry, indicate that that small surplus isn't going to be realised but it's going to be a deficit?

35 **MR NADAN:** Correct.

COMMISSIONER: Just so I'm clear, Mr Nadan, this is projecting forward to the end of 30 June 2025?

40 **MR NADAN:** That's right.

COMMISSIONER: But taking into account the actuals up until the end of 31 December 2024?

45 **MR NADAN:** December, and any known changes (indistinct).

COMMISSIONER: Thank you.

MR NADAN: So in between the - in between months when I provide financial updates, that's information - so if I do one for November, for example - I haven't done my Q1, but I'm giving them an indication this is where we're heading. Yes.

5 **MS McDONALD:** Now, Mr Nadan, as part of your duties, you also attend the Audit, Risk and Improvement Committee?

MR NADAN: Correct.

10 **MS McDONALD:** Would you bring up LCC.014.002.1411, which are the Audit, Risk and Improvement Committee minutes of 26 February 2025. Can we just pause for a minute. And that can be live-streamed. Mr Nadan, if you look at the first page under Observers, you are listed probably about halfway down the list as chief financial officer.

15

MR NADAN: Correct.

MS McDONALD: Please go to page _0006. This is headed '24/2025 Budget Performance Update, and it commences with:

20

"The CFO provided an overview of the financial management letter highlighting key points and the progress on addressing them. CFO noted ongoing challenges with revenue not meeting expectations, which are evident in the budget.

25 The reference there to the CFO is a reference to you?

MR NADAN: Correct.

30 **MS McDONALD:** Now, the financial management letter, what are you referring to there? .

MR NADAN: Sorry, where is that?

35 **COMMISSIONER:** The first line under the heading 7.1.

MS McDONALD: Can you see -

MR NADAN: It's the audit management letter.

40 **MS McDONALD:** The what, sorry?

MR NADAN: The audit letter - the management letter from the audit office.

45 **MS McDONALD:** Right. In the next paragraph you talk about:

"The CFO reported finding \$5 million in savings through a line-by-line budget assessment for the '25/'26 financial year, and the committee communicated that management need to put measures in place to ensure that the savings are realised."

- 5 I want to ask you some questions about that paragraph. Where it records that you reported \$5 million in savings, is this for the budget for the next financial year?

MR NADAN: Can I ask for a favour? If you can just scroll down the same page? I want to see something at the bottom.

10

MS McDONALD: Mr Nadan, if you would like to read this section in full before answering questions, that can -

- 15 **MR NADAN:** No, there was some - can you scroll down a little bit more? No, go back up. Sorry. I'm not sure whether it's referring to '25/'26 budget because '25/'26 - this was reporting an update on '24/'25. So I'm a bit confused there in terms of what - if it's making a reference to '25/'26.

- 20 **MS McDONALD:** If you look at its terms, it's talking about finding \$5 million in savings through a line-by-line budget assessment for the '25/'26 financial year. At this point, which is in February - towards the end of February 2025, have you started - and you and your team actually started working on next financial year's budget?

- 25 **MR NADAN:** Yes, we would have.

MS McDONALD: Which involves concrete work in identifying particular line items which are going to be included in the budget?

- 30 **MR NADAN:** Correct. So what we do when we do the budget - I mean, obviously we make assumptions about - we know some assumptions, rates and wages and other things. We also look at our operating expenditures and see how they're performing or how they have been performing, and if there have been underspends we will just have a look, is this the trend? We don't want to have any fat in the budget. So we want to present a realistic budget. So we go and say, "All right. Maybe you don't need this much." So we take the budget down, so potentially that's what 5 million is about.

- 40 **MS McDONALD:** And do you recall around this time that you have at least earmarked \$5 million in savings through a line-by-line budget assessment?

MR NADAN: Correct.

- 45 **MS McDONALD:** So that is looking at the next financial year's budget, and what you've identified so far are particular savings?

MR NADAN: Correct.

MS McDONALD: Now, as I read out:

"The committee communicated that management need to put measures in place to ensure these savings are realised."

5

Now, the next paragraph:

"The committee raised questions about operating grants and miscellaneous services, noting that there was no corresponding expenditure for the budgeted income."

10

What was your understanding of the concern of the committee there?

MR NADAN: I have to go with my memory now. So as I've indicated before, there are untied grants, like FAG, that we get from the Federal Government, through the State Government to us. You don't have specific expenditure attached to it, so it rolls into - expenditure is actually accounted for in operating budget, in operating expenditure or staff budget expenditure, things like that. You can't see a one-to-one compared to capital grants, where we get a grant and then we have a specific project which is a matching expenditure. So I think the reference was that they were seeking clarification, where is this.

20

MS McDONALD: All right. Now, would you then move down the page and go to the penultimate paragraph, which commences, "The committee raised concerns":

"The committee raised concerns with the report submitted to the council in December, noting that it stated the council's current financial position was unsatisfactory compared to the original income budget estimate."

25

Now, is your understanding there referring to your -

30

MR NADAN: Confidential report, yes.

MS McDONALD: That you submitted to the December council meeting?

35

MR NADAN: That's right.

MS McDONALD: Now, following down, it then says:

"The director corporate support responded that corrective measures have been implemented since December and the benefits realised are expected to be on target."

40

Now, do you know what the corrective measures the director of corporate support is referring to there?

MR NADAN: There were a couple of items in there that were listed in the December report. One was keeping positions vacant, not filling them, the vacant ones. There were some operations savings that we had to find in '24/'25. There were

45

a few items which was actually recommended but not endorsed by council, and one of them was a sale of city - Lewis's building.

5 **MS McDONALD:** I'm sorry, I've missed that.

MR NADAN: In the corrective measures.

MS McDONALD: Yes.

10 **MR NADAN:** When I put the report out, there were a list of corrective measures that was recommended to the governing body. Not all of them were accepted. So there were - a couple had been accepted. From memory, I think the two I can remember very clearly - one was the salary savings, keeping positions vacant. Another one was finding operational savings. I think there was also about - there were some concerns
15 about delays in the sale of the Hammondville land, and I think one of the recommendations were there to close that deal as quickly as possible.

MS McDONALD: Sorry, this was delays in the -

20 **MR NADAN:** In the sale of Hammondville land.

MS McDONALD: And your recollection from the December council meeting was that the council didn't accept all the corrective measures that you put forward but accepted at least the freeze on - of filling vacant positions.

25 **MR NADAN:** Yes.

MS McDONALD: And also some identified savings in operation costs?

30 **MR NADAN:** Correct. So the recommendation was to find up to \$25 million savings. So they did find something close to 25, I believe, from memory. And they said, "The rest we will delay the decision on."

35 **MS McDONALD:** Right. And, sorry, from not filling positions and savings in operation costs, that amounted to \$25 million?

MR NADAN: No, no, no. In total. I said in total \$25 million - we're looking for \$25 million savings.

40 **MS McDONALD:** You were looking for 25 million?

MR NADAN: Yes. And 2.5 million was salary savings. I'm just going with my memory now.

45 **MS McDONALD:** The Audit, Risk and Improvement Committee then met in April 2025 - on 28 April. I'm going to take you to the minutes of that committee meeting.

LCC.014.002.1412. Excuse me. Yes. Looking at the first page, you're listed as an observer, as the chief financial officer.

MR NADAN: Correct.

5

MS McDONALD: Would you go to page _0002. Now, this is under the CEO quarterly update. You see that?

MR NADAN: Yes.

10

MS McDONALD: In the second paragraph:

"The CEO outlined that a balanced budget forecast for the '24/'25 financial year had been achieved, conditional upon the sale of 3 Hoxton Park Road."

15

Now, it's also further stated that:

"The CEO emphasised that even without that sale, the operational budget had largely stabilised."

20

Now, at that point, council in the year before had determined that it would not sell 3 Hoxton Park Road?

MR NADAN: Yes.

25

MS McDONALD: To your understanding, were there any other resolutions or movement from council at this point of deciding to sell?

MR NADAN: Sorry, can you repeat that question for me, please?

30

MS McDONALD: All right. Sale of 3 Hoxton Park Road was included in the budget for '24/'25?

MR NADAN: Correct.

35

MS McDONALD: After the budget was passed, there was a decision by council not to sell it?

MR NADAN: Correct. That was the first meeting of the new council.

40

MS McDONALD: Which was in about September or maybe October 2024?

MR NADAN: Somewhere there.

45

MS McDONALD: All right. At the date of this committee meeting, which is April 2025:

"The CEO outlines a balanced budget was forecast for '24/'25 financial year has been achieved, conditional upon the sale of 3 Hoxton Park Road."

5 To your knowledge, had there been any movement within the governing body of council to reverse its decision from October, now, to sell that property?

MR NADAN: No.

10 **MS McDONALD:** We'll go to the next page, which is _0003. And the paragraph:

"The CEO then discussed the organisation's cash position. The CEO noted that while there were currently no unrestricted funds, he was confident that by Christmas 2025 unrestricted cash would increase to between 15 and 25 million."

15 Now, can I just pause there for a minute. I took you before lunch to that report in January to the governance committee, where you identified as at June 2024 unrestricted funds were zero.

20 **MR NADAN:** Correct.

MS McDONALD: Then I think in December it was negative about 7.7 million.

MR NADAN: Seven.

25 **MS McDONALD:** Where it says:

"The CEO noted that while there were currently no unrestricted funds."

30 Can you recall around this time, April, was it still in a negative balance, the unrestricted funds?

MR NADAN: I think so.

35 **MS McDONALD:** So though it says - though it's reported there were currently no unrestricted funds, it was actually in a negative?

MR NADAN: Yes.

40 **MS McDONALD:** Then he states he was confident that by Christmas 2025:

"Unrestricted cash would increase to be between 15 and 25 million, driven by settlements at Moorebank and adjoining developments, as well as forthcoming arbitration outcome with another council."

45 Now, pausing there, the forthcoming arbitration outcome with another council, is that one of the big-ticket items you identified of the dispute about the bridge with Canterbury?

MR NADAN: Correct.

MS McDONALD: Is your understanding that's now been resolved?

5 **MR NADAN:** Yes.

MS McDONALD: All right. And as a result of that resolution, what impact did that have on money coming into the council?

10 **MR NADAN:** That was \$2.8 million that they paid.

MS McDONALD: So 2.8 million came in. The reference to:

"Driven by settlements at Moorebank."

15 What's your understanding that that's referring to?

MR NADAN: So that's the Hammondville land sale that I was referring to. So that got us \$8 million.

20 **MS McDONALD:** 8 million. And was that sale to a sports club?

MR NADAN: Moorebank Sports Club.

25 **MS McDONALD:** That particular sale, when was it entered into?

MR NADAN: I think there was some lands - registry services issues, and I think the money came through in the last week of June 2025.

30 **MS McDONALD:** What was your understanding of when the contract to sell the land was entered into with the sports club?

MR NADAN: I can't answer this question, sorry. It's dealt by the legal team, all the contract and everything.

35 **MS McDONALD:** All you know is that there was an influx of revenue in about the last week of June 2025?

MR NADAN: Yes.

40 **MS McDONALD:** That sale to the Moorebank Sports Club, was it included in the budget for '24/'25?

MR NADAN: Yes.

45 **MS McDONALD:** And is it your recollection that was the first time that that potential revenue was included in the budget?

MR NADAN: I can't recall. I know it was in '24/'25, but I can't recall whether it was in '23/'24. I'm not sure.

5 **MS McDONALD:** Now, further in this paragraph:

"The CEO highlighted major cost challenges ahead, including materials, contractor costs and particularly staff remuneration."

10 And then:

"The CEO shared that the council was tracking towards a hefty wage bill but without intervention it would have escalated towards higher by the end of council term."

15 Is your understanding that the freeze on replacing staff that I think was referred to in the January minutes - has that continued, to your knowledge?

MR NADAN: Some are still vacant. Some have been progressively filled. Where it's actually impacting on the operationals and they could only temporarily put a freeze to that to achieve '24/'25 results, but they have progressively been filled.

20 **MS McDONALD:** All right. Would you go to page _0004, at the top. There is a reference to:

25 "The committee raised concern that financial sustainability risks were not currently rated highly enough in the organisation's risk register."

The reference to the financial sustainability risks, what is your understanding that's referring to?

30

MR NADAN: I think it's a general statement about financial sustainability. That would relate to operating reserves as well as cash position.

35 **MS McDONALD:** Can you repeat that, sorry? To the -

MR NADAN: It will - it is making relative reference to the operating result.

MS McDONALD: Yes.

40 **MR NADAN:** And the cash position, which will actually determine the liquidity position of the organisation.

MS McDONALD: Where it says that it's not currently rated highly enough in the organisation's risk register, do you know what that's referring to?

45

MR NADAN: Yes. The risk register is actually maintained by the head of Audit, Risk and Improvement. So they maintain that and they assign a risk rating to that. Yes.

5 **MS McDONALD:** And if something's risk-rated more highly, what repercussions does that have?

MR NADAN: Well, it needs more management attention.

10 **MS McDONALD:** All right. So it's a matter of focusing management on those particular issues?

MR NADAN: Correct. Yes.

15 **MS McDONALD:** And do you know whether those financial sustainability risks have been - their rating has been amended in the risk register?

MR NADAN: I know there were some discussions happening with Farooq. George was talking to Farooq, but I am not sure whether that has been changed or not.

20 **MS McDONALD:** You said somebody's discussing with Farooq. Who was that?

MR NADAN: The head of audit and risk and - audit and risk.

25 **MS McDONALD:** And who's that?

MR NADAN: George Hampouris.

30 **MS McDONALD:** Now, please go to page _0007. Now, this reports on your contribution, or one of your contributions to the meeting. This the budget performance update. You've provided a report, but you've highlighted a key variance in the projected net operating result. Current forecast is a deficit of 6.4 million, which reflects a deviation from the previous budget at 2.5, and you say:

35 "This is attributable to the removal of 3 Hoxton Park Road."

COMMISSIONER: Sorry to interrupt, is this page 0007?

40 **MS McDONALD:** Yes.

COMMISSIONER: We might not just be on the right part of the page on the screen.

45 **MS McDONALD:** Right down the bottom. Sorry, I didn't double-check. 7.2.

COMMISSIONER: There we are.

MR NADAN: Down here. Yes.

MS McDONALD: So there you're indicating that although the budget was a surplus, now it's going to be a deficit of about 6.4 million?

5

MR NADAN: Correct.

MS McDONALD: Then in the next paragraph, you advise:

10 "The council's on track to meet all the bank financial covenants by June 2025.

MR NADAN: That's correct.

MS McDONALD: They're all the covenants in the loans that the council has?

15

MR NADAN: The three of them.

MS McDONALD: And then you say:

20 "These include the staged sale of various assets, such as the land associated with Moorebank Sports Club and ongoing works related to the Liverpool Civic Place project."

25 The Moorebank Sports Club, that's the sale that you just referred to, where the revenue came in -

MR NADAN: Correct.

MS McDONALD: - in the last week of June?

30

MR NADAN: Correct.

MS McDONALD: Would you then go to _0008. The third paragraph, the projected cash position, do you see that?

35

MR NADAN: Yes.

MS McDONALD: You reported that:

40 "The unrestricted cash reserves are expected to remain positive through the end of June. However, attention was drawn to a sharp increase in internally restricted reserves which had risen from 6 million to 39 million, and this was explained that it was primarily due to temporary delays in several major capital work projects, including 7 million for a car park project and contributions related to a library and
45 related capital programs. These delays have resulted in cash remaining within internally restricted funds for longer than expected."

Now, could you explain what you were reporting there? Where it's stated that "the unrestricted cash reserves are expected to remain positive", does that include funds which have, in a sense, been temporarily borrowed from the internally restricted funds?

5

MR NADAN: Correct. So if you look at governance report, that table that you presented, see the \$12.9 million? That's the restored figure.

MS McDONALD: Right.

10

MR NADAN: Yes. And on top of that there is another \$12 million that we drew down for the 600 Cowpasture Road improvement works that hasn't been dispensed. So they are sitting in internally restricted reserves. So that's why it's expected to be high.

15

MS McDONALD: Now, could you just repeat what you've said about 600 Cowpasture Road? There was a particular amount of funds in the internally restricted account?

20

MR NADAN: Correct.

MS McDONALD: And what was that labelled for?

25

MR NADAN: For improvement works at 600 Cowpasture Road. So we borrowed \$32.7 million. \$20 million was spent on land acquisition. Half a million dollars was spent on the strata. And the balance of \$12.2 million is sitting in our internally restricted reserves. That's for the improvement works. Can I just point out as well -

MS McDONALD: Yes.

30

MR NADAN: - in these minutes here, there were some typos and incorrect - or misstatement of what was discussed, and that has been actually corrected in the later meeting minutes.

35

MS McDONALD: All right.

MR NADAN: Because if you can see that 600 - it was supposed to read "600 Cowpasture Road" but it says "600 space car" or something like that.

40

MS McDONALD: Sorry. That was - I was -

MR NADAN: So they're all full of typos in there, and that's been subsequently corrected.

45

MS McDONALD: I was linking that back to - all right. Okay.

MR NADAN: Yes.

MS McDONALD: There was a meeting in July?

MR NADAN: Correct. So these minutes were actually corrected in that meeting.

5 **MS McDONALD:** Have you seen the minutes for the July meeting yet?

MR NADAN: No, not yet.

MS McDONALD: Do you recall what day those July - the July meeting was held?

10 **MR NADAN:** Not from memory, sorry.

MS McDONALD: That's all right.

15 **COMMISSIONER:** Last week or the week before?

MR NADAN: Sorry?

COMMISSIONER: Was it last week or the week before?

20 **MR NADAN:** Not last - the week before, I think. Yes, week before. Not last week.

MS McDONALD: All right.

25 **MR NADAN:** Week before. Because there was a council meeting this week, so - yes.

MS McDONALD: Now, still dealing with the financial position of the council, the budget for 2025/2026 has been prepared?

30 **MR NADAN:** Yes.

MS McDONALD: And put before council at their June meeting?

35 **MR NADAN:** Correct.

MS McDONALD: And was accepted at their June meeting?

MR NADAN: Correct.

40 **MS McDONALD:** Excuse me.

COMMISSIONER: Are you moving away from this document?

45 **MS McDONALD:** Yes, I was.

COMMISSIONER: Just before you do, could we go back to page 0007, under the heading 7.2. And tell me if this is something that was corrected in the next meeting, but do you see in the first paragraph under the heading 7.2:

5 "Current forecast is a deficit of 6.4 million, which reflects a deviation."

Etcetera. Then do you see there in the last sentence:

10 "Despite this, the CFO confirmed that the council is managing to remain within budget parameters overall."

Do you see that? The last sentence of the first paragraph?

15 **MR NADAN:** Yes. I think I was making a reference to other remaining parameters.

COMMISSIONER: Like what?

20 **MR NADAN:** Like the - you know, the salary budget and other operating budget and stuff like that. We said we were tracking on those.

COMMISSIONER: I see. And the variance was down to the reversal of the decision to sell the 3 Hoxton Park Road property?

25 **MR NADAN:** Yes.

COMMISSIONER: But otherwise you were reporting to the meeting that the council was tracking -

30 **MR NADAN:** Yes. Yes.

COMMISSIONER: - along the budget as it was in April 2025.

MR NADAN: Correct.

35 **COMMISSIONER:** Which has been updated throughout the course of that year?

MR NADAN: Yes. We keep providing updates on where we're going to end up in June.

40 **COMMISSIONER:** Thank you.

MR NADAN: Yes.

45 **MS McDONALD:** Can you just excuse me for a minute. Would you bring up document INQ.016.001.0004. Yes. That's the title page, so it's the long-term financial plan for 2026 to 2035. Would you bring up page _0007. Now, this page has

the two corresponding graphs indicating the two main indicators of financial performance and sustainability.

MR NADAN: Yes.

5

MS McDONALD: You were taken to the previous budget with those. If we look at net operating results before grants and contributions, it has recorded for the 2024/'25 year it's in deficit - it's either minus five or minus six.

10 **MR NADAN:** Yes. Yes, close to 6 million, I guess.

MS McDONALD: Close to six.

MR NADAN: Yes.

15

MS McDONALD: But for '25/'26, there is a surplus of just over - sorry, 0.8 million.

MR NADAN: 800,000, yes.

20 **MS McDONALD:** 800,000. Looking at the projection of this particular financial indicator, after the 800,000-odd surplus, it then returns to deficit?

MR NADAN: Yes.

25 **MS McDONALD:** And it's projected that there will be a deficit for a number of years. And then in about 2030, 2031, 2032, it's projected that you will then - that the council will then move into a surplus.

MR NADAN: Correct.

30

MS McDONALD: Now, I didn't necessarily want to take you back to that chart on the previous occasion, but do you recall it had, like, a similar formation?

MR NADAN: Correct.

35

MS McDONALD: That there was going to be a surplus and - which didn't eventuate, and then you were going to move back into a deficit for a number of years.

40 **MR NADAN:** Correct.

MS McDONALD: Now, looking at this chart, with the '25/'26 surplus of 800,000, why is it anticipated that after that financial year the council will move back into deficit?

45

MR NADAN: I'll have to go with my memories, but I don't remember all the assumptions that sit behind that. I know that the wage bill going to go up by three per

cent - I think that's known already, but the rates is not known. So we have assumed maybe two and a half or three per cent increase on rates.

5 **MS McDONALD:** So you make - even though rates aren't confirmed yet, you make -

MR NADAN: Don't know the IPART one yet.

10 **MS McDONALD:** I'm sorry?

MR NADAN: We don't know what the IPART going to determine yet, so we just use a number based on previous years - that this is what the estimate is. And then also we estimate the number of lots - new lots that are going to be released, so that we have the number of ratepayers going to increase. So they are the two variables in
15 there. So IPART normally determines that, I think, in the beginning of the second half of the year, and we don't know yet. But we know what it is for '25/'26, but we don't what it is for '26/'27 onwards. So just an estimate that we have used.

20 **MS McDONALD:** But you wouldn't pluck a figure out of thin air. The assumption for rates in the future would be at least based on the current rates?

MR NADAN: No, it depends on what IPART want to determine, what factors they consider. So it's closely linked to CPI, plus a growth factor.

25 **MS McDONALD:** Yes.

MR NADAN: Those two things. So we have done just an estimate based on that.

30 **MS McDONALD:** Based on -

MR NADAN: Growth and - and then CPI's at three per cent, somewhere there. There could be other thing - I'm not sure what other assumptions are behind that, from memory, but there will be some assumptions that are actually driving this. To help the inquiry, in the back of this document there is a table which lists all the
35 assumptions, in the long-term financial plan.

MS McDONALD: All right.

40 **MR NADAN:** Yes. And if you - and also I think it's one of the appendices, if you look at the base case - there are three cases there. Sensitivity analysis is also required as part of the long-term financial plan.

MS MCDONALD: Sorry, I completely missed that. Could you repeat that?

45 **MR NADAN:** In the long-term financial plan -

MS MCDONALD: Yes.

5 **MR NADAN:** - the Office of Local Government requires us to put in three scenarios. One is the base case, which - that - we use as a budget, and then the other one is optimistic case, and then we have a pessimistic case. So if you look at the long-term financial plan at the back, the tables are there with the details, and that - and also that - there is a table in there which actually shows you or spells out the assumptions that have been used.

10 **MS McDONALD:** Would you - we now go to page _0024. Now, can you see there there's a heading Long-term Financial Plan Scenarios, and then:

"Major factors that might impact council's forward financial estimates include ..."

And you refer to the IPART.

15 **MR NADAN:** Correct.

MS McDONALD: The growth in the Local Government Area.

20 **MR NADAN:** Mm-hmm.

MS McDONALD: Wider economic conditions.

MR NADAN: Yes.

25 **MS McDONALD:** Ongoing waste remediation to EPA standards.

MR NADAN: Yes.

30 **MS McDONALD:** And costs to maintain infrastructure assets to a satisfactory standard.

MR NADAN: Correct.

35 **MS McDONALD:** And then, as you said:

"We follow on with the base case scenario."

MR NADAN: Yes.

40 **MS McDONALD:** And I think on 0028 we've got the pessimistic.

MR NADAN: Yes.

45 **MS McDONALD:** And then at 0029, the optimistic.

MR NADAN: Correct.

MS McDONALD: I'm jumping around a little bit. I apologise for this. But in the '24/'25 budget, it was anticipated that there would be a surplus?

MR NADAN: Correct.

5

MS McDONALD: And that surplus did not occur.

MR NADAN: No.

10 **MS McDONALD:** Was there any pressure, either on you or that you observed in any way, that the budget that should be presented to council in June 2024 should be in a surplus?

MR NADAN: '25.

15

MS McDONALD: Sorry?

MR NADAN: June 2024 for '24/'25 budget, yes. I might say we were chasing for a surplus budget.

20

MS McDONALD: You were chasing?

MR NADAN: A surplus budget. So we wanted to have a balanced budget. As realistic as possible, of course. But the first cut we started was about 24, 25 million
25 dollars in deficit, and we went through several iterations, discussing with the directors and looking - all the - the new in expenditure line items. I think we ended up with a - from memory, about \$6 million or \$4 million in red that was - that was the best we could do.

30 **MS McDONALD:** And, sorry, when you say "in the red", that's a deficit?

MR NADAN: Deficit. Correct. Yes. And then there was an email that I received from my boss. And if - that email started off - originated from the director city futures, and he talked about a sale of 3 Hoxton Park Road. He had a valuation
35 attached to it, and he said he had discussions with the CEO and that needs to be factored in the budget. And he did confirm in that email that it was possible to close that deal, meaning the sale deal, in '24/'25 financial year. Farooq then forwards that email to me, and I think all the executive team members were copied into that, and he says, "Vishwa, please factor this in the budget, based on this directive." So I
40 effected that. There was some - I think the - in that email they're referring to a gain on sale of 6 million or something like that, and the -

MS McDONALD: Sorry, a sale of -

45 **MR NADAN:** Sale of 3 Hoxton Park Road. They were looking at gain on sale of about 6.4 million.

MS McDONALD: Yes.

5 **MR NADAN:** In that email that came to me. So the gain on sale, the way it is calculated, we look at the book value of the piece of land and what the proceeds are going sale - from the sale would be, and then we determine what the gain on sale would be. Like, the profit. So there was some error in it, so I sent back an email to Farooq and all the executives that actually the book value of these two properties - or lots are this, which was - as part of the sale. And if I compare that with the proceeds, which was \$14 million that was given to me, the gain on sale actually is \$8.4 million - has been factored in the budget.

MS McDONALD: When you said the two lots, does that mean that's referring to 3 Hoxton Park Road?

15 **MR NADAN:** Yes. Yes. Hoxton Park Road.

MS McDONALD: So the email from the city futures director, was that Shayne Mallard at that point?

20 **MR NADAN:** Shayne Mallard, yes. Yes.

MS McDONALD: After receiving that, you received an email from Mr Portelli, directing you to include that into the budget?

25 **MR NADAN:** Correct.

MS McDONALD: Can you just excuse me for a minute. This might be pressing you, Mr Nadan. Do you remember roughly when that email was received? If you can't, don't worry.

30 **MR NADAN:** April. April, probably. Around April.

MS McDONALD: When I started asking you about pressure to achieve a balanced budget, you answered, "We were chasing a balanced budget."

35 **MR NADAN:** Correct.

MS McDONALD: When you say, "We were chasing a balanced budget," where does the decision to chase a balanced budget come from?

40 **MR NADAN:** I think that was the expectation of the mayor that we have a balanced budget, and then followed by the CEO. And I think that was the directive for the executives as well, "Come back with as much change as you can. Other savings (indistinct) savings, or opportunities to increase revenue."

45 **MS McDONALD:** When you said that it was your understanding it was the expectation of the mayor, what did you base that on?

MR NADAN: Look, I have casual conversations with the mayor as well, along the lines of, "Vishwa, where are we going with the budget? Would love to have a balanced budget." Yes.

5 **MS McDONALD:** And also in that answer you've said and followed by the CEO, who was the CEO at this point?

MR NADAN: Mr John Ajaka.

10 **MS McDONALD:** Again, were you receiving either discussions or - Mr Ajaka about chasing a balanced budget?

MR NADAN: Mr Ajaka preferred that he dealt with the executive members directly and not down the line. I understand he's he was having discussions with executives,
15 and I also recall having casual conversations with Farooq where - who's my boss - that - I know he's been pressured by the CEO to do some creative accounting.

MS McDONALD: We'll come back to that. Now, you didn't achieve the surplus in '24/'25, but taking - I'm just taking you to the budget '25/'26, and there - again, there
20 is a surplus predicted, though - or foreshadowed, though a relatively small surplus of just over \$800,000.

MR NADAN: Correct.

25 **MS McDONALD:** In the lead-up to - and that's seen at page 007. Yes. In the lead-up to the current budget, was there any pressure placed on you, either directly or indirectly, for a surplus to be achieved in that budget?

MR NADAN: So you're talking about '25/'26 now?
30

MS McDONALD: Yes, the one where it's 800,000.

MR NADAN: No. There was no pressure placed on me. But, again, as I've said, budget is based on assumptions.
35

MS McDONALD: I'm sorry?

MR NADAN: The budget is based on assumptions. Yes.

40 **MS McDONALD:** Yes.

MR NADAN: One of the key assumptions that has actually changed the '25/'26 into a surplus result is savings in salaries due to restructure. So I've got instructions from the current CEO to include that in the budget - salary savings of X amount. So he's
45 going through a restructure now and he reckons, in tranche 1 and tranche 2 he will be able to identify those savings for me.

MS McDONALD: Right.

MR NADAN: And that includes getting rid of two directors and two PAs.

5 **MS McDONALD:** I think executive assistants? So two directors and two executive assistants.

MR NADAN: Yes, yes. Yes, executive assistants. Yes.

10 **COMMISSIONER:** And those assumptions have been built into the budget that was approved?

MR NADAN: In '25/'26, yes.

15 **COMMISSIONER:** The one that was recently approved by the governing body?

MR NADAN: Yes.

20 **MS McDONALD:** Could you assist us, in this document, where do we find the figures relating to that assumption? So how much is -

MR NADAN: I don't know whether we've stated that very specifically in here, but if you look at the base case in the attachment to this report -

25 **COMMISSIONER:** We start at _0032.

MR NADAN: Yes, base case there.

30 **COMMISSIONER:** This is the detailed -

MR NADAN: Yes. And if you see - can I stop there, please. So it's the employee-related course there, that line item there. So '25/'26 is 108 million; that number includes savings over \$2 million.

35 **COMMISSIONER:** I'm terribly sorry, which particular line item? Under employee costs?

40 **MR NADAN:** Yes. So employee - so expenses from continuing operations. You see the subheading there?

MS McDONALD: Yes.

45 **MR NADAN:** Underneath there, something is called Employee Cost. That's the line I'm looking at. So the number of 108 million under '25/'26, that number includes the savings.

MS McDONALD: So in '24/'25 revised budget, it was just at over 102?

MR NADAN: Correct.

MS McDONALD: Now in the '25/'26, it's at 108.

5 **MR NADAN:** Yes.

MS McDONALD: But I take it that would incorporate CPI increases that -

10 **MR NADAN:** All increase, yes. All increases and everything.

MS McDONALD: The wage - the -

MR NADAN: Yes.

15 **MS McDONALD:** Sorry.

MR NADAN: Correct. Correct.

20 **MS McDONALD:** Employees are entitled to, particularly if they're covered by an award?

MR NADAN: Yes.

25 **MS McDONALD:** But you say it excludes two directors and two executive assistants?

MR NADAN: Correct.

30 **MS McDONALD:** The two executives and the two executive assistants, did they receive either redundancy pays or some kind of termination pay in addition to leave that they had already accrued?

MR NADAN: They would have.

35 **MS McDONALD:** All right. Is that factored into this?

40 **MR NADAN:** That's not factored in '25/'26 budget. We are planning to create a provision which we're allowed to under the accounting standards. We know - we know it's set and we're going to pay and we can measure it. We'll create a provision. So we will create a provision for termination payment in financial year '24/'25.

MS McDONALD: Right. So -

45 **MR NADAN:** So that forecast we were looking at, the \$6 million will now change.

MS McDONALD: It will become even worse.

MR NADAN: A bigger - a bigger deficit. Yes. Because we're going to create a provision.

5 **MS McDONALD:** And that's because you had to pay out the - I'm putting colloquially - the two directors and the two executive assistants.

MR NADAN: Correct. Plus others that may be paid.

10 **MS McDONALD:** And plus what?

MR NADAN: Other staff that may be impacted through tranche 2 of the restructure. And I think they're looking at some managers. So we have created a - or we made a general provision of \$2 million that we'll factor in '24/'25 financial year.

15 **MS McDONALD:** So you've made a provision in the '24/'25 financial statements - I'm not an accountant.

MR NADAN: Yes.

20 **MS McDONALD:** Does that then travel forward into the '25/'26 financial statements?

MR NADAN: Yes. So once you create a provision in '24/'25 financial year and the actual payment happens in '25/'26, that expenditure is charged against the provision.
25 So it doesn't have a budget impact in '25/'26.

MS McDONALD: Right. You spoke about - I'm sorry, I'll start again. So the savings that primarily come from this restructuring - tranche 1, is it?

30 **MR NADAN:** Yes.

MS McDONALD: Where two directors and at least two executive assistants -

MR NADAN: Correct.
35

MS McDONALD: - have - their employment's been terminated. You spoke about a tranche number 2.

MR NADAN: Correct.
40

MS McDONALD: Has that been formulated at all?

MR NADAN: I'm not sure about it, but this is what I'm hearing from the CEO - that he is doing it and he's looking at managers and others. Yes. So currently what he has done, he has removed two directors from the structure. He has moved these functions under existing four directors, and then he's looking at - now looking at - okay. If I
45 can talk about customer experience, for example, he's now then talking about moving

some functions within that customer experience - it sits with Tina Bono now - into Farooq's area. So there will be some movements. That may result in some more staff identified as surplus to requirement, but I'm not sure. That's with the boss.

5 **MS McDONALD:** That's above your pay grade. But what you're saying is that -

MR EMMETT: I'm sorry to rise to my feet, but can I ask first - can I ask that the feed be cut? I'm being instructed that this may not be in the public domain, the evidence currently being elicited. Would you pardon me for a moment?

10

COMMISSIONER: All right. We'll pause the feed.

MR EMMETT: The difficulty -

15 **COMMISSIONER:** It's all right. Do you want five minutes, Mr Emmett?

MR EMMETT: Yes. Could we have five minutes? I'm sorry.

COMMISSIONER: All right. We'll cut the feed and I'll adjourn for five minutes.

20

MR EMMETT: Thank you.

<THE HEARING ADJOURNED AT 3.11 PM

25 **<THE HEARING RESUMED AT 3.20 PM**

MS McDONALD: Commissioner, I understand Mr Emmett has an application.

30 **COMMISSIONER:** All right. Well, we'll do this, pursuant to section 12B, in private session. Is there any problem with anyone in the room?

MR EMMETT: I'm happy, just for the benefit of maximum - that - to say this much in - subject matter -

35 **COMMISSIONER:** Just -

MS McDONALD: (Indistinct).

40 **MR EMMETT:** That's right. Yes. I understand why, in the interests of a public inquiry -

COMMISSIONER: Hang on. Hang on. Hang on. Sorry, Mr Emmett, to cut you off. You want to do - you're happy to do this bit in public?

45 **MR EMMETT:** That's right.

COMMISSIONER: All right. Well, then, we will resume the live stream. I'm sorry. Okay. Yes, Mr Emmett.

5 **MR EMMETT:** Commissioner, I'm about to make an application that the evidence on the subject that - about which you were receiving evidence before the live stream was cut be received in private session. The reasons why - it's my application that I outline them in private, save to say this - it related to employment matters that are not in the public domain.

10 **COMMISSIONER:** All right. Yes.

MS McDONALD: It's opposed.

15 **COMMISSIONER:** To hear the application in private?

MS McDONALD: No, the - no, I'm sorry, I'm jumping the gun.

COMMISSIONER: Yes.

20 **MS McDONALD:** If my learned friend wishes to make the application in private, then we don't object to that.

25 **COMMISSIONER:** I think - yes. All right. Well, for the purposes of hearing the application, pursuant to section 12B of the Royal Commissions Act, I direct that the next passage of the hearing take place in private. I assume there's no problem with anybody who's in the room remaining, Mr Emmett?

MR EMMETT: No, Your Honour. No, Commissioner.

30 **COMMISSIONER:** All right. And for that purpose, the live stream will be paused again. Just for the benefit of those who may be watching, due to the nature of the delay, when things like this occur there will be a rather abrupt end to the live stream as you see it, but that is just the way the technology works. So we'll now pause the live stream again for the purpose of hearing Mr Emmett's application.
35

<THE HEARING MOVED TO PRIVATE SESSION AT 3.23 PM – ON 22 JULY 2025 THE COMMISSIONER VACATED ORDERS THAT THIS PORTION OF THE TRANSCRIPT IS SUBJECT TO 12B OF THE *ROYAL COMMISSIONS ACT 1923*.

5

COMMISSIONER: Yes, Mr Emmett.

MR EMMETT: May it please. Commissioner, as I say, this difficulty obviously, in part, arises because we have no advanced notice of the subject matter.

10

COMMISSIONER: Sure. There's no criticism.

MR EMMETT: No. The evidence you were receiving was evidence about - at a level of detail - that is, at a level of the kinds of staff that - in respect of which jobs may be brought to an end, my instructions are that is not in the public domain. So you have a situation where questions are being elicited - or evidence is being elicited about employment matters in relation to employees. Matters that are, it appears, still under consideration. As I say, on my instructions, matters that are not in the public domain, and matters which affect people's employment.

20

Now, in those circumstances - and can I say this as well - one of the other difficulties - I am getting instructions on the fly about this - I'm not able to tell the Commission precisely what the state of that consideration is. I don't have immediate access, for example, to the CEO, who may have that information, because he's not presently contactable. In those circumstances, the application is that you receive the evidence that apparently my learned friend wishes to elicit about the financial arrangements in respect of the proposed future abolition of jobs - of particular jobs. I think that was the -

25

30 **COMMISSIONER:** What's been described as "tranche 2"?

MR EMMETT: Yes, tranche 2. And I don't know when the live stream was cut, but you make a - if you accede to the application, would you make a non-publication order in relation to any evidence about tranche 2 that was otherwise public? That's the application.

35

COMMISSIONER: There's two limbs to it. Just so I understand, one is it's not in the public domain. Secondly, it deals with the employment of people.

40 **MR EMMETT:** Yes.

COMMISSIONER: The first, though - the fact that something is not in the public domain is not a matter that carries significant weight in -

45 **MR EMMETT:** No.

COMMISSIONER: - determining whether it should be done in private. That is the very point of an inquiry like this, is it not?

MR EMMETT: Undoubtedly. That's the necessary step, of course. If it were in the public domain, this would be then -

5

COMMISSIONER: Yes.

MR EMMETT: So that's a necessary step. It's never enough. It's that it is a sensitive matter relating to the future of people's employment.

10

COMMISSIONER: And is it the objection to hearing in public that there is a general consideration be given to more staffing matters, or is it that the evidence went to the detail of the particular positions?

15

MR EMMETT: Well, it's either particular positions or particular categories of position that are going to be - that are being considered for removal. As I say, in circumstances where I am - because I don't - haven't had notice of this, I'm not able to take full instructions about the extent of the sensitivity.

20

COMMISSIONER: I might not be being clear enough. Perhaps - if the question were put at - or if the evidence were elicited at a level of there is, you know, consideration being given to the structure of the organisation going forward, does that still give you cause for concern if it didn't go to - I think the witness referred to managers in particular, of which there would be an identifiable class perhaps, you would say. But if it were at that level of generality, would that still be a problem? You don't know?

25

MR EMMETT: This is the difficulty. The answer is, instinctively, probably not. But at present, beyond taking further instructions, what I'm presently able to say is probably not. The answer is I cannot confidently say that. That may well be fine. We can - could we have another five minutes to try to find out exactly -

30

COMMISSIONER: Yes. I'll just hear from Ms McDonald first, but the answer is yes.

35

MS McDONALD: The immediate matter that I was going to raise - I don't anticipate I will finish with Mr Nahan this afternoon.

COMMISSIONER: Yes.

40

MS McDONALD: There is another topic that I can move to.

COMMISSIONER: All right.

45

MS McDONALD: Which would allow my learned friend overnight, maybe, to get more fulsome instructions.

COMMISSIONER: Yes. All right. And in the interim, you wouldn't oppose me making a protective order to preserve Mr Emmett's position? Otherwise it would be futile to come back to it tomorrow, on one view.

5 **MS McDONALD:** No, I've got no difficulty in an interim protection.

COMMISSIONER: All right. And if that passage of - would you be seeking to explore with this witness the particular types of positions that are under consideration, as opposed to the topic of the structure of the organisation more
10 broadly?

MS McDONALD: I wasn't going to explore with him in any detail, for example, which managers or which employees or which area, but the difficulty that we face is that it's relevant to two of the terms of reference.
15

COMMISSIONER: Yes.

MS McDONALD: One being the financial viability of the council. In particular, where Mr Nadan has given evidence about the provision that's already been made in the current - sorry, not the current, the last financial year's accounts, and how that impacts into the next financial year.
20

COMMISSIONER: And there are references in those documents to wage pressures, if I can put it that way.
25

MR EMMETT: This is - I should just say I think my learned friend may have overlooked the terms of the terms of reference.

COMMISSIONER: Yes.

30 **MR EMMETT:** Financial sustainability is not itself something in the terms of reference. As you observed - now, this is not to say it's entirely relevant, I don't - but it's not something raised by the terms of reference. The terms of reference are referable to three paragraphs - as you identified in opening, Commissioner, relate to the governing body. The term of reference that is not specifically referable to the
35 governing body's understanding or conduct is the - relates to the appointment and termination of staff. That's not the basis on which this is said to be relevant.

And, of course, term of reference 5, as you said, is relevant to the extent that it follows. Now, that's not to say this is not relevant. But to say it's relevant because
40 the - because it's financial sustainability and financial sustainability is the - is in the terms of reference, with the greatest respect, that ignores the terms of the terms of reference and your indication of how they need to be understood. And I do need to -

COMMISSIONER: I'm not sure I said too much about how they're to be understood, beyond identifying in a general sense that three of them direct particular
45 attention to the governing body. One to the governing body in the case of the general

manager, and the other. But in any event, perhaps we don't have to have this debate this afternoon. You can get some instructions about the level -

MR EMMETT: I will.

5

COMMISSIONER: - of the generality of the evidence. Let's get - I mean, I have - and have been fairly accommodating to applications concerning commercial sensitivities and personal information and the like, but there does become a limit.

10 **MR EMMETT:** There does.

COMMISSIONER: Now, as to - and as I've - as we've discussed, the fact that it's not in the public domain is perhaps the more minor of the matter - matters, as you accepted. But what form of order do you want me to make to protect your position
15 overnight, given that, as I understand it, the passage of evidence that caused you concern has not been streamed because of the delay? That's right, isn't it, Mr Operator? The passage of evidence was caught by the delay, so that has not been live-streamed; correct? We cut it off before that went out to the - the delay is about five minutes? Yes. Okay.

20

MR EMMETT: So that may well capture everything.

COMMISSIONER: Yes.

25 **MR EMMETT:** Can I ask - may I request this. That you make an order - to the extent that any evidence about what Mr Nadan described as the tranche 2 provision - the provision in respect of tranche 2, that that not be further published? I'm trying to identify something that is -

30 **COMMISSIONER:** So I am. I'm just thinking about what was said, to see if we can be a bit more particular.

MR EMMETT: So there was a question about savings from the restructure from tranche 1. Of course, that's existing, so that's - and then after that, there was - well,
35 questions started about the formulation of tranche 2. Now, I don't know whether that was before or after the five minutes. It may well have been after - within the five minutes.

COMMISSIONER: I think the feed was cut as soon as you leapt to your feet, which - I didn't - none of us had a stopwatch, but what about this? Pursuant to
40 section 12B, subparagraph (1) of the Royal Commissions Act, I direct that any evidence given by Mr Nadan concerning what he described as tranche 2 considerations concerning the organisational structure at the council not be published beyond the legal representatives of the council, which include the general counsel
45 and deputy general counsel, or anybody acting from time to time in those positions of the council, until further order.

MR EMMETT: May it please. I wouldn't seek to be heard against that, Commissioner.

COMMISSIONER: All right.

5

MR EMMETT: I'm grateful to the Commissioner for that -

COMMISSIONER: All right. Is that clear enough?

10

MS McDONALD: I won't speak against it, as it's an interim measure.

COMMISSIONER: Yes. All right. And now we can resume in public session?

MS McDONALD: Yes.

15

COMMISSIONER: All right. We'll return to public session.

MS McDONALD: Commissioner, could you just excuse me?

20

COMMISSIONER: Of course.

<THE PRIVATE HEARING CONCLUDED AT 3.35 PM

<THE HEARING RESUMED AT 3.35 PM

5 **MS McDONALD:** Mr Nadan, I want to take you back to the 2024 budget, which was debated at a council meeting dated 26 June 2024. Now, the council meetings, do you regularly attend?

MR NADAN: Yes, I do.

10 **MS McDONALD:** And you were in attendance at the meeting on 26 June 2024?

MR NADAN: That's correct.

MS McDONALD: Now, the - why do you attend the meetings?

15 **MR NADAN:** I guess if there is any questions from any members of the governing body on the papers that I present, I'm there to answer questions.

MS McDONALD: Do you have to attend or do you volunteer to attend?

20 **MR NADAN:** I guess it's my boss's call. He wants me to be there -

MS McDONALD: You're there.

MR NADAN: - I'm there.

25 **MS McDONALD:** Now, at the 26 June meeting, the budget was presented, and the budget reflected input from the councillors during the period of consultation with the councillors?

MR NADAN: Correct.

30 **MS McDONALD:** The budget was publicly exhibited?

MR NADAN: That's right.

35 **MS McDONALD:** On occasions, constituents will make submission or raise matters about the budget on public exhibition?

MR NADAN: Correct.

40 **MS McDONALD:** If a constituent does that, are they usually - are they considered by you or by the councillors or a combination?

45 **MR NADAN:** The submissions are actually collated by the corporate performance and strategy - or strategy performance area, which sits - currently sits - or was sitting under city futures. They collate all of it and they provide a summary which is included in the council paper that goes with the - with the draft at this stage. The long-term financial plan, the DP and OP and everything.

MS McDONALD: And, sorry, what was your last comment?

MR NADAN: The summary of submissions received is actually included in the business paper.

5

MS McDONALD: Yes.

MR NADAN: Accompanying the DP, the OP, the budget, the long-term financial plan.

10

MS McDONALD: All right. Now, at the time the budget is actually, in a sense - I say presented to the council, but it's a particular item number that comes up at - during the council meeting and there can be debate and discussion about it.

15

MR NADAN: Correct.

MS McDONALD: And at that point, the budget reflects the - putting it very broadly, the anticipated revenue, the anticipated costs and what - whether it will be ultimately in the red or in the black?

20

MR NADAN: That's right.

MS McDONALD: At the actual council meeting, is there - and I'm putting at a high level at the moment - a potential for councillors to raise changes to the budget?

25

MR NADAN: There is a potential, but it is not best practice.

MS McDONALD: Why isn't it best practice?

30

MR NADAN: Because I guess the staff are not aware of it. Whether they are - I guess there are issues about delivery, whether they can be delivered or not, they can be - is it in the priority - priority list or not.

MS McDONALD: Is it what, sorry?

35

MR NADAN: A priority thing to do. So, you know, if you look - if you talk about road renewals, for example, there is - you know, they use the asset management system to identify, you know, which roads needs to be renewed, so there is a priority list there, and then that's include in the budget. So I guess that kind of checks and balances - that's why I'm saying it's not best practice to drop it at that time. But if it goes to the conservation process, obviously all the councillors know about it, the staff know about it and also the public knows about it. I'm referring to you - the 26th of council meeting, is it?

40

45

MS McDONALD: I'm about to ask you some questions about 26 June -

MR NADAN: Yes, but you just -

MS McDONALD: - but I'm just talking at the moment at a kind of high general level.

MR NADAN: Okay.

5

MS McDONALD: You just spoke about amendments but where the councillors know about it, the staff know about it and, indeed, members of the public would know about it.

10 **MR NADAN:** Correct.

MS McDONALD: And that allows all relevant people interested in the budget - so the councillors, council staff that have to work under the budget and implement it, plus ratepayers - to have some input.

15

MR NADAN: That's right.

MS McDONALD: Now, I want to take you to 26 June. Now, I understand that before giving evidence today you've had an opportunity to watch the video of that meeting dealing with - it was item CFD02, which was dealing with the budget.

20

MR NADAN: Correct.

MS McDONALD: And it goes for a length of time, culminating, according to our chronology, after about an hour and a half - the motion is put to the mayor and the budget was carried. Six councillors for, three against.

25

MR NADAN: Yes.

MS McDONALD: Now, because we've watched it before, I'm not going to play all of it, but I just wanted to just play some particular highlights. This is - the video is INQ.011.001.0007. Yes, please.

30

(Video played)

35

MS McDONALD: Maybe just start from the beginning, and then I'm going to ask you - that's fine.

(Video played)

40

MS McDONALD: Sorry, pause. Would you move through to about 32 minutes.

(Video played)

MS McDONALD: Now, pause. Pause. Pause. Sorry. Now, Mr Nadan, it's a little bit difficult to see because you've got a councillor who's live-streaming, attending via AVL.

45

MR NADAN: You can see me there, but -

MS McDONALD: Sorry?

5 **MR NADAN:** You can see me halfway, maybe.

MS McDONALD: We can see you there, can we?

10 **MR NADAN:** Yes. Yes.

MS McDONALD: Where are you?

MR NADAN: Top left corner.

15 **MS McDONALD:** Goodness.

COMMISSIONER: You're half cut off.

20 **MS McDONALD:** Let me just have another look.

MR NADAN: We can half - there you go.

COMMISSIONER: We can see half of you.

25 **MS McDONALD:** Ms Associate's moved the cursor. Could you do that again?
Right. That's you?

MR NADAN: That's me.

30 **MS McDONALD:** And again - yes. Sorry, I can. It's not the best, but
anyway - we've heard some evidence about this. You've got two long tables, with the
councillors facing each other.

35 **MR NADAN:** Yes, in the middle. Yes.

MS McDONALD: Yes. And then behind those rows of councillors are other tables,
where members of staff are.

40 **MR NADAN:** Okay. On the other side, towards the CEO, on the left is the directors.

MS McDONALD: Yes.

45 **MR NADAN:** And on the right, where you can see me, is the general counsel on my
right. I'm there as a CFO, and then we have the councillor support staff taking
minutes after that, and then the media people on the other side.

MS McDONALD: All right. That's great. We've identified where you are. Ms Associate, please resume.

(Video played)

5

MS McDONALD: Could we just pause. The woman with the blonde ponytail who was just on the screen, I'm just wondering if you could identify her?

10 **MR NADAN:** I think it was the - I think she was the manager executive support. I can't recall her name.

MS McDONALD: All right. Sorry, resume.

(Video played)

15

MS McDONALD: Now, can we pause. You'll see the mayor appears to have picked up a piece of paper. And then can you continue.

(Video played)

20

MS McDONALD: Now, can I pause. I can play it, Mr Nadan, but if you've watched it recently you'll recall now that the mayor, from that piece of paper, reads out a number of additional items. He's just commenced with \$620,000 for the suburb of Austral and he's about to nominate a number of temporary roundabouts.

25

MR NADAN: Correct.

30 **MS McDONALD:** And there are a number of other items. Now, again, we can play it if you need to hear it, but my rough maths - right towards the end there was a million dollars for women's change rooms.

MR NADAN: Yes.

35 **MS McDONALD:** And improvements to our sporting facilities to be divided over 20 different facilities. The was about 250,000 for a pump track at a particular reserve. My rough addition was it amounted to over 2.2 - nearly 2.4 million.

MR NADAN: Yes. About 2.4, I think.

40 **MS McDONALD:** Right.

MR NADAN: On the capital expenditure side, I believe.

45 **MS McDONALD:** And that's being added to - as you said, to the expenditure side?

MR NADAN: Yes. So when Mr Mayor was reading that, we were trying to identify which budget it actually impacts, operating budget or capital budget. And

obviously - probably would have seen we were scrambling with our numbers. And I think it was \$2.4 million that was added to the capital works program, and I think we also had to adjust the deficit, if you like, on the operating budget by a small amount.

5 **MS McDONALD:** All right. Now, I pointed out to you that it appears from the video that the mayor picks up a piece of paper that was in the pile of documents in front of him. Before he did that, had you been given any forewarning that this was going to occur?

10 **MR NADAN:** No.

MS McDONALD: You never saw this piece of paper?

15 **MR NADAN:** No.

MS McDONALD: And there's - could you just excuse me for a moment. I'm not going to play the mayor setting out all the additional expenses. Could we move to about point 57.52.

20 **(Video played)**

MS McDONALD: If we just pause. Do you recall Mr Portelli leaving his directorship table and approaching you? Maybe if we just keep on playing.

25 **(Video played)**

MS McDONALD: Can we pause there, please. You can see Mr Portelli wasn't sitting in his seat. Comes back and does seem to have a piece of paper where there's been some rough calculations about the effect on the budget that was contained in the papers. Did he approach you for a very quick, "What's the effect on this?"

30 **MR NADAN:** By the looks of it, no, because you can see the last statement he's making - he's going to confirm with the CFO.

35 **MS McDONALD:** I'm sorry?

MR NADAN: If you can - if you hear what he's saying, the last statement he says, "I'll confirm with the CFO." So that means he hasn't consulted me at that point in time.

40 **MS McDONALD:** All right.

MR NADAN: Yes.

45 **MS McDONALD:** Do you recall - maybe if we just keep on playing for a little bit.

(Video played)

MS McDONALD: If we can stop there. That additional answer by Mr Portelli, where he suggests that, "We were to go into the black in '29/'30 and it may not be till '30/'31," were you asked about that at the meeting?

5 **MR NADAN:** No.

MS McDONALD: Do you know where Mr Portelli was getting these answers from?

10 **MR NADAN:** I think he was just working at the back of the envelope at that point in time.

MS McDONALD: So he was doing the maths on the back of an envelope?

15 **MR NADAN:** Yes.

MS McDONALD: To do the maths properly and really see the effect that it has on the budget, I take it from your description it's something that should not be done on the back of an envelope?

20 **MR NADAN:** Correct.

MS McDONALD: Something that the councillors, staff, including yourself, and ratepayers should have been notified about?

25 **MR NADAN:** That's right.

MS McDONALD: And as you described, what we've just witnessed at that council meeting isn't best practice?

30 **MR NADAN:** Agreed.

MS McDONALD: Is that an appropriate -

35 **COMMISSIONER:** Yes. Mr Nadan, we're going to adjourn for the day. We'll resume your evidence tomorrow morning. If you wouldn't mind being back here just before 10 am, ready to go again, I would be most grateful.

MR NADAN: Thank you.

40 **COMMISSIONER:** But you're excused for the afternoon.

MR NADAN: I shall.

45 **COMMISSIONER:** Thank you. Anything else I need to do this afternoon?

MS McDONALD: No. Thank you.

5 **COMMISSIONER:** Mr Emmett, I don't - I'm not sure whether I did, but if I didn't I should make a non-publication order over the transcript of the private session. I can't remember if I did, but in the case - if I didn't, I now make a direction, pursuant to section 12B of the Royal Commissions Act, that the transcript of the private session not be published otherwise than to the legal representatives and authorised parties, which include the general counsel and the deputy general counsel, whoever may be in that position from time to time.

10 **MR EMMETT:** May it please. Thank you, Commissioner.

COMMISSIONER: And do you need Mr Breton to see the material to get instructions? I don't think I carved him out, now that I'm thinking about it, on the run.

15 **MR EMMETT:** Well, he's the CEO, so you have included him in the past. I've forgotten if -

COMMISSIONER: I have.

20 **MR EMMETT:** Yes.

COMMISSIONER: So to the extent that I overlooked doing so in the two orders I've made today, that does not prevent you, Mr Emmett, or those assisting you from showing those transcripts to Mr Breton for the purpose of getting instructions.

25 **MR EMMETT:** Thank you, Commissioner.

COMMISSIONER: Adjourned till 10 am tomorrow. Thank you.

<THE HEARING ADJOURNED AT 3.59 PM