



PUBLIC INQUIRY INTO LIVERPOOL CITY COUNCIL

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

**PUBLIC HEARING
SYDNEY**

**TUESDAY, 22 JULY 2025
AT 10.00 AM**

DAY 6

APPEARANCES

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

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<THE HEARING RESUMED AT 10.06 am.

COMMISSIONER: Yes, Mr Emmett.

5 **MR EMMETT:** The section 12B orders you made yesterday afternoon, I have now had a proper opportunity to take instructions on that. We don't press those orders further, so we ask that the transcript of the closed session yesterday afternoon and orders in relation to the subject matter of both of those should be vacated or revoked or whichever verb suits.

10 **COMMISSIONER:** Whichever we choose.

MR EMMETT: Most convenient to you, Commissioner. They should come to an end one way or another because we - that evidence, I've now had instructions we
15 don't press a 12B order in relation to.

COMMISSIONER: Thank you, Mr Emmett. I'm grateful. I might just do that formerly after morning tea and pull up the relevant transcript of the passage where I did whatever I did at various points. But thank you. I am grateful for that indication.
20 Mr Nadan, you are still on your oath from yesterday. Yes, Ms McDonald.

<VISHWA NADAN, ON FORMER OATH

MS McDONALD: Mr Nadan, can I return to the financial position of the Council in
25 the budget. Excuse me. Would you please bring up document INQ.016.001.0004. If we go to the first page, I took you to this document yesterday, Mr Nadan. It is the long-term financial plan for '26-'35?

MR NADAN: Yes.
30

MS McDONALD: I took you to page _0007, and I had taken you to the net operating results, which have a deficit of about - sorry, this can be live streamed.

COMMISSIONER: Can we just zoom in a little bit more, operator?
35

MS McDONALD: You've got the deficit of the financial year '24/'25, and can you remind me, is it - what figure is it?

MR NADAN: For '24/'25? It was 5.9 from memory, if I can read it properly. 5.9.
40

MS McDONALD: Right. It's hard to read, isn't it?

MR NADAN: Yes.

45 **MS McDONALD:** And then it foreshadows for this financial year the 800,000 surplus?

MR NADAN: That's correct.

5 **MS McDONALD:** And the achieving of a surplus from the previous year's deficit, that was going to be achieved by - you referred to yesterday a second tranche of redundancies through the staff of the Council?

10 **MR NADAN:** Yes, I did. I had to refresh my memory a little bit. I looked at the long-term financial plan last night. There is another item in there that is actually termed as giving us a positive result.

MS McDONALD: All right. I'm just taking you through each item. Yesterday you identified further redundancies through tranche 2; that's correct?

15 **MR NADAN:** Correct.

MS McDONALD: And what other items had you -

MR NADAN: Okay I spoke about the Canterbury-Bankstown case.

20 **MS McDONALD:** With the bridge - the arbitration on the bridge?

MR NADAN: Yes, the bridge. So I talked about two parts of it. The first one was the initial repairs, and the other part was the ongoing repairs. It may be commercially sensitive, so I don't know whether I can quote a figure, but -

25 **MS McDONALD:** Can I just pause and ask you this: You gave evidence yesterday of an amount already paid to the Council under that item?

30 **MR NADAN:** Correct.

MS McDONALD: Are you now foreshadowing other funds expected under that item?

35 **MR NADAN:** Correct.

MS McDONALD: And those funds are expected in this financial year?

MR NADAN: In '25/'26, yes.

40 **MS McDONALD:** All right. When you say expected, are they definitely going to be paid or is this still subject to either court cases or arbitration?

MR NADAN: I believe there is a deed of agreement signed, and they need to come to a conclusion or come to a resolution within six months of the date of the deed.

45 **MS McDONALD:** All right.

MR NADAN: So it is confirmed that we're going to get it.

MS McDONALD: You're going to get something. Is it confirmed how much?

5 **MR EMMETT:** Can I rise to my feet because I don't know - I need to take instructions on the scope of any confidentiality arrangements that may apply.

COMMISSIONER: Yes, I understand.

10 **MR EMMETT:** None of this may be necessary.

COMMISSIONER: Yes, I understand. Perhaps - I mean, there's been a provision made in the '25/'26 year for whatever this is. Perhaps we can come back to the detail of it, if necessary, after morning tea, and then Mr Emmett can work out what it is that
15 he needs to work out.

MR EMMETT: May it please.

MS McDONALD: That expected amount, it's been included in the revenue
20 contained in this document?

MR NADAN: Yes. In '25/'26.

MS McDONALD: And which line item is it - is that?
25

COMMISSIONER: Let's go to the detail because I'm not sure the detail will give too much, but if it does you let me know. But if we go to the detail at about page 32, I think, thereabouts.

30 **MS McDONALD:** This is the base case that we were looking at yesterday?

MR NADAN: Yes.

MS McDONALD: And you can see revenue there. There are a number of line items
35 which are rather broadly described. Can you identify which line item -

MR EMMETT: The answer is I just don't know. I may know after the morning tea adjournment. I may have no problem with that. The fact is, I don't know as I stand
40 here now.

COMMISSIONER: All right. Well, unless it was a sole line item, it wouldn't give away the secret. Perhaps if we can come back to it.

MS McDONALD: I will come back after morning tea.
45

COMMISSIONER: Thank you.

5 **MS McDONALD:** And, Mr Nadan, so you've identified that amount dealing with the bridge, which you say is contained in some kind of deed of agreement. You identified yesterday the further redundancies from tranche number 2. Were there any other items that were - or matters that were relied upon to allow the forecast of a surplus of about \$800,000?

MR NADAN: No. I don't recall any extraordinary items in there. They're all normal business - ordinary business matters.

10 **MS McDONALD:** And the previous reliance on sale of property - for example, 3 Hoxton Park Road - has that been abandoned in determining the budget for this financial year?

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

MS McDONALD: And can I just confirm my understanding of your evidence yesterday. The first tranche of redundancies, which, to your knowledge, were two directors and two executive assistants?

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

MS McDONALD: Were there any other positions at that point in tranche number 1 to your knowledge?

25 **MR NADAN:** No.

MS McDONALD: And, again, your understanding is that whatever redundancy or termination under a - from terminating a contract, those funds have already been paid in the last financial year?

30 **MR NADAN:** I'm not sure whether they've been paid before 30 June, but I can confirm that I have created a provision to pay for that. So, basically, we'll be - well, Council will be booking that redundancy expenditure in '24/'25 through a provision.

35 **MS McDONALD:** You referred to the provision yesterday. I was unsure what the provision covered. So your evidence is that provision - and you said it was about \$2 million?

40 **MR NADAN:** 2 million for redundancy termination payments, yes.

MS McDONALD: Your evidence is it covers those redundancies or terminations of the two directors and executive assistants from last year?

45 **MR NADAN:** Yes.

MS McDONALD: And also is a provision that if the tranche 2 redundancies terminations are pursued, any payments there are already booked against that provision of \$2 million?

5 **MR NADAN:** As far as we are aware- that's within 2 million. If it is more than 2 million, that will be a charge against '25/'26 financial year.

MS McDONALD: And when you say a charge for the '25/'26 financial year, that means it will come out of your revenue?

10

MR NADAN: It will come out from the bank, and it will be recorded as an expenditure.

15 **MS McDONALD:** Yes, sorry. When I say "come out of your revenue", I'm talking about revenue as in your cash in the bank.

MR NADAN: Correct. Correct.

20 **MS McDONALD:** Now, excuse me for a minute. I'll take you back to document LCC.014.002.1411. It is the Audit, Risk and Improvement Committee Minutes for 26 February. Mr Nadan, I took you this to document yesterday. You can see it's the minutes from the Audit, Risk and Improvement Committee meeting of 26 February?

25 **MR NADAN:** Correct.

MS McDONALD: When we go through to - excuse me. Yes. Page _0006. This was part of your report?

30 **MR NADAN:** Yes.

MS McDONALD: I took you to the second paragraph yesterday where you reported finding the \$5 million in savings through a line-by-line budget assessment for the '25/'26 financial year. Is that referring to the savings that you've identified through the further money from the bridge and also the tranche 2 redundancies?

35

MR NADAN: Not - not really. That's - those are separate adjustments. This \$5 million is looking at the operating budget and saying, "Okay. This is how you've been spending for the last three years", and, you know, the budget in the first cut that's in there for that line item, is pretty high. So we reduce that. So going through line by line, that's what I did.

40

MS McDONALD: All right.

MR NADAN: Yes.

45

MS McDONALD: And that line-by-line exercise that you undertook, at least at this point in February, was that ultimately reflected in the budget for '25/'26?

MR NADAN: That's right.

5 **MS McDONALD:** Right. But from your evidence, those line-by-line items you wouldn't classify as a big-ticket item?

MR NADAN: Correct.

10 **MS McDONALD:** The big-ticket items were the bridge and the tranche 2 redundancies?

15 **MR NADAN:** They are big-ticket items, but this \$5 million that I'm - that this report is referring to, is to other operating expenses. Things like, you know, (indistinct) contractors. These are the other operating expenses, so there are many lines. Security contractors, cleaning contractors, things like that. So those are - when I looked at the trend coming in for the past three years, and the budget provision that was there for '25/'26 was pretty high, so I had to reduce that. So going through that exercise, I found \$5 million on top of the big-ticket items you're talking about.

20 **MS McDONALD:** Well, with those items, on what basis did you reduce them? If they were X for the previous financial figure, and you were looking at trends for the figure -

25 **MR NADAN:** Correct.

MS McDONALD: - what was the basis you would reduce it to be included in the '25/'26?

30 **MR NADAN:** So generally, when we do the budget, we look at last three years of trend and say, "Okay. You have been spending X amount this year, this year. This is it, and why are you asking for a higher amount in '25/'26?" So, questioning that and agreeing with the directors, okay, what is the realistic amount, and then we are putting the realistic amount based on the average trend that we had for the previous years, and that's how I made a savings of \$5 million.

35 **MS McDONALD:** All right. So it's actually not a cut. It's rather -

MR NADAN: Realistic.

40 **MS McDONALD:** - speaking to your directors and saying, "Realistically for security at this venue, what will be spent next year?"

MR NADAN: Correct.

45 **COMMISSIONER:** Does that take into account that there might have been an under spend on a budgeted item in the previous year? So it doesn't matter what time of contract it is, but in the previous year, let's say, to use round numbers because they're

easy for me, 100,000 was budgeted, 75 was spent. The next year comes around. They ask for another hundred. You say, "Hang on. You spent 75 each year. Should it realistically be 75?"

5 **MR NADAN:** Correct.

COMMISSIONER: That is bare basics, I know, but is that the sort of exercise ?

10 **MR NADAN:** Yes. You also look at the revenue at the same time, and I guess there are some revenues, especially the user charges, they are market driven like DA fee, for example. So we will say, well, the director would say, look, we are getting less DAs, but from accounting point of view, there is another consideration. Those DAs needs to be determined before it actually recognises revenue. If it's not determined, yes, we've got the money in, but you can't recognise it as a revenue.

15 **COMMISSIONER:** I see.

MR NADAN: So those factors are considered to determine what is a realistic number.

20 **COMMISSIONER:** Thank you.

MS McDONALD: Now, at the end of that paragraph, there was a reference to the Committee:

25 "Communicated that management need to put measures in place to ensure these savings are realised."

30 **MR NADAN:** Yes.

MS McDONALD: Now, these are the savings that you've just described to the Commissioner, the line-by-line budget assessment. What measures have been put in place to ensure that the savings are realised?

35 **MR NADAN:** Okay. So normally, when the financial year starts, I provide a list of big-ticket items, and it gets reported to the executive so that we are actually keeping an eye on this over the year, whether we are going to achieve that or not. Now, for the first time in '25/'26, the CEO has asked all the directors to sign on a piece of paper showing that, "Yes, I'm agreeing. I have looked at my budget, and I'm
40 accountable to deliver this." But this is the first time that has been implemented, so all the directors are actually signing on their budget.

MS McDONALD: All right. And their budgets will include the particular line items where you have found savings from -

45 **MR NADAN:** Correct.

MS McDONALD: - the previous year.

5 **MR NADAN:** The adjustments were done in consultation with the directors, and the directors are comfortable with those budgets, depending on which director it relates to, and they are signing on that, that this is - we are happy with the budget, and we will be delivering this.

MS McDONALD: Okay.

10 **MR NADAN:** And achieving those assumptions.

MS McDONALD: All right. You've got that signed undertaking by the directors, but are you putting in any additional controls in that you monitor expenses?

15 **MR NADAN:** Correct. So that's the - the directors have signed on that, so what we do as finance, we provide regular reports to the executives. We provide monthly updates to the governance committee, which includes the governing body. We provide budget review reports every quarter. That's a public document. How we are performing against what we said we're going to deliver.

20 **MS McDONALD:** But those reports, they've been in place in the past?

MR NADAN: Correct.

25 **MS McDONALD:** Right. And those reports in the past have not prevented the Council moving from a foreshadowed surplus to a deficit. Is that the case?

30 **MR NADAN:** Correct. But there are - as I've said, there could be some issues that's outside the control of the Council and that can't be achieved. So, these big-ticket items, for example. Look at Bankstown, for example. We were - if in a situation we were unable to negotiate or come to an agreement with them, then obviously that amount is not delivered by 30 June, and there will be a budget adjustment. And the other one is, for example, financial assistance. In the budget for '25/'26, we have assumed that we're going to get 85 per cent in advance. That's what we have
35 assumed. Reflecting back to what happened in '24/'25, they gave us 50 per cent, and that create a hole of \$3.7 million in the budget. So come June next year, we will have to see what the Federal Government does. If they don't give us 85 per cent, if they, say, give us again 50 per cent, then there is another hole in the budget. Those are the timing variances we need to take into account.

40 **MS McDONALD:** I can understand those, but this relates to those - my understanding of the line-by-line budget assessment didn't include the big-ticket items?

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

MS McDONALD: But it's looking at a particular director and saying, "Last year, you spent 4 million on security. Can you keep that down to either 4 million or three and a half?" And are you monitoring those line by line, and you're saying that you report that through the usual reporting mechanism that you've had in place for years?

5

MR NADAN: Apart from that, we have finance business partners. They actually engage with the directors regularly after month end, and we basically monitor if there are any issues or if there are any variances, and that gets reported to the executives. And I guess if we have a situation where - if we find something that's not - there are issues about achieving that budget, then obviously, as a team, we look at other areas where we can actually find these savings to fill that gap. That's what we are doing.

10

MS McDONALD: Now - excuse me for a minute. Could we return to INQ.016.001.0004, page _0007. With the net operating - and this can be live streamed - the net operating results graph, after the small surplus foreshadowed for this financial year, that ratio returns to a deficit for a number of years?

15

MR NADAN: Yes.

20 **MS McDONALD:** Why does it return to a deficit?

MR NADAN: Okay. So '25/'26 financial year, referring back to the Bankstown matter.

25 **MS McDONALD:** You've got the bridge money?

MR NADAN: Yes, so that's a one-off.

MS McDONALD: And you've got tranche 2 redundancies?

30

MR NADAN: Correct. So tranche 1 and tranche 2 redundancies actually improve the deficit for the four years, but the Bankstown matter is a one-off that doesn't get repeated. So that's why you see the surplus up there. But in the four years, that's not repeated, but we are trying to manage the trajectory, and '27/'28 year, you see another dip that is getting worse. That assumes that we will stop getting rental from one of our major properties that's been earmarked for sale currently. That's why it is that way.

35

MS McDONALD: Sorry. You assumed you would stop getting income from -

40

MR NADAN: Income from a major property.

MS McDONALD: Which has been earmarked for sale?

45 **MR NADAN:** Well, it is an assumption for now. Yes.

MS McDONALD: Okay. Such an assumption, is that based on - what do you base it on?

5 **MR NADAN:** That was a Council resolution that identified that property, earmarked, and we offered that to TCorp as a financial covenant, that we will actually sell that property and repay \$23 million loan that we got for the Civic Place as a last tranche. So there is a Council resolution to support that.

10 **MS McDONALD:** Do you remember when that was roughly?

MR NADAN: 2023 would think. 23, yes.

COMMISSIONER: Mr Emmett, is there any difficulty if I ask what the property is?

15 **MR EMMETT:** I was about to say the answer is I don't know. There may not be. I will take instructions over the break.

COMMISSIONER: I'll hold fire.

20 **MR EMMETT:** Thank you, Commissioner.

COMMISSIONER: I'll pause my curiosity until after morning tea.

25 **MS McDONALD:** So, they're some of the explanations why the forecast is that the Council remains in deficit, and, indeed, there's a further - excuse me - increase in the deficit?

30 **MR NADAN:** Yes. Now, can I just add that there are a few other initiatives which I can't talk about here publicly because there is - it's been in place, we are working towards it, but we don't know what the outcome would be, and that's the reason it is not included in the long-term financial plan. As we know, the Western Sydney Airport becomes operational in '25/'26.

35 **MS McDONALD:** Yes.

40 **MR NADAN:** We have actually included a notional amount in 26/27 as ex-gratia we will get. What that amount is, we don't know. It could be higher or lower. But I guess we just factor in an amount in there, just a very rough estimate in the minute, and that that amount will differ subject to negotiations in agreement with the Western Sydney Airport.

MS McDONALD: Right. Can I just pause there. With the new airport commencing -

45 **MR NADAN:** Correct.

MS McDONALD: - the Council anticipates it's going to get some ex-gratia payment?

MR NADAN: Correct.

5

MS McDONALD: And that amount, though it hasn't been determined yet -

MR NADAN: Correct.

10 **MS McDONALD:** - an assumption of the amount has been included?

MR NADAN: Yes. Has been included with a corresponding expenditure. So it doesn't actually impact on the operating - net operating result. We have included a notional expenditure for the same amount.

15

MS McDONALD: Right.

COMMISSIONER: It nets off?

20 **MR NADAN:** Sorry?

COMMISSIONER: It nets off.

25 **MR NADAN:** It nets off, yes. We don't know what the impact will be when the airport comes in, which areas will be allocated to us, all the grass cutting and the maintenance and everything, we don't know, and in terms of negotiating with the Western Sydney Airport in terms of how much they need to pay, we need to, I guess, provide evidence, fee for service kind of evidence.

30 **COMMISSIONER:** That provision in '26/'27, then, isn't actually affecting the ultimate result because it's been netted off?

35 **MR NADAN:** Correct. It doesn't impact on that. But there are other projects. I think we referred to project number 26, we - I guess I can say that we have called for expression of interest to develop car parks - two of our car parks in the CBD that will inject a lot of cash, and that might generate some revenue too, but we don't know yet what the outcome will be, but we have an expression of interest already in place.

40 **MS McDONALD:** In respect of two car parks in the city.

MR NADAN: Correct.

MS McDONALD: And you referred to Project 26, which I was going to ask you about.

45

MR NADAN: Yes.

MS McDONALD: Would you return to document LCC.014.002.1411, and would you go to page _0004 and item 11.3 is Project 26. It describes there that the acting CEO -

5 **COMMISSIONER:** Sorry, Ms McDonald. Just pause. It hasn't reached the screen. Page 4?

MS McDONALD: Page 4. And this can be live streamed. Now, this is a report or a summary of what the acting CEO informed the committee.

10

MR NADAN: Yes.

MS McDONALD: But you can see there it's described as:

15 "It aims to address Liverpool Council's substantial debt through a strategic focus on revenue streams, asset optimisation, efficiencies and systems."

And then there it's highlighted:

20 "The need to optimise 25 per cent of the Council's asset portfolio that would significantly reduce the debt."

Now, Mr Portelli, gave some evidence about Project 26. His description of it seemed to be that at the moment it's at the level of - not in a prerogative - sorry, not in
25 a - sorry. I'll start again. His description of it was at a high level, that, at the moment, Project 26 hasn't really delved down into detail. Is that fair enough?

MR NADAN: Correct. Correct.

30 **MS McDONALD:** And the description here of:

"To address the substantial debt through a strategic focus on revenue streams, asset optimisation efficiencies and systems."

35 The example you gave of the car parks, are they - the car parks, are they currently owned by the Council?

MR NADAN: Correct.

40 **MS McDONALD:** The idea is to sell them or rent them out to a commercial enterprise?

MR NADAN: I may say, the expression of interest is inviting proposals from interested parties, to see what they can do with that piece of car park. It may end up
45 into them developing that area with a condition that they give or dedicate the current number of car parks that's currently available for public as part of the development. That's one of the conditions that we put in. You do a development, you provide X

number of car parks to the community, relegate to Council, so the public will not lose on that. They will still have that. Plus, they will do the development. And then it might lead into a transfer of land to them because they will be doing their property on there, and that will generate some income. So, in a nutshell, yes. There will be a sale transaction that will happen. You may recall - it could be called as developer rights.

MS McDONALD: It was what, sorry?

MR NADAN: A developer rights fee. So they will pay that which will be basically proceeds for taking ownership of that piece of land.

MS McDONALD: So with that example, there is possible revenue through the developer revenue?

MR NADAN: Yes.

MS McDONALD: And then depending on what ultimately happens, there may be a sale of that property to the car park developer, which, again, would possibly generate income for the Council.

MR NADAN: Correct.

MS McDONALD: The description of Project 26, is your understanding it was given that name because it's somehow associated with the new airport opening?

MR NADAN: That's what the CEO said, so I believe him.

MS McDONALD: All right.

MR NADAN: Whether that's going to happen or not I don't know. '26, '27, '28.

MS McDONALD: All right. Can you see there it further states that:

"The CEO highlighted the need to optimise 25 per cent of the Council's asset portfolio."

To optimise 25 per cent of the Council's asset portfolio, what is your understanding of what that is referring to?

MR NADAN: All right. So, if you look at the total value of assets that we currently own, it is close to \$800 million.

MS McDONALD: Yes.

MR NADAN: And his idea is if we can rationalise 25 per cent of that amount, either through sale or rezoning or whatever options they come up with, so he is looking at that 25 per cent of our 800 million.

5 **MS McDONALD:** And as you said, the rationalisation could be sale, could be rezoning.

MR NADAN: Correct.

10 **MS McDONALD:** Could be going into some kind of -

MR NADAN: Correct. Can I add something else. When you talk about sale -

15 **MS McDONALD:** Talk about?

MR NADAN: When you talk about sale of asset, we need a resolution. So there will be a piece of land, for example, identified through this exercise that we need to dispose this piece of land because it's not economical and it's going to cost us millions of dollars to, you know, restore it or do whatever with it. We have to go to the governing body to get a resolution to do so.

MS McDONALD: Yes.

25 **MR NADAN:** So it's not - if I may say, it is not a fire sale. It will be an educated informed decision that will be put in front of the Council as the governing body. They need to make another decision before you could actually transact that.

MS McDONALD: Yes. No, no. And that reflects your role, and it reflects the governing body's role -

30 **MR NADAN:** Correct.

MS McDONALD: - as elected representatives of the community.

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

MS McDONALD: If they make a determination that the community that they represent don't like selling assets, then your proposal, which might be -

40 **MR NADAN:** National debt if you like.

MS McDONALD: - wonderfully economically rational, may not be accepted by the governing body?

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

COMMISSIONER: Just going back to this passage that Counsel assisting is taking you to and the need to optimise 25 per cent of the Council's asset portfolio, tell me if I've misunderstood you in any way, but what you understand that to mean is effectively using those assets in a way that extracts the maximum benefit to the council, whether that be by sale, rezoning, looking at how it's used, and how its use may be improved. Have I understood you correctly?

MR NADAN: That's correct.

10 **MS McDONALD:** And within Council, is there, like, for example, a Project 26 team or Project 26 group that meets? How's it being advanced at the moment?

15 **MR NADAN:** All right. Initiatives like this, I guess, when we are looking at that or executing that, teams from various areas comes in depending on the need. So, if there is a legal need, legal people come in and help, finance people come in and provide the financial input. But I guess Project 26 was sitting in the previous structure with City Futures, which has commercial development in there as a function, and I believe now in the new structure there will be a group, a Strategic Projects group, that will be sitting under the CEO's office, and, as required, the other areas will come in and
20 contribute - planning, finance, legal, property services. They'll come and help.

MS McDONALD: So that strategic project group wouldn't be under one of the directorships. It's reporting directly to the CEO.

25 **MR NADAN:** Correct. That's how I understand.

MS McDONALD: Has that group been formed yet?

30 **MR NADAN:** It's been developed. But I don't know whether their structure has been confirmed or not.

MS McDONALD: Yesterday. When you were giving evidence, you referred at one point to the property purchased - no, sorry, before going there, can I go back to another issue. Sorry about that. There were two additional matters under this broad
35 topic of financial position budget. Would you please bring up document OLG.001.001.0310.

ASSOCIATE: (Indistinct).

40 **MS McDONALD:** Yes. And would you go through down to - I think it's page 2. There.

ASSOCIATE: (Indistinct).

45 **MS McDONALD:** I'm sorry?

ASSOCIATE: Do you mind repeating the number.

MS McDONALD: 001.001.0310. It's at page _0002. If you move towards the bottom of that page, you'll see an email from the Mayor to John Ajaka. Do you see that?

5

MR NADAN: Yes.

MS McDONALD: Dated 12 April 2024, and the subject is:

10 "Confidential next steps budget."

MR NADAN: Yes.

15 **MS McDONALD:** Do you see that? Now, you weren't copied into that email, but Mr Portelli was, and you were obviously working on the budget at this point. If you look at the body of the email, it's a - the Mayor is seeking:

"Modelling and recommendations for the budget."

20 And you can see there are four matters that he's raised: A reduction of management costs by \$2 million that can be achieved by a mixture of lessening the amount of directors and managers; \$1 million reduction in wages, removing non-core function positions; an annual comparison of legal expenses; and then income projected from property leasing presented to councillors in 2018, Feb 2022 against the current, and it
25 is to identify a number of properties?

MR NADAN: Correct.

30 **MS McDONALD:** Now, that request, which was made in April 2024, for the modelling, if there was any modelling as to the effect of incorporating all or any of those suggestions, would have that been undertaken by you or a member of your team?

35 **MR NADAN:** When it comes to the rental of - property leasing, it is actually managed by the commercial development area, commercial services in City Futures. They would have provided what the current projection is for the rates. The 2018, what we presented at that point in time, we had that information. Obviously, that is historical information. I don't know - I can't recall whether we've done this modelling.
40

MS McDONALD: All right. You can see - if you ignore point 4, but points 1 and 2 seem to be a suggestion of redundancies or termination of directors and managers, and then also looking at a reduction of other wages. Can you recall whether around April or May 2024 you were asked to do that modelling?
45

MR NADAN: No. I'm sorry, I can't - I can't recall that. But from the date of that email, 2024, that would have informed the '24/'25 budget.

MS McDONALD: Yes.

MR NADAN: Yes.

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MS McDONALD: So that's the budget that is going to be presented in June 2024.

MR NADAN: Correct.

10 **MS McDONALD:** Right. But you have no recollection of being either asked or directed by Mr Portelli to provide that modelling.

15 **MR NADAN:** No. I recall there were information requested. I don't know where it came from, CEO or somewhere, but I have seen a list of managers across the organisation, list of coordinators across the organisation. That list was requested, and it was provided from the HR team, to Portelli - Mr Portelli.

MS McDONALD: All right. So that was just a list?

20 **MR NADAN:** A list.

25 **MS McDONALD:** All right. But, no, this is actually seeking modelling. And modelling, I take it, is - you incorporate it into one of your assumptions for the budget and whether that would have an effect on whether there's going to be a deficit or a surplus?

MR NADAN: No, that was - that was not the modelling exercise we did.

30 **MS McDONALD:** No, no. I'm not asking you what you actually did. You said you didn't model -

MR NADAN: No.

35 **MS McDONALD:** - based on this, but that is what is anticipated, that you get information that would change one of our assumptions, and that's fed into the draft budget?

MR NADAN: Correct. That is the normal process.

40 **MS McDONALD:** All right. Now, I want to ask you some questions about some evidence that Mr Portelli gave yesterday, and I understand that you had arrived at the hearing, and you were watching the live stream in another room?

45 **MR NADAN:** Bits and pieces, yes.

MS McDONALD: All right. And you did hear some of the evidence that Mr Portelli gave yesterday. It is the creative accounting evidence?

MR NADAN: You've got to remind me what he said probably because I was not 100 per cent concentrating on the evidence that was given by Portelli yesterday morning.

5 **MS McDONALD:** All right. I was under the impression from something you said to me that you had listened to it, but don't worry. I'll take you back.

MR NADAN: Bits and pieces.

10 **MS McDONALD:** All right. In the lead-up to the June 2024 budget, which was presented in June -

MR NADAN: Yes.

15 **MS McDONALD:** - at some point in that period where different drafts of the budget are being prepared, at some stage, was there a version of the budget which had a deficit of \$25 million?

MR NADAN: The first cut.

20

MS McDONALD: The?

MR NADAN: The first cut.

25 **MS McDONALD:** Right. And then, over time, that first cut, which had a \$25 million deficit, was - the deficit was decreased, and there was actually an anticipated surplus in the June '24 budget?

30 **MR NADAN:** Yes. We wanted to have a surplus, but that was - as I've said yesterday, we were chasing for a surplus budget or - we were chasing for a surplus budget or a balanced budget, and then \$24 million for the first cut was not going to go down well, but we had to do a lot of work on that to get it down to a level.

35 **COMMISSIONER:** I'm sorry, Mr Nadan. I lost the last bit. You said \$24 million and then you - the first cut was \$24 million, and then you continued?

MR NADAN: We had to do a lot of work on it.

40 **COMMISSIONER:** A lot of work.

MR NADAN: Basically, what I did looking at line by line, find \$5 million there, the other directors looked at what they can change, what they can find more revenue, and all those things were factored in, and I think the last cut before the instruction for me to incorporate the 3 Hoxton Park Road, we were at about \$6 million in deficit.

45

COMMISSIONER: \$6 million before -

MR NADAN: \$6 million or \$4 million, from memory. About there.

COMMISSIONER: Thank you.

5 **MR NADAN:** In your - the answer that you just gave when you identified the first cut was a deficit of about \$24 or \$25 million, you said, "That was not going to go down well." When you say it was not going to go down well, with whom was it not going to go down well?

10 **MR NADAN:** With the governing body. Because the first cut is - if you like, is - includes a lot of things that other managers want to do, and we call it, like, a wish list, and I guess that is a bit of a balancing act, what we can do and what we can afford. So if we can't afford it, obviously, the executive needs to decide what is the priority.

15 **MS McDONALD:** Your identification of the first cut as the wish list - and you've done many budgets over the years -

MR NADAN: Yes.

20 **MS McDONALD:** - is that the inevitable kind of trend, that the first cut is the wish list budget?

MR NADAN: Generally.

25 **MS McDONALD:** Usually in a deficit?

MR NADAN: Yes. If you're talking about Council, this Council.

30 **MS McDONALD:** I'm talking about this Council.

MR NADAN: Yes.

MS McDONALD: And then moving on from the first cut.

35 **MR NADAN:** Yes.

MS McDONALD: If I can describe it as the hard cold facts of, you're not going to - to the directors, you're not going to get your wish list -

40 **MR NADAN:** Correct.

MS McDONALD: - over time, there are things are deleted, things are decreased to try and either get to a balanced budget or a smaller deficit?

45 **MR NADAN:** Correct. I guess the objective is to present a realistic budget if you like, what we can afford and what we can deliver.

5 **MS McDONALD:** All right. Now, at any time leading up to the June 2024 budget, did Mr Portelli ever say anything to you about a conversation he had with Mr Ajaka about the state of the budget and, in particular, when it was at about a deficit of \$24 to \$25 million?

MR NADAN: Budget discussions with my boss, which is Mr Portelli, we have regular meetings.

10 **MS McDONALD:** Yes.

15 **MR NADAN:** And he gives me feedback from what he gets from the directives, the CEO. We kind of share ideas. And one of the things that he told me that Mr Ajaka wanted him to do some creative accounting, and his response to that, that's what he said, "It's not happening."

MS McDONALD: All right.

20 **MR NADAN:** And my contribution to that was, "Over my dead body."

MS McDONALD: That was your contribution? Okay. Can I just stop you there, and we're talking about that period of roughly December 2023 leading up to June 2024 where you're developing different iterations of the budget?

25 **MR NADAN:** Yeah, because - correct.

30 **MS McDONALD:** Using that timeframe, can you remember roughly when you had this conversation with Mr Portelli where he said, "Mr Ajaka told me to utilise creative accounting"?

MR NADAN: Would be before April - March/April. Somewhere there. When we had presented the first cut to the executives that this is what it's going to look like. Yes.

35 **MS McDONALD:** So your recollection is the first cut, which contains the wish list, had been presented.

MR NADAN: To the executives.

40 **MS McDONALD:** And when you say "the executives", that means it's not going anywhere near the governing body at that point?

MR NADAN: No, no.

45 **MS McDONALD:** Purely the directors and obviously the CEO?

MR NADAN: Correct.

MS McDONALD: And yourself?

MR NADAN: Correct.

5

MS McDONALD: Now - and, as you said, your response was, "Over my dead body".

MR NADAN: Yes.

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MS McDONALD: I take it with that response, your involvement in the preparation and, ultimately, the budget that was put to Council and accepted and it did not involve any creative accounting?

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MR NADAN: No.

MS McDONALD: When Mr Portelli said to you the words "creative accounting", what did you understand that that was a reference to which allowed you to say, "Not over my dead body", or, "Over my dead body", sorry?

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MR NADAN: So, as you're aware, the budget is based on assumptions. They're not actuals. Right? So they are based on best information available at that point in time, and our objective is to present a realistic budget, taking into account or considering the way it is going to be actually accounted for when we do the actual accounting analysis. So creative accounting means make some broad assumptions, like - which cannot be really substantiated, like, you know, you increase your revenue by X amount which is - if you know it's not going to happen, but you just put it in there, just to make the budget look good. Things like - I mean, if I can talk about, say, DA revenue. We know this is what the market is telling us, but we can actually put in another million dollars and say the DA revenue will be that much, but, in reality, we know the market is not going that way, and we won't be able to get that. That's creative accounting.

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MS McDONALD: So that DA example, if the trend and knowing your property market in the area, you were only going to get a million dollars revenue for that -

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MR NADAN: Correct.

MS McDONALD: - but there was an assumption in your budget that suddenly you were going to get \$2 million.

40

MR NADAN: Correct.

MS McDONALD: That may be an example of creative accounting.

45

MR NADAN: Correct. Yes.

MS McDONALD: Excuse me. You gave an outline of the budgets based on assumptions, and, again, the assumptions in a sense have to have some basis in reality, is that -

5 **MR NADAN:** Correct.

MS McDONALD: - a way of describing it?

MR NADAN: Correct. Yes.

10

MS McDONALD: The inclusion of a sale of property where there - that property had not previously been earmarked, was not subject to a resolution by Council that it be sold or that it be looked at being sold -

15 **MR NADAN:** Correct.

MS McDONALD: - the inclusion of the proceeds of a sale of property in those circumstances, is that nearing or is it possibly creative accounting or edging towards creative accounting?

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MR EMMETT: I'm a little concerned by this notion of edging towards creative accounting. That ought to be explained to the witness if that's going to be -

25 **COMMISSIONER:** I think that's probably right. I think the question - what you're getting at is permissible, but maybe just the form might lead us into a bit of difficulty.

30 **MS McDONALD:** All right. Mr Nadan, I have described those circumstances that I want you to assume. To incorporate revenue from a possible sale of this property, as I said, in circumstances where it hasn't been earmarked, no discussion by the governing body, not earmarked, no resolution for it to be sold or considered to be sold, my first question is, to include that revenue in the budget, is that an example of creative accounting?

35 **MR NADAN:** Well, the assumptions that are put forward and included in the budget are actually validated by the respective directors. They are the subject-matter experts, and they say, "This is what the market is. This is what we can deliver. This is what we are comfortable to include." And if a director was responsible for commercial development which includes sale of property, he is saying, "This item has been
40 identified", and, as I have said before, we have to go back to the governing body for approval and include that in the budget. Not 100 per cent legitimate, but leaning towards not creative accounting if you like, but an incorrect assumption.

45 **MS McDONALD:** All right. You're very diplomatic, Mr Nadan.

COMMISSIONER: Why would it be an incorrect assumption?

MR NADAN: Well, if the director is telling me, "Here's the \$14 million value of that property, and I'm going to settle that within 12 months, we're going to sell it", right? And if it is not delivered within that time, that's an incorrect -

5 **COMMISSIONER:** It ultimately turns out to be an incorrect assumption?

MR NADAN: Exactly. Because there are other processes in between, as you know, if you sell a property, there are other things that we need to do.

10 **COMMISSIONER:** Yes?

MR NADAN: Number 1, we need to go back to the Council and get a resolution. If they say no, you can't sell it. So, all those things. If an assumption is put in there saying, "I'm going to sell a piece of land", and there is no resolution before that, it
15 could be an incorrect assumption.

COMMISSIONER: It might turn out to be an incorrect assumption?

MR NADAN: Correct.
20

COMMISSIONER: I think what counsel assisting is driving at, though, is, is there a problem in your mind about including a sale or proposed sale of the property in the budget at the time it is included in the circumstances that has been described to you? Just pause for a moment. Is there a difficulty in your mind in including in a budget
25 the proposed sale of a property that hasn't been previously identified for sale or isn't yet subject to a Council resolution for sale?

MR NADAN: I don't think there is a problem to include like that.

30 **COMMISSIONER:** Pause there. Why do you say that?

MR NADAN: Because, as I've said, budget is based on assumption. If that is the assumption, if the director responsible is saying, "I'm comfortable to do the sale", that's not a problem. But I don't have any knowledge about whether he was put under
35 pressure to put it in there, or it was a legitimate assessment that he can actually deliver.

COMMISSIONER: Thank you.

40 **MR NADAN:** That's the difference.

COMMISSIONER: Thank you.

MS McDONALD: And from that answer, it would appear that you're very - you are
45 reliant on a director identifying a piece of property within their jurisdiction or portfolio.

MR NADAN: Correct.

MS McDONALD: And putting it forward as, "This could be sold, and this would be the revenue generated from that"?

5

MR NADAN: Correct. Correct.

MS McDONALD: And is it the case that in building the assumptions for the budget, if a director presents you with that possible transaction, you include it?

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MR NADAN: I will include that, and then it gets presented to the executives. They know this is what it is. And then it's presented to the governing body that these are the key assumptions that we have factored in, before it actually goes to the Council for adoption.

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MS McDONALD: So are you saying those additional steps where it goes to the executive, et cetera -

MR NADAN: Yes.

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MS McDONALD: - if there's an assumption that they don't agree with or have concerns about, it should be raised then?

MR NADAN: Correct.

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MS McDONALD: All right. Now, your conversation with Mr Portelli that you thought was around March\April of 2024, just roughly.

MR NADAN: Yes.

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MS McDONALD: You've given us an account where he says creative accounting was raised, and his reply was, "It's not going to happen", and you said, "Over my dead body." Did Mr Portelli say anything else about his conversation with Mr Ajaka that he told you at that point?

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MR NADAN: Not anything significant. I can't remember.

MS McDONALD: All right?

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MR NADAN: Yes.

MS McDONALD: Going back to your work history, you commenced as the manager of financial services, was it?

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MR NADAN: Yes, 2014.

MS McDONALD: And you became the chief financial officer, would you please remind me?

MR NADAN: August 2018.

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MS McDONALD: Your role in preparing the budget, that obviously was since 2018?

MR NADAN: No. As a manager of financial services, that function sits under me.

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MS McDONALD: That was also your function then?

MR NADAN: Yes.

15

MS McDONALD: So do you have any knowledge of - and I'm going to use the word "creative accounting" being used or being attempted to be used in the budget at any time before that '24/'25 budget?

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MR NADAN: When we were doing '22/'23 budget under the leadership of - the acting CEO then was Peter Diplas and my boss then, director corporate services Paul Perrett, again, there were some assumptions made, which were later referred to as not substantiated if you like. But, again, they were not as significant as this one, \$8 million. There were - I think there was a million dollars that was included in the budget where Paul Perrett said that there were opportunities where we can actually

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MS McDONALD: Do smart?

MR NADAN: Smart procurement.

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MS McDONALD: Right. Okay?

MR NADAN: So, you know, using our buying power to get better deals, better contract management, and we can save a million dollars. So that was incorporated in there.

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MS McDONALD: Can I just confirm the timeframe. Your recollection is that was for the '22/'23 budget?

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MR NADAN: Correct.

MS McDONALD: So we're looking at the preparation of that budget roughly from January 2022 to June 2022.

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MR NADAN: That's right. Yes.

MS McDONALD: And your recollection is, included in the actual budget that was passed, was a figure which reflected a savings from smart procurement?

MR NADAN: That's right.

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MS McDONALD: And that assumption in the financial year '22/'23 did not occur?

MR NADAN: It's hard to make that assessment because when we talk about better contract management and procurement, that impacts on many areas of the organisation, including capital works. So, you know, if you are doing better contract management that - in, say - in delivering of your infrastructure area, that's not reflected in the operating budget where this million dollars is. So it's there, which is basically less expenditure on capital works. So it's sort of - I guess it's hard to measure.

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15

MS McDONALD: All right. So that was the particular item that comes to mind that, in the past, there may have been an assumption which you questioned?

MR NADAN: Yes.

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MS McDONALD: And, as you said, it was about a million dollars linked to this concept of using smart procurement.

MR NADAN: That's right.

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MS McDONALD: And not undermining that assumptions should be reasonable and appropriate, but in the scheme of the budget for Liverpool City Council, is a line item or an effective a million dollars pretty small?

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MR NADAN: Correct. Not that significant.

MS McDONALD: And can I just confirm, at this particular point for this budget, that was after Mr - or Dr Jackson had been - his employment had been terminated and Mr Diplas had taken over as acting CEO.

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MR NADAN: That's right.

MS McDONALD: And then the director of corporate support or corporate services was Mr Perrett or Perrott?

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MR NADAN: Paul Perrett.

MS McDONALD: Perrett. Jumping back to around March/April 2024, after that discussion with Mr Ajaka - I'm sorry, I withdraw that. After your discussion with Mr Portelli, to your knowledge, creative accounting was never raised again?

45

MR NADAN: No.

MS McDONALD: And you obviously didn't utilise creative accounting in the budget?

5 **MR NADAN:** No.

MS McDONALD: Now, I want to take you to a different topic. Yesterday, you gave some evidence about 600 Cowpasture Road?

10 **MR NADAN:** Yes.

COMMISSIONER: Briefly.

15 **MS McDONALD:** Briefly. You were speaking about - I think it was in a reference to one of your reports about the amount that had been borrowed and how it was being paid for?

MR NADAN: Yes. Yes.

20 **MS McDONALD:** Can I take you back to 600 Cowpasture Road. When did you first become aware of a proposal that that land had been purchased?

25 **MR NADAN:** It was early 2022 when I received a call from the Mayor, and I was overseas, and the question that was put to me is, "Can we afford to buy a property worth \$20 million? Can we find \$20 million to buy a property?" At that point in time, he did not tell me that it was 600 Cowpasture Road.

MS McDONALD: Sorry?

30 **MR NADAN:** He did not tell me it was 600 Cowpasture Road. When I came back, then, I think two weeks later, I had a meeting with him, and I don't know who else was there and - I can't recall - he gave me an information memorandum, which was the marketing document that Colliers were using to put that property on the market. My advice to him at that point in time was we cannot afford to buy a property like
35 that using general funds because we don't have that much general funds, plus we have to service the debt, which is for Civic Place. We can't afford to do that. But as the CFO, I sometimes have to play a facilitating role as well. So I did say, "Well, it also now then depends on how you're going to use that property. If it is to deliver an infrastructure and a contribution plan, you can actually use section 7.11 money to
40 buy. Or if you're going to turn that into predominantly a domestic waste management depot, you can actually use domestic waste money for that." That was my advice.

MS McDONALD: All right. And, I'm sorry, can I just go back. I missed the beginning. These conversations were occurring with whom?
45

MR NADAN: With the Mayor.

MS McDONALD: All right?

MR NADAN: When he handed me the copy of that information memorandum.

5 **MS McDONALD:** Excuse me for a minute. Before that meeting with the Mayor, you spoke about being on holidays?

MR NADAN: I was overseas when he called me.

10 **MS McDONALD:** So you got a call from the Mayor. And that telephone call with the Mayor, what did he say to you in that telephone call?

MR NADAN: So he asked me whether we can afford to buy a property worth \$20 million.

15 **MS McDONALD:** Over the phone?

MR NADAN: Yes.

20 **MS McDONALD:** And your reply?

MR NADAN: My reply was probably not, but I have to come back, ask, look at the numbers and give you better advice.

25 **MS McDONALD:** All right. In that telephone conversation, did the Mayor identify what it was anticipated the property would be used for at that point?

MR NADAN: No. He did not tell me what property he was referring to and what the use would be.

30 **MS McDONALD:** So just, "Can we buy a property worth about \$20 million?"

MR NADAN: Yes.

35 **MS McDONALD:** You were overseas, and you said when you returned from your holidays you had a meeting with the Mayor.

MR NADAN: Yes.

40 **MS McDONALD:** The overseas holiday, so that would have been in 2022, roughly what month was that?

45 **MR NADAN:** Yes. Very regular, every three months, so - if I recall right, there was something I noted in the information memorandum. The EOI had closed when he actually handed over that document to me, so I'm just working back. So the EOI closed in May, I think, from memory - 12 or 22, somewhere there - and I had a

meeting after that, maybe a month after that, and then, if I work back, maybe I was on holidays around end of May.

MS McDONALD: All right. Now -

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MR NADAN: Because I did note that the EOI actually had closed on that paper.

MS McDONALD: Now, the meeting with the Mayor, who attended that meeting?

10 **MR NADAN:** I can't recall who else was there. It was - obviously the Mayor was there, and I was there.

MS McDONALD: Was it unusual that you would have a meeting just with you and the Mayor?

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MR NADAN: No, it's not unusual.

MS McDONALD: So often you will have a meeting with just you and the Mayor?

20 **MR NADAN:** Yes. On the corridor we will have a chat, and he'll come in my office and we just sit there, you know.

MS McDONALD: The meeting, where did it take place?

25 **MR NADAN:** I think it was in the Mayor's office.

MS McDONALD: Now, your account of this meeting, you said that you started asking questions about, "Well, look, it depends on how you're going to use it".

30 **MR NADAN:** Correct.

MS McDONALD: Before you suggested that, did the Mayor say anything to you about why his - why he wanted to buy this property?

35 **MR NADAN:** No.

MS McDONALD: You're given this marketing document from Colliers?

MR NADAN: That's right.

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MS McDONALD: And your initial advice was, "We can't afford to buy the property from general funds," and - to buy a property from general funds, would that anticipate if it was \$20 million, the whole \$20 million would come out of general funds and be paid for the property, so there would be no debt?

45

MR NADAN: It's possible that if we can - if we can afford it, you can apply for a loan, and if it is approved, you get the loan and buy the property and repay through general funds.

5 **MS McDONALD:** All right. But you then also said because of the question of servicing a loan, again, you had an issue about whether the Council had the capability of servicing a loan.

MR NADAN: That's right. Using general funds.

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MS McDONALD: And that was based on general funds. You then raised how you're going to use it, and you specifically referred to the section 7.11 -

MR NADAN: Correct. Developer contributions.

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MS McDONALD: Developer contributions, or using the domestic waste rates?

MR NADAN: Yes. Correct. With the condition that it has to be predominantly used for domestic waste purposes.

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MS McDONALD: When you said to the Mayor, "Depending how you're going to use it", and use those two options, did he respond in any way?

MR NADAN: No.

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MS McDONALD: Now, in the budget, which would be 2021 to end of June 2022, was there anything earmarked or flagged about buying another property for around \$20 million?

30 **MR NADAN:** Generally, there is a provision for land acquisition in the capital works budget, and they relate to all the properties that Council buys to develop infrastructure under the contribution plan. Specifically for this piece of land? No.

MS McDONALD: And was it the same position in the 2022/'23 budget?

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MR NADAN: I think so, yes.

MS McDONALD: So after that meeting with the Mayor and raising, "Depends how you're going to use it", what is your next involvement with the purchase of this property?

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MR NADAN: I think I came in the picture - I believe there was an extraordinary meeting which actually said - indicated to submit an expression of interest to buy that piece of land. And then I believe there was another Council resolution where there was - they were going to actually buy this, and I'll just refresh my memory. I think there was one in between as well where there was a resolution to go and borrow from

45

TCorp and simultaneously go and get expressions of interest from the banks whether they were willing to fund that. But that's where I came into the picture.

5 **MS McDONALD:** All right. And is that because obviously the Council looking at - whether they're going to resolve to purchase this property, how it's going to be financed is an issue?

MR NADAN: Yes.

10 **MS McDONALD:** And you're the person who is going to give details about how that is going to be financed?

MR NADAN: Correct.

15 **MS McDONALD:** Can I just ask you, when you said the borrowing from TCorp or the banks, an institution like a Council, does it have the potential to borrow from TCorp?

20 **MR NADAN:** Yes. Provided there is no commercial elements attached to it.

MS McDONALD: No what, sorry?

25 **MR NADAN:** Commercial elements. So TCorp's policy or their charter is to help councils deliver infrastructure, not commercial infrastructure. So if it is - if there is a commercial element attached to it, they will not fund it.

MS McDONALD: And are there benefits to going to TCorp rather than a normal bank?

30 **MR NADAN:** Yes. They're cheaper.

MS McDONALD: Right.

35 **COMMISSIONER:** Can you give me an example of a development or an acquisition that has a commercial element that would take it out of the remit of a TCorp -

40 **MR NADAN:** Civic Place project. The initial assessment was - or initial understanding was that there is about 40 per cent of the project which has a commercial element.

COMMISSIONER: Because it is leasing to private tenants?

45 **MR NADAN:** Yes. Commercial where we are renting it out.

COMMISSIONER: Yes?

MR NADAN: That's the commercial element. Libraries, civic offices, the public domain, they are not commercial element.

COMMISSIONER: Thank you.

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MS McDONALD: And you spoke about two and possibly three Council meetings -

MR NADAN: Yes.

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MS McDONALD: - which led up to a resolution to buy it?

MR NADAN: Correct.

MS McDONALD: Sorry, buy the property?

15

MR NADAN: Yes.

MS McDONALD: At any point, are you informed about what the actual - now the purpose of the piece of land is going to be?

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MR NADAN: Now?

MS MCDONALD: I'm sorry, I withdraw that question. Your meeting with the Mayor, you - it wasn't identified why they were looking at purchasing the land?

25

MR NADAN: No.

MS McDONALD: At some point in this lead-up to the Council resolving by majority, "We're going to buy it", were you informed of the use?

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MR NADAN: No. I think the first - from memory, the first - there was an extraordinary council meeting that actually said, "Yes, we are interested. Put in a bid - expression of interest." And there was another one where the - where I came in and talked about the funding arrangements that we are potentially put in.

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MS McDONALD: But looking at those funding arrangements that were possible, you would have had to have known the purpose then because -

MR NADAN: It was - it was floated like a depot.

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MS McDONALD: For a depot?

MR NADAN: Yes.

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MS McDONALD: And is your understanding a depot would be for a purpose that may attract a TCorp loan?

MR NADAN: Yes, because it's part of Council's infrastructure to deliver its services.
Yes.

5 **MS McDONALD:** And by the time the Council resolved by majority to buy the land, did you know whether the purpose or use had changed?

MR NADAN: Yes. That's why if you look at the resolution, it talks about funding from refinancing the loan or repaying the loan from domestic waste reserve. So, at that point in time, I understood that that depot going to be used for domestic waste
10 purposes.

MS McDONALD: You identified that as a possible source, depending on the purpose?

15 **MR NADAN:** Yes.

MS McDONALD: Were you asked anything more about using the domestic waste charges as a source, as a - to partially fund this land? Or did you just raise it in that first meeting and then it was presented to you, "This is what we're doing, and we're
20 going to use part of" -

MR NADAN: I think the latter, yes. I was told this is what is going to happen, and we're going to use this.

25 **MS McDONALD:** All right.

MR NADAN: And based on that, I did my financial arrangements with the banks, and that's what we told them we were going to do, waste management. I think we also raised the potential of doing a processing mattresses in there as well because that
30 was the key reason that I noted about TCorp.

MS McDONALD: Sorry? The -

MR NADAN: TCorp knocked our loan back.
35

MS McDONALD: All right. So you did apply to TCorp?

MR NADAN: I did apply, yes. And I believe there were two reasons that they gave us, not in writing but verbally they told us, and they were not interested to fund that.
40 One was to do with Council being in competition with private sector mattress collection, and then I think, from memory, the other one was to do with environmental - environment assessment that was not conducted at that point in time, but we did say that there is a DA that's going to be lodged in, and, as part of the assessment process, that environmental assessment will be done.

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

COMMISSIONER: Yes. We are going to take the mid-morning break now, Mr Nadan, for about 20 minutes?

MR NADAN: Thank you.

5

COMMISSIONER: We'll resume at 10 to 12, so if you wouldn't mind being back just a minute or so before that ready to go, I would be grateful. We'll adjourn until 10 to 12.

10 **MR NADAN:** Thank you.

<THE HEARING ADJOURNED AT 11.31 am

<THE HEARING RESUMED AT 11.57 am

15

COMMISSIONER: Just before we resume, I will deal with the matters of the orders I made or directions I made pursuant to 12B of the Royal Commissions Act yesterday. Yesterday, at transcript page 362, lines 5 to 16, page 369 lines 29 to 370 line 4, of the public session transcript, and transcript page 5 line 39 to 46 of the transcript of the private session, I made various orders pursuant to section 12B of the Royal Commissions Act. Following on from Mr Emmett's notification this morning, I now vacate those orders such that there's no restriction on the publication of that evidence, including the transcript of what was the private session yesterday. Thank you. Yes, Ms McDonald.

25

MS McDONALD: Mr Nadan, taking you back to the purchase of 600 Cowpasture Road, I want to take you to some documents now. Would you please bring up LCC.002.001.5699, and would you go to page _0005, please.

30 **ASSOCIATE:** (Indistinct).

MS McDONALD: Mr Nadan, I am going to take you to some documents, including some emails, some of which you are copied in to. That may assist you in your recollection of when you had conversations with the Mayor. You can see on the screen this is dated 5 August 2022, and it's from the Mayor, request for an extraordinary meeting.

35

MR NADAN: Mm-hmm.

40 **MS McDONALD:** Would we move up the page. Then there's an email from a George Georgakis giving details about the requirements for an extraordinary meeting. And if we can progress. And that's - stop there, please - that's the beginning of -

45 **COMMISSIONER:** Sorry, Ms McDonald. I think you might be looking at a different screen to the rest of us.

MS McDONALD: I am.

COMMISSIONER: We were stopping on a blank page.

5 **MS McDONALD:** I apologise for that.

COMMISSIONER: Quite all right.

10 **MS McDONALD:** Would you go to 0002, right down the bottom of that page. Now, stop there. You'll see an email from a Julie Scott to the Mayor but there is a number of people copied into the email, including yourself. If we then move to 0003, you can see there, there is a reference to a meeting with the property and strategic planning crews?

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

MS McDONALD: Colliers is going to be contacted. There is going to be an urgent valuation achieved. And then it says:

20 "As this is an unbudgeted matter, the CFO will need to review the matter and provide advice."

And then there's:

25 "Before he can go any further in the process, John requires a resolution from Council to allow further investigation on potential purchase."

30 Et cetera. What I'm interested in is the statement that it's an unbudgeted matter, and you were going to have to review the matter and provide advice. I assume that's one of the reasons why you were copied into this email?

MR NADAN: Yes.

35 **MS McDONALD:** When it refers to an "unbudgeted matter", that means that it was - the purchase of the property and any associated loan or use of any reserve has not been included in the current budget?

MR NADAN: That's correct.

40 **MS McDONALD:** And when it says you have got to review the matter and provide advice, what advice, was it your understanding, what was earmarked there?

45 **MR NADAN:** Well, I guess, I would have expected, in a normal situation, for them to give me information in terms of the purpose of the purchase, the potential for us to go in - the idea of going and getting a loan and repaying that, whether we can actually afford that or not. I guess that's the kind of advice.

MS McDONALD: All right.

MR NADAN: Yes.

5 **MS McDONALD:** And then would we move back towards the beginning of this document. Maybe if we go to the next page, so we can see who this is an email from. So this is an email from John - is it Milicic?

MR NADAN: John Milicic, yes.

10 **MS McDONALD:** Of 5 August. You, you weren't copied into this, but if you continue down, you can see again there looking at the wording for this resolution, and can you see there at the first part says:

15 "Approve proceeding with a due diligence process for the potential purchase of a depot site, 600 Cowpasture Road, Hoxton Park."

Then if we can - and then, sorry:

20 "For due diligence, includes a review and any cost benefits of the site in relation to the Council's existing depot strategy."

And then if we can return to the top of this document. It then seems that Julie Scott does send that preceding email, which identified it as being a depot, to both you and
25 Mr Diplas?

MR NADAN: Yes.

MS McDONALD: And then:

30 "Are you okay with the words P. Diddy and VIP?"

Are you "VIP" or -

35 **MR NADAN:** I don't get what you're referring to.

MS McDONALD: Or are you P. Diddy?

MR NADAN: I mean, I get hundreds of emails so -

40 **COMMISSIONER:** It's all right. Don't worry.

MS McDONALD: Putting that to one side, you're being asked if you're okay with the words, but the thing I'm concentrating on with those previous words is that there's
45 an identification of it being for - to buy the land as a depot.

MR NADAN: That's my understanding.

MS McDONALD: Now, would we then go to a different document. This is LCC.002.001.2558, and live stream, please.

5 **ASSOCIATE:** (Indistinct).

MS McDONALD: Could you excuse me. I understand it is subject to a non-publication -

10 **COMMISSIONER:** It is on my list, but without knowing why or what part of it. Could it be put on internal streams, and we'll work out how best to proceed. Is that okay, Mr Emmett?

MR EMMETT: Yes, Commissioner.
15

COMMISSIONER: Can we put it on the screens in the room but not live stream it, please? Just not share on the live stream. Thank you.

MR EMMETT: Now that I understand the basis, could it come off the screen, and
20 I'll explain why in a moment.

COMMISSIONER: Yes.

MR EMMETT: The basis for it is a claim for legal professional privilege, so I don't
25 want any perception that's been waived. It may not be over the whole document, but at least in that document is a communication over which my client asserts legal professional privilege, which is why I don't want to risk waiving it by allowing on this screen.

30 **COMMISSIONER:** Understood.

MS McDONALD: Could you excuse me for a minute?

COMMISSIONER: Of course. It's okay. We can pause.
35

MR EMMETT: Just while I confirm that, I understand the - I'm told my client's application was not to make an order over the whole document but to redact it.

COMMISSIONER: Yes.
40

MR EMMETT: So - and I understand that may not have happened yet, and we don't complain about that.

COMMISSIONER: No.
45

MR EMMETT: All of that makes me cautiously optimistic that the communication my learned friend wants to explore, there is no difficulty with. But can I just take further instructions.

5 **COMMISSIONER:** Of course you can. And if we get to that stage, Mr Emmett, and we get to territory that causes you concern, you just let me know.

MR EMMETT: May it please.

10 **MS McDONALD:** The first email that I want to take Mr Nadan to, I understand they're just -

COMMISSIONER: Yes. That's fine.

15 **MS McDONALD:** - checking.

MR EMMETT: Could I say this much at least: The document at page _0005, which is the first in time anyway, that's an email you've already seen, so there can't be any difficulty with that email, if my learned friend is proposing to start with that one
20 while, hopefully, my instructions come in relation to the emails more recent in time.

COMMISSIONER: I think it might be safer if we just keep idle for a moment to make sure we don't trip ourselves up, but thank you, Mr Emmett. Whilst that's happening, Mr Emmett, I was going to ask you for some assistance, not necessarily
25 immediately but over the course of the next week or so. We had some evidence earlier in the week - last week about the status of organisational charts from time to time, and this is not critical in any way in organisations such as a Council regularly reviews its organisational structure. What I would be assisted with is just some clarification as to which chart was current from time to time during the last two
30 Councils. So the current one and the two before that.

MR EMMETT: Yes.

COMMISSIONER: That seems to me something that could perhaps be done
35 perhaps by a statement (indistinct) or someone else who can say "A" was in place from this period to this period, just so I'm clear in my mind that what is a proposed structure that might not ultimately have been adopted but was used for consultation purposes, I can identify that versus the one that was actually implemented. Does that make sense.
40

MR EMMETT: Yes. It does, Commissioner, and those behind me will start work on that.

COMMISSIONER: I'd be most grateful. Thank you.

45

MR EMMETT: Thank you.

MS McDONALD: May I inquire through you, Commissioner, is it possible to live stream particular pages, and then if I need to move to the top document, to stop the live stream so we can avoid the particular email over which privilege is claimed.

5 **COMMISSIONER:** All right. Yes. That is possible. We will just pull it down once we move, and then we go back. So where are we starting?

MS MCDONALD: We're starting - which document? It should be LCC002.001.2558.

10

COMMISSIONER: Yes.

MS McDONALD: And if we start at the bottom of the document.

15 **COMMISSIONER:** All right. Can we bring that up in the room, noting Mr Emmett's claim.

MS McDONALD: Yes.

20 **COMMISSIONER:** I just want to make sure that what is in the room is what can go on the live stream from time to time. So let's bring that document up at the very bottom of the document.

ASSOCIATE: Can I just confirm that is page 0005?

25

MS MCDONALD: If we could start - I'm sorry, at 0005, you'll see there's an email. If we start there, then we're going to move up to the next email, and then we'll pause.

ASSOCIATE: (Indistinct) 0005. Start at 5.

30

MS McDONALD: So we're starting at LCC.002.001.2558_0005. If you could bring that up on the screen, but we're not live streaming at the moment.

35 **COMMISSIONER:** Not live streaming that document, like a private session. Not live streaming that document. Just want to make sure those in front are clear about they're doing. Can we just go to the top of the email and pause there. This is the one?

MS MCDONALD: That's the beginning of the email chain.

40 **COMMISSIONER:** And this is okay to be streamed, Mr Emmett?

MR EMMETT: Yes.

COMMISSIONER: And what's the next one?

45

MS MCDONALD: Then under 0003 towards the bottom of the page, there is an email from Mr Nadan dated 7 August 2022.

COMMISSIONER: All right. And that one's okay as well?

MR EMMETT: Yes.

5

COMMISSIONER: All right.

MS McDONALD: And then I think there is the problem - I won't describe it as the "problem email". I'm sorry about that.

10

COMMISSIONER: The sensitive one.

MS McDONALD: The sensitive email, which we won't show in the room.

15

COMMISSIONER: Yes.

MS McDONALD: But the email at the beginning of the document, I wish to show that.

20

COMMISSIONER: And that's okay. We're passing over the one in between?

MS McDONALD: Yes.

25

COMMISSIONER: I understand. All right. So if we go back to 5? Is it 5 where you wanted to start?

MS McDONALD: Yes. Thank you.

30

COMMISSIONER: And that can be live streamed but, Operator, when we move between emails, what I would like to do is pull the email down from the live stream and make sure that when we put it back to the next point, we are not in any way affecting Mr Emmett's claim for legal-professional privilege. Sorry, Mr Nadan, we just need to make sure we get this right?

35

MR NADAN: All right.

ASSOCIATE: (Indistinct).

40

MS McDONALD: You right? Terrific. All right. Now, we can - commencing with this email that's on the screen from the Mayor to a number of - first to councillors, and then a number of people are copied in. You're the last - your name appears as the last person to be copied in?

45

MR NADAN: Mm-hmm.

MS McDONALD: And you've got an outline of a motion for an extraordinary meeting on 9 August?

MR NADAN: Correct.

MS McDONALD: And, again, you can see that it's looking at:

5

"Approval proceeding with a negotiation and due diligence process for a potential purchase of a depot site."

MR NADAN: Yes.

10

MS McDONALD: And then if we move - yes, if you can just stop there. You can see it's anticipating - excuse me. Could you move down so we have paragraphs 1, 2, A and B a little bit further down. Good. Thank you. And you can see there that it's seeking approval for:

15

"An expression of interest for the potential purchase of a depot site."

And it's foreshadowing a:

20

"Due diligence period of four weeks, including but not limited to valuations and finance (if required). Building condition assessments. And the offer is to be no greater than \$25 million, noting that the site has a current offer of \$24.5 million."

At that point, when you received it, where it has under 2A:

25

"Finance (if required)."

And where it's identified as a potential purchase of a depot site, did the Council have the reserves or facility to buy that without obtaining finance?

30

MR NADAN: No.

MS McDONALD: Now, can we then - we're moving to the next email in the chain, which commences at the bottom of page 3.

35

COMMISSIONER: Hang on. Can we pull the document down, and then we'll start it again at the bottom of 3. Ms McDonald, would you just identify the date and the sender of the email to make sure we're pulling up the right one.

40

MS McDONALD: The sender is Mr Nadan. It's 7 August at 12.17 pm, and it is addressed to Peter Diplas with a copy to David Galpin, Julie Scott and Paul Perrett.

COMMISSIONER: All right. If we can have that in the room first. That's the one?

45

MS McDONALD: Yes.

COMMISSIONER: And that can be streamed?

MR EMMETT: Yes.

MS McDONALD: Yes.

5

COMMISSIONER: All right. They can go up on the live stream. Thank you.

MS McDONALD: Now, that's an email you sent?

10

MR NADAN: Yes.

MS McDONALD: You can see that there's a reference to Mr Galpin, and then you say:

15

"As the money involved is in excess of \$10 million (also noting that the acquisition is not included in the current DP/OP and any of the other strategic plans), this project may also be subject to a capital expenditure review."

20

And then if we go to the next page, 0004, you attach, or you include, a summary flow chart with a circle round:

"Capital expenditure review requested"?

25

MR NADAN: Correct.

MS McDONALD: Would you return to that beginning of Mr Nadan's email? Now, where you say:

30

"The acquisition is not included in the current DP/OP, what are you referring to there?"

MR NADAN: The DP is the delivery plan, OP is the operational plan which includes the budget.

35

MS McDONALD: And then you also state:

"And any of the other strategic plans."

40

You see you say that?

MR NADAN: Yes. Maybe I was making reference to the budget.

MS McDONALD: I'm sorry. I missed that?

45

MR NADAN: I was making reference to the budget, I think, by saying "strategic plans".

MS McDONALD: All right. So what you're saying there is not included in those bundle of documents that the Council consider in the preceding June -

MR NADAN: Yes.

5

MS McDONALD: - which includes the budget and also the operational strategy, et cetera?

MR NADAN: Correct.

10

MS McDONALD: Then when you say:

"This project may also be subject to a capital expenditure review."

15

What are you referring to there?

MR NADAN: This is the Office of Local Government Guidelines. If you have a capital expenditure more than \$10 million, it needs to go through a capital expenditure review. So that means you need to subject business case to the Office of Local Government, and they will say yes or no.

20

MS McDONALD: All right. Now, you say at the beginning of the email:

"I've alerted David Galpin for advice on this."

25

If I can just take this in stages, you have, in some way, either spoken or emailed Mr Galpin about this issue?

MR NADAN: Mm-hmm.

30

MS McDONALD: Mr Galpin provided some advice to you?

MR NADAN: From memory, no.

35

COMMISSIONER: Pause.

MS McDONALD: Yes. The issue of whether - I'm sorry, I'll ask this question: You raise there that it may be subject to a capital expenditure review, and you've just outlined that involved putting a business case to the Office of Local Government. Was ultimately a business case pursuant to a capital expenditure review done for the purchase of this property?

40

MR NADAN: I don't think so. I - no.

45

MS McDONALD: If it was, were you the one who was going to at least have some input into the business case?

MR NADAN: Normally the associate, they have a consultant to do it.

MS McDONALD: All right.

5 **MR NADAN:** And when it comes to the financial bit, the financial implication bit, we provide them an extract of the long-term financial plan, which would include that property. Yes.

10 **MS McDONALD:** Now, could we take the document down for a minute. I won't refer to the rest of that document anymore if that can be brought down. Now, as you've seen with those emails, it's foreshadowing a motion to go to an extraordinary meeting of Council?

15 **MR NADAN:** Correct.

MS McDONALD: Would document INQ.012.001.0008 be brought up, please. And do you see that's the minutes of the extraordinary meeting held on 9 August?

20 **MR NADAN:** Yes.

MS McDONALD: And if we move through it, yes, you are recorded as attending?

MR NADAN: That's correct.

25 **MS McDONALD:** And if you - we continue to move, and then it's noted the Council is moved into a closed session, again:

"To consider an opportunity to purchase a potential depot site?"

30 **MR NADAN:** Correct.

MS McDONALD: Then if you continue down, then you have the "Council decision", which commences there, which approves:

35 "Proceeding with a negotiation and due diligence process for the potential purpose of a depot site?"

MR NADAN: Correct.

40 **MS McDONALD:** And if we continue moving down - hold on. You can see under "4." under "Assuring Due Diligence" it includes:

"A review and any cost benefits of the site in relation to the Council's existing 2018 depot master plan."

45 Is that a matter that you were going to undertake or would that fall to another director?

MR NADAN: It would be another director.

5 **MS McDONALD:** All right. And if we can keep on going down. Sorry, can you - right. Under "7.", can you see it says:

10 "Bring a further report to be presented to Council once the due diligence has been completed to seek final approval from Council to consider the purchase of the property."

And that said report is to include a funding strategy and a summary of changes required to the existing 2018 depot master plan should this purchase be progressed. The reference to a funding strategy, is that something that it was anticipated you would prepare?

15 **MR NADAN:** Funding strategy. I guess, by that time, it was decided that this depot was going to be used predominantly for domestic waste management purposes, and then I would have provided advice in terms of how much is available in the reserves, how much we need to borrow, what would be the repayment, and, you know, the
20 potential increase in domestic waste to repay this loan.

MS McDONALD: All right. Now, a confidential report was provided to the meeting. Could that be brought up, please. OLG.001.001.1392.

25 **COMMISSIONER:** Just in the room for the moment? It seems as though there's an order over this one.

MS McDONALD: Yes.

30 **MR EMMETT:** Commissioner, that is the subject of an order. The basis of it is that confidential and commercially sensitive information. Can I say this though, can I take instructions on whether it is -

35 **COMMISSIONER:** Pressed.

MR EMMETT: Whether it's pressed.

COMMISSIONER: It's a - moved on.

40 **MR EMMETT:** Yes. Quite.

MS McDONALD: Excuse me.

45 **COMMISSIONER:** Yes.

MS McDONALD: This document is presently not to be live streamed, but it can be brought up in the hearing room.

5 **COMMISSIONER:** All right. That's great. It may be that, Mr Emmett, there's a number of documents subject to the orders I made prior to the hearing that are in a similar category that were probably made on a - what I have been describing for want of a better term as protective basis.

MR EMMETT: Yes.

10 **COMMISSIONER:** In due course, perhaps they can be reviewed as well.

MR EMMETT: Yes. That's right.

15 **COMMISSIONER:** And at least redactions made for those parts that aren't to be published or over which the claim is maintained rather than the whole document.

MR EMMETT: Yes, Commissioner.

COMMISSIONER: Thank you.

20 **MS McDONALD:** Mr Nadan, I'm bringing up the confidential report that was provided to the Council at that extraordinary meeting.

MR NADAN: Mm-hmm.

25 **MS McDONALD:** Now, if we can just move through the document. Now, if we pause there. It's headed Report. It refers back to February 2022 and a mayoral minute in relation to a new depot. Can you see that?

30 **MR NADAN:** Yes.

MS McDONALD: And there's a reference to the:

"Process to lodge a DA to upgrade the Rose Street Depot."

35 **MR NADAN:** Yes.

MS McDONALD: Then if we can move a little bit further down. If we pause there for a minute. It refers to point 3:

40 "Aim to have the construction of a new depot programmed in the '23/'24 budget, if not earlier."

MR NADAN: Yes.

45 **MS McDONALD:** And then it's got:

"With reference to that, a piece of land located at 600 Cowpasture Road has become available for purchase and may be suitable for the establishment of a new depot."

Then there's a reference to costing and current offer, et cetera.

5

MR NADAN: Yes.

MS McDONALD: And then:

10 "This report seeks Council's endorsement to proceed with an investigation."

MR NADAN: Correct.

MS McDONALD: :

15

"About whether is a suitable site for a new depot."

And would you keep moving down the document. And then you've got - excuse me for a minute.

20

MR EMMETT: I'm grateful to my learned friend to permit me to interrupt. That document can be live streamed.

COMMISSIONER: All right. So can I vacate the order over this document?

25

MR EMMETT: In relation to this document, yes, Commissioner.

COMMISSIONER: All right. Bear with me just a second. In relation to the document that has the document identifier OLG.001.001.1392, that was subject to a direction I made pursuant to section 12B of the Royal Commissions Act that it not be published, that direction having been made on 11 July. In relation to that document only, I vacate that direction, and it can now be put on the live stream.

30

MS McDONALD: Yes.

35

COMMISSIONER: Thank you, Mr Emmett. I'm grateful.

MS McDONALD: Can I double-check that's now being live streamed? Thank you. Can we just very quickly move back to the beginning of the document. This was the confidential report for the August extraordinary meeting, and you can see it's:

40

"Opportunity to purchase a potential depot site."

MR NADAN: Correct.

45

MS McDONALD: And if we keep on moving down there, was the reference to a mayoral minute back in February 2022, which is looking at:

"Upgrading Rose Street Depot, and aim to have construction of a new depot programmed in the '23/'24 budget, if not earlier."

5 And then if we - there's an identification of 600 Cowpasture Road. And then if we can keep on moving down, we've then got the recommendation, and the recommendation, again, is rather similar from the notice of motion that was being discussed in the exchange of emails that I've taken you to?

10 **MR NADAN:** Correct.

MS McDONALD: And if we can just - moving down. Pause there. So it's approving to go into a due diligence stage with a certain amount of money to be paid in due diligence and under "5.":

15 "Further report presented to the Council, which will include a funding strategy."

Now - and maybe financial implications. And it states:

20 "Not included in the budget or a long-term financial plan, but the due diligence payment can be funded from unrestricted reserves general fund."

MR NADAN: That's right.

25 **MS McDONALD:** And if we can then keep on moving. All right. Then - sorry, can - again, it's noted, because there was a resolution to build a new depot as at February 2022:

30 "It's anticipated any expenditure in relation to the purchase on this site would potentially negate" -

I think it's potentially negate:

35 "...any planned expenditure on the new depot."

At this point, still in August, it seems the aim of the purchase or purpose of the land is still just a depot. You can see in that confidential report there's no reference to it being - the purpose being waste recycling, domestic waste?

40 **MR NADAN:** Yes.

MS McDONALD: Mattress shredding operation. It is completely silent as to that.

MR NADAN: Correct.
45

MS McDONALD: And is it the case that if it was just purchased as a depot, some of the funding that was identified eventually for the purchase of the property wouldn't be available?

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

MS McDONALD: Now, from that, we've got a meeting of the Council of 16 November 2022. If we can bring up the minutes, INQ.001.001.0993, and can we go to page - I think it should be _0051.

10

ASSOCIATE: Okay.

MS McDONALD: Yes. There it notes the Council moved into closed session, and then after closed session, you've got the Council decision. And if we can move down that page, please. Sorry. To make sense of this, if we could go to the top of page 51. Yes. Stop there. You can see the particular item is:

15

"An opportunity to purchase a site for waste and resource recovery centre."

20 And then if we go back to moving down the document, after the closed session, the resolution - the motion was to:

"Purchase the property identified in the report for the price and on the terms."

25 And then:

"Notes the intended use of the property is related to the discharge of its domestic waste management function, and agrees that the purchase is financed by charges collected for that purpose."

30

MR NADAN: Yes.

MS McDONALD: Then there's an authorisation of a:

35 "Release of up to 5 million from the domestic waste management reserve."

And then approving borrowing of funds up to 32.7 million for a 20-year fixed-term loan?

40 **MR NADAN:** Correct.

MS McDONALD: And then it is anticipated that there be an increase in the:

45 "Annual domestic waste management levy by an amount required to fully service the loan."

MR NADAN: That's correct.

MS McDONALD: And then it says:

5 "Note that an updated long-term financial plan is to be submitted to the Council meeting on 14 December."

MR NADAN: Correct.

MS McDONALD: And then:

10 "7. Authorises seeking loan funding from the Treasury Corporation."

That's TCorp that you've referred to?

15 **MR NADAN:** Yes.

MS McDONALD:

20 "Concurrently with the banks."

MR NADAN: That's right.

MS McDONALD: Now, would you bring up, please, document LCC.004.005.1703. Can I just - before bringing it up, can I just note my understanding is that it is subject
25 to a non-publication order. It was the confidential report for the November Council meeting.

COMMISSIONER: The one we've just seen referred to in the minutes?

30 **MS McDONALD:** Yes. Excuse me.

MR EMMETT: An order has been made. We don't press that order.

COMMISSIONER: Over the whole of the document?
35

MR EMMETT: Yes. Grateful, Commissioner.

COMMISSIONER: Bear with me just a moment.

40 **ASSOCIATE:** (Indistinct).

COMMISSIONER: Just hang on. Sorry. Just pause for just a second. On 11 July, I made an order pursuant to section 12B of the Royal Commissions Act that the document with the document identifier LCC.004.005.1703 not be published. That
45 order or direction is now vacated.

MS McDONALD: Now, if that document can be brought up but if we can move to page _0007, please. Now, Mr Nadan, you can see this is the confidential report entitled:

5 "Opportunity to purchase a site for waste and resource recovery centre."

MR NADAN: Correct.

10 **MS McDONALD:** And if we move down that page, under Executive Summary, you can see in the first paragraph:

"An opportunity has arisen to purchase a site, formerly a bus depot. Identifies it for a waste and resource recovery centre."

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

MS McDONALD: Now - and the report continues with details about the particular acquisition - excuse me for a minute. Including if you go to 0031, and towards the bottom of that page there's a heading Financial Implications, which refers to a table on the next page about showing:

"Indicative cost of acquisition-related infrastructure works, costs of borrowing, and an estimated increase in the DWM levies."

25 **MR NADAN:** Correct.

MS McDONALD: And if we go across to page _0032, there is the particular table assuming a purchase price of 24.75 million. The particular options set out there in that table, did you create that table?

30

MR NADAN: I did.

MS McDONALD: And as it sets out, you've got - you basically look at a fixed 10-year loan or a fixed 20-year loan. I think it is the same for both. The actual loan is in the amount of just over \$32,000 - \$32 million, I'm sorry.

35

MR NADAN: 32.7 million.

MS McDONALD: All right. And then you've got, under "Operating Costs, Savings and Revenue Opportunities", you've got several items, and then you've got a "net shortfall per year". If we just take the 10-year loan, it's about \$1.2 million?

40

MR NADAN: Yes.

45 **MS McDONALD:** If it's the 20-year loan, it's about \$495,000?

MR NADAN: Yes.

MS McDONALD: What's - the reference to the "net shortfall per year", what are you referring to there?

5 **COMMISSIONER:** Would it help to see the whole of the table as one?

MR NADAN: Maybe.

10 **COMMISSIONER:** If we can just zoom out a little. Take your time?

MR NADAN: Scroll up a little bit. Okay. So it's looking at the loan servicing cost, and then also the operational cost savings and revenue opportunity. So it is looking at the difference 2.3 and 1 million below. That's the shortfall.

15 **MS McDONALD:** Right.

COMMISSIONER: To service the acquisition and -

20 **MR NADAN:** Yes. So, basically, we are repaying this loan, but then there is savings in there, and this is the bit that we need to actually recover from the ratepayers, the domestic waste. Can I point something out?

MS McDONALD: Yes.

25 **MR NADAN:** This table, when this was presented, there was an error in calculation.

MS McDONALD: There was an error in the calculation?

30 **MR NADAN:** Yes. The "Loan Servicing Costs", those two numbers were incorrect.

MS McDONALD: Can I just pause. Under the heading "Loan Servicing Costs" underneath "Loan Replacement"?

35 **MR NADAN:** Yes, repayment. These two numbers, "2.3 million" and "1.5 million", was not correct.

MS McDONALD: Can you recall off hand what they should have been?

40 **MR NADAN:** There was a correction memo. So this - I realised this after it went through Council, and we realised there was a mistake, and then we followed it up with a memo to all the councillors with an updated table. I think it was probably if you - from memory, it was multiplied by two. "2.3", that servicing cost should be about "4.6".

45 **MS McDONALD:** All right. And what about the "1.5"?

MR NADAN: That would be times two again. "3 million". I think the memo was issued four days after.

MS McDONALD: After this November meeting?

5

MR NADAN: Yes.

COMMISSIONER: And did - once that correction was made, did that follow straight through to the net shortfall per year?

10

MR NADAN: Correct. Correct. And then the shortfall funded by the ratepayers also had changed?

COMMISSIONER: It just had a straight knock-on effect to all of those numbers?

15

MR NADAN: Correct.

MS McDONALD: Now, one of the purposes to take you to those various documents is to return to the questions I asked you at the beginning of this topic about when you first learned about the proposal to purchase the property?

20

MR NADAN: Yes.

MS McDONALD: And, again, summarising your evidence, you were on holidays when you received a phone call from the Mayor about, "Can we afford to buy a property for about \$20 million?"

25

MR NADAN: Correct.

MS McDONALD: Then your return, after your holiday, attending a meeting with the Mayor. At that point, again, it was, "Can we afford this?" Your answer was, "From general reserves, no."

30

MR NADAN: Correct.

35

MS McDONALD: "But it depends on the purpose?"

MR NADAN: Correct.

MS McDONALD: And you just referred to the "7.11" contributions by developers?

40

MR NADAN: Yes.

MS McDONALD: And also the domestic rates?

45

MR NADAN: Correct.

MS McDONALD: I have taken you to correspondence where, leading up to the August meeting -

MR NADAN: Yes.

5

MS McDONALD: It was - the purpose was as a depot, and then we see in November it's now for the waste recovery centre?

MR NADAN: Correct.

10

MS McDONALD: Do you recall that - your evidence is that you, in a sense, flagged with the Mayor -

MR NADAN: Options.

15

MS McDONALD: - you might be able to fund - the options.

MR NADAN: Yes.

20

MS McDONALD: Do you recall, was that before the August meeting when it was earmarked as the depot or afterwards?

MR NADAN: It was before.

25

MS McDONALD: All right. But that doesn't seem to have been translated into a different purpose and hence access to some different funding until after the August meeting?

MR NADAN: Correct.

30

MS McDONALD: And again, do you recall the circumstances in which that occurred, where the purpose was changed?

35

MR NADAN: I guess I am taking instructions from the CEO saying, "Well, this is going to be now used for this purpose", in the morning thereafter that followed.

MS McDONALD: So you raise it as an option, then your recollection is you should get some kind of instruction or -

40

MR NADAN: Yes.

MS McDONALD: - direction from the CEO, "This is now the purpose."

MR NADAN: Yes.

45

MS McDONALD: You prepare, then, the modelling that, that is a reserve or a particular pool of funds that can be used to finance this.

MR NADAN: That's right.

MS McDONALD: Is that an appropriate time?

5

COMMISSIONER: Yes. Mr Nadan, we're going to break for lunch. 2 o'clock?

MS MCDONALD: Yes.

10 **COMMISSIONER:** All right. We will resume at 2 o'clock. If you wouldn't mind being back here just before 2 ready to go, I would be most grateful.

MR NADAN: Thank you.

15 **COMMISSIONER:** And we'll adjourn until 2 pm.

<THE HEARING ADJOURNED AT 12.53 PM

<THE HEARING RESUMED AT 2.03 PM

20

COMMISSIONER: Yes.

25 **MS McDONALD:** Mr Nadan, just a couple of final questions about the purchase of Cowpasture Road. You gave evidence immediately before lunch that the purchase and the associated impact on the financial statements of the Council, because you've now borrowed some additional funds, wasn't contemplated in the budget then you provided to, I think, the meeting of the Council of 14 December 2022 an updated long-term financial report incorporating those changes.

30 **MR NADAN:** Correct. As required by the TCorp and the commercial banks.

MS McDONALD: Sorry?

35 **MR NADAN:** TCorp and the commercial banks require an updated long-term financial plan that is actually endorsed by the Council, so I had to obtain that to meet the requirement.

40 **MS McDONALD:** Now, I wasn't going to take you to the details of that updated report, but can I ask you in summary, the purchase of the property, what effect did it have on the budget?

MR NADAN: Obviously, the borrowing costs would have gone up.

45 **MS McDONALD:** Yes.

MR NADAN: And that would be offset by increase in domestic waste income, and then it would also impact on the restricted cash, which is the domestic waste reserve. Those would be the key implications I would think, yes.

5 **MS McDONALD:** All right. The restricted cash reserves from the domestic waste charge, that would used to fund part of the -

MR NADAN: 5 million was borrowed from the domestic waste.

10 **MS McDONALD:** And then there was borrowing of additional funds from a bank?

MR NADAN: So, yes, we borrowed \$32.7 million from CBA. \$20 million of that was used to purchase this property. \$500,000 was borrowed additionally at that point in time to activate what we call the second part of the loan facility. So that money
15 was also drawn down as a first tranche, and that money then was used to buy the second mattress shredder, and the balance of \$12.2 million is currently sitting in internally restricted reserve, which is earmarked for improvement works.

MS McDONALD: That's improvement works for the site?

20 **MR NADAN:** Correct.

MS McDONALD: And they - that money hasn't been spent yet?

25 **MR NADAN:** No.

MS McDONALD: Now, you've just referred some of the money being used to buy the second mattress shredder?

30 **MR NADAN:** Yes.

MS McDONALD: It was anticipated the mattress shredder would create income.

MR NADAN: Correct.

35 **MS McDONALD:** Also, was it anticipated from the site that there would be possibly income generated from an operation of a truck-wash bay?

MR NADAN: Yes, that's what our understanding is.

40 **MS McDONALD:** Now, I want to take you to a document that was provided to the Governance Committee meeting of 28 January 2025, document INQ.001.001.1128. If we can just bring up the first page. I did take you to this document yesterday but we'll just double-check if there is any difficulty. You can live stream it. So you can
45 see that's an agenda for the governance committee meeting of 28 January this year?

MR NADAN: Mm-hmm.

MS McDONALD: Would you go through to page 0092. Do you see that's headed "Finance Report December 2024", and a report prepared by you?

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

MS McDONALD: Now, I want to take you to the second page of this report, which is page 93 of the document. You'll see it's headed "Report Budget Performance", and I want to take you to the table where - sorry, if you go back just before there, you
10 state:

"This report provides the governance committee an update on current issues impacting on the '24/'25 budget. Progress is achieving saving targets as resolved by Council."
15

But if we turn to the first part of the table, and the last entry, where you've got mattress-recycling income.

MR NADAN: Yes.
20

MS McDONALD: And there's a budget impact, and you've got negative \$1 million, then a comment:

"Delays in other councils utilising CEC."
25 Then:

"Staff are actively engaging with neighbouring" -

30 We move to the next page:

- "councils, however unlikely the budgeted income will be realised by 30 June 2025, and this is offset by \$450,000 budgeted operating expenditure. This is an emerging risk which needs to be monitored."
35

MR NADAN: Yes.

MS McDONALD: Now, can I ask you about that entry. The mattress-recycling income, where you have "budget impact negative \$1 million", what does that refer to?
40

MR NADAN: That means that we would not be able to - or there is a shortfall in revenue from that mattress-recycling income.

45 **MS McDONALD:** All right. And is that shortfall in the amount of a million dollars?

MR NADAN: Yes.

MS McDONALD: If we - you then talk about:

"This is offset by \$450,000 budgeted operating expenditure."

5

MR NADAN: Yes.

MS McDONALD: What are you referring to there?

10 **MR NADAN:** All right. So when we did the modelling for the mattress-recycling facility, we built in a projected number of mattresses that would be recycled at the facility, and, obviously, that will give us user charges when other councils dropping mattresses in our facility. We will be charging them by mattress, the rate. And also there will be steel that we'll be extracting from the mattresses and selling it. And on
15 the other side there will be some operating costs, like running the mattress shredder, technical staff and, you know, I guess also the - what do you call it, the - what do they call the bucket grabber or something.

MS McDONALD: Excavator?

20

MR NADAN: No. Grab something. I can't recall the name. So it just picks the mattress and puts in there. So the operating costs of all those were factored in. So if you're not getting - if you're not processing the number of mattresses as you expected, then obviously there is an impact on the expense side (indistinct) so that
25 \$450,000 reflects that.

MS McDONALD: And that piece of equipment, was it known as the grab bucket?

MR NADAN: That's right.

30

MS McDONALD: Your final comment there:

"This is an emerging risk that needs to be monitored."

35

MR NADAN: Yes.

MS McDONALD: What's the risk?

40 **MR NADAN:** The risk is, obviously, it is a new business venture. There were, I believe, some resistance - not resistance - from the staff, using WOHS matters in operating of that facility, and I guess there was some advocacy piece done by the then mattress-collecting contractor with other councils, telling them not to use our facility, so there was some negative implications coming from that. That was at that point in time, so I guess it was prudent to monitor that. You know whether other
45 councils are joining or not is a bit of a slow process, so it was emerging risk.

MS McDONALD: Can you see the next entry on that page 94 is:

"Truck wash bay income."

MR NADAN: Yes.

5

MS McDONALD: And a negative \$835 - \$835,000?

MR NADAN: Yes.

10 **MS McDONALD:** Again, you note:

"Equipment costing \$400,000 is being procured, but it's unlikely the budgeted income from this initiative will be realised by 30 June."

15 **MR NADAN:** Yes.

MS McDONALD: So, again, when it was projected that there would be income from that particular aspect -

20 **MR NADAN:** Correct.

MS McDONALD: - that hasn't eventuated?

MR NADAN: That's right.

25

MS McDONALD: But, again, you note:

"This offset by a saving in operating expenditure."

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

MS McDONALD: And then the next item is sale of recycled materials.

MR NADAN: Yes.

35

MS McDONALD: Again, is it your - as you say:

"It is correlated to mattress recycling initiative and sale of commingled waste."

40 **MR NADAN:** Yes.

MS McDONALD: The minus \$550,000, does that indicate that, again, there was an expectation that this would be generating income, and that hasn't come to fruition by this time?

45

MR NADAN: That's correct.

MS McDONALD: If we can just return to page 93 and, again, towards the bottom of that table. The second-last item:

"Other income: Canterbury-Bankstown Voyager Bridge contributions."

5

Is this the matter you referred to earlier in your evidence -

MR NADAN: That's right.

10 **MS McDONALD:** - where it was subject to some kind of arbitration with a resolution being made?

MR NADAN: Yes. So that's the second part of the deal.

15 **MS McDONALD:** Right. And as it says here:

"The timing is likely of that revenue will not be settled by 30 June 2025."

MR NADAN: That's right.

20

MS McDONALD: Now -

MR NADAN: Hang on.

25 **MS McDONALD:** Sorry?

MR NADAN: Just refresh my memory. So when we did the '24/'25 budget, we had - there was an agreement from Bankstown to earn - Canterbury-Bankstown Council to pay Liverpool City Council \$5.3 million. That was the first part and the
30 second part together. The \$2.8 million out of that was already recognised as a revenue when we did the initial invoicing to them. This bit there, I think I put that in as well on the instructions of the then-CEO, Mr John Ajaka, saying that, "You know what, we will pursue this. We will - they've already agreed to \$5.3 million, so we will get the balance", and that's the balance we talked about.

35

MS McDONALD: All right. You spoke about an instruction from John Ajaka.

MR NADAN: Yes.

40 **MS McDONALD:** At the time of this report, Mr Ajaka is no longer employed by -

MR NADAN: The thing is, this was in the budget - in '24/'25 budget. So, when we included that, he said, "Well, they've already agreed to \$5.3 million. We have guaranteed that we're going to get that." So the balance between \$5.3 million and
45 what we are going to invoice them, we recognised that as income in this financial year, '24/'25.

MS McDONALD: All right. So the difference between the \$5.3 million and roughly the \$2.8 million, is the \$2.4 million recorded there?

MR NADAN: That's right.

MR EMMETT: Can I raise to my feet and just ask that the live stream be cut for a moment.

COMMISSIONER: Pause the live stream. Those watching will get an abrupt end.

MR EMMETT: The only reason being this - and, again, this might not be a difficulty, but I'm just trying to -

COMMISSIONER: I'll just make sure we're off the live stream before -

MR EMMETT: Yes. I'm grateful for that. While that happened, I had instructions - just to assist you, Commissioner, in relation to it, and this is obviously no criticism of the question or the answers. There is a deed that has confidentiality obligations in it.

COMMISSIONER: Yes.

MR EMMETT: And what I was concerned about, partly because it is not just the Council's confidentiality, it is the counterparty's confidentiality, is anything that may by implication cut across those confidentiality obligation. I am instructed there is no difficulty. I'm grateful.

COMMISSIONER: Thank you. We will just go back live, and there is no difficulty with that part of the transcript being published (indistinct). Yes.

MS McDONALD: Mr Nadan, I was asking you questions about that entry entitled "Other Income Canterbury-Bankstown Voyager Bridge Contributions", and you're saying that the \$5.3 million, an amount of that was included in revenue in the budget?

MR NADAN: Correct.

MS McDONALD: There was an outstanding amount, and, as indicated there, it's unlikely to be realised until the next - or the current financial year.

MR NADAN: Correct.

MS McDONALD: I want to take you to another document that's been provided to those assisting the Commissioner. This is document LCC.016.001.0006, and that can be live streamed. As the table indicates, it's the mattress-shredding facility income and expenditure, starting with 2021 and then a number of years actual, and then projected total.

MR NADAN: Mm-hmm.

MS McDONALD: Have you seen this document before?

5

MR NADAN: Yes. My staff prepared this and I (indistinct).

MS McDONALD: Okay. Can I - the first section, Capital Expenditure, that's the various pieces of equipment, for example the shredders and the grab bucket?

10

MR NADAN: Correct.

MS McDONALD: Then under operating expenditure, we've got employee-related, which becomes an actual in '24/'25, but before that there's been expenditure incurred for consultants, et cetera?

15

MR NADAN: Yes.

MS McDONALD: Now, under operating income, you've got recycling service and sale, recycling materials steel, and for the financial year '24/'25, there are two amounts there. Can you see about \$90,000 for the recycling, and then the steel sales about \$61,000?

20

MR NADAN: Yes.

25

MS McDONALD: How does that income relate to the table that I just took you to in the February meeting where you recalled that the mattress recycling income, there was a deficit of a million dollars, and with the sale of recycled material a deficit of 550?

30

MR NADAN: We would have budgeted for something - can't remember off the top of my head - amount, but we already budgeted for an income more than a million dollars. So that has come through \$351 million, so we are saying, "You know what? We are short by a million." That's how it relates.

35

MS McDONALD: So just roughly, the budget could be \$1,100,000?

MR NADAN: Correct.

MS McDONALD: Let's say at the end of the financial year, you actually - the shredders generated about \$90,000?

40

MR NADAN: Yes.

MS McDONALD: But in the budget, it was over a million; hence there's that -

45

MR NADAN: Negative adjustment, yes.

MS McDONALD: - impact. All right. And then we've got the operational savings for \$460,000, and then the net cash investment, that reflects that the revenue generated is less than the various expenditures?

5

MR NADAN: If we can zoom in to the document so I can see the full document. Sorry. No, no. Make it smaller. Make it smaller. Too much. Too much. I want to see the headings. Yes, that's it.

10 **MS McDONALD:** Can you see?

MR NADAN: Yes. So that would be the difference between - it must mean two things. One is whether we are making a surplus or a deficit. So for financial year '24/'25, we ended up making a bit of a profit, which is about 50 surplus.

15

MS McDONALD: So about \$50,000?

MR NADAN: Yes. Which is the difference between - total expenditure is 561 minus this. All right. So taking the total expenditure, the 561, and taking off the operational income, and then also taking off the 460 that we would have otherwise incurred, but there is a difference of 50, which is a surplus. And then cash investment inflow/outflow, that is an outflow 167, which is the 218 on the top, which we spent on capital expenditure, minus the surplus of 50. That's the difference.

25 **MS McDONALD:** And then underneath funding service - sources, I'm sorry - you've identified the domestic waste management levies?

MR NADAN: Paid for that.

30 **MS McDONALD:** A particular grant from the State Government, and then your loan borrowings?

MR NADAN: That's right.

35 **MS McDONALD:** There are just a couple of miscellaneous topics that I want to ask you about. As part of the Civic Place project, there was - part of the project development agreement signed with Built Development, there was an agreement by Council to sell part of the land it owned under a call option?

40 **MR NADAN:** The call option, yes.

MS McDONALD: And the call option was for a fixed price of about \$10.6 million.

45 **MR NADAN:** The original price, which was agreed back in 2016 as part of the original PDA, was \$12 million.

MS McDONALD: Was what, sorry?

MR NADAN: Was \$12 million. And then the price reduced to \$10.6 in the second amendment of the PDA, which I believe was executed around 2017, thereabouts.

5 **MS McDONALD:** Has the call option been exercised?

MR NADAN: Not yet.

10 **MS McDONALD:** Are you anticipating that if it is exercised, that will mean that revenue of about 10.6 million will come to the Council?

MR NADAN: Out of the 10.6, they've already paid us a deposit about 3.3 million and then the balance of 7.3 think, or 7.6, thereabouts, will come.

15 **MS McDONALD:** The balance of roughly the \$7.6 million, has that been taken into account in either the last financial year budget or this year's financial year budget?

MR NADAN: It will not impact on the operating budget, the reason being that \$7.6 million is deemed or will be treated like proceeds from sale of land.

20 **MS McDONALD:** So it's kept within the capital?

MR NADAN: It will go into cash.

25 **MS McDONALD:** Sorry?

MR NADAN: It will come into cash. So basically like selling land.

30 **MS McDONALD:** I'm sorry?

MR NADAN: It will be treated like selling land, so it will come into cash, and we will dispose the land.

35 **MS McDONALD:** But you haven't taken that into account in the current budget?

MR NADAN: In projecting our cash position for '24/'25, we did include in the projections the cash coming in, but that hasn't come in at 30 June.

40 **MS McDONALD:** Now, another matter that I wanted to ask you about, and you referred to it during your evidence in the externally restricted funds, that projects are funded under the NSW Government's Western Sydney Infrastructure Grants?

MR NADAN: Yes.

45 **MS McDONALD:** So applications are made, funding is provided and the funding is earmarked for a particular project?

MR NADAN: Yes. I believe there are four projects under that scheme has been funded.

5 **MS McDONALD:** As the Chief Financial Officer, have you made any observations about any of the grants, whether the application that was made for a certain amount, and when there is an attempt to actually build the particular project, of a discrepancy between what was sought and given and the actual costs at the time of construction?

10 **MR NADAN:** I'm - as a CFO, I'm not very hands on with that project. There is a special team in there who manages the project. But I do believe there were - there were projects where the application was done, and they had to make some scope changes and price changes because what was put to the government in the first place, due to cost implications or increases, it was not possible to deliver that project for that price. So I guess there is a process engaged - process to manage that, and I
15 believe that if you can't deliver that, then you need to go to the department and say this is what it is, and once the variation is agreed, the scope and the pricing both change.

20 **MS McDONALD:** And if a grant was for \$100,000, and then, at the time of actually doing the work, the costs had increased to \$200,000, is your understanding it is a matter of applying for a variation to the grant?

MR NADAN: That's right.

25 **MS McDONALD:** And if that variation isn't awarded, then the costs to complete the project would have to be met by Council?

MR NADAN: I believe that's the part of the grant agreement.

30 **MS McDONALD:** I think you just referred to other people within Council who deal with those particular grants?

MR NADAN: Yes.

35 **MS McDONALD:** And is that a team that not only is looking at what the grant was for and trying to organise the work to be done, but also a separate finance team that looks at the grants.

40 **MR NADAN:** Correct.

MS McDONALD: Or looks after the grants.

MR NADAN: Correct. One of my management accountants is on secondment in that team.
45

MS McDONALD: That's not part of your team?

MR NADAN: No. She's out for three years, and definitely I'm missing her.

MS McDONALD: Now, the final matter I wanted to ask you about was staffing. You've given some evidence, for example, about - with the recent budget, there - I
5 withdraw that. Recently within Council, two directors and their executive assistants were made redundant?

MR NADAN: Correct.

10 **MS McDONALD:** And that necessitated some kind of payment, which my understanding is your evidence was that that came out of last year's budget?

MR NADAN: Yes.

15 **MS McDONALD:** Over the years, there's been a number of restructures and a number of employees being made redundant or being paid out in some way; do you agree with that?

MR NADAN: Yes.

20 **MS McDONALD:** That's your observation?

MR NADAN: That's right.

25 **MS McDONALD:** In an interim report prepared by the Office of Local Government, they refer to recording payouts to staff under deeds of release totalling over \$700,000 since April 2021. Now, if you assume that the report is up until maybe early 2024, and as the Chief Financial Officer, does that accord with your
30 understanding or impression of the additional costs in - for that period in paying out staff?

MR NADAN: No, I think the number is much higher.

MS McDONALD: The \$700,000 is much higher?

35 **MR NADAN:** No. What was paid out is higher.

MS McDONALD: Within the financial statements, is there a particular item which records payouts under a deed of release?

40 **MR NADAN:** It will be - so if you take '24/'25 financial year, and we said we are charging all these termination payments or redundancy payments against the provision, it will appear against "employee-related expenditure".

45 **MS McDONALD:** As a what, sorry?

MR NADAN: As an "aggregate level employee-related expenditure".

MS McDONALD: And what's the description of the item again?

MR NADAN: "Employee-related cost".

5

COMMISSIONER: Not separately reported.

MR NADAN: No. Unless it is for the CEO.

10 **COMMISSIONER:** (Indistinct)?

MR NADAN: Because I think in the annual report, in the back of the document, we need to disclose that. But if it is directors and others, no. They are just at an aggregate level, you'll see \$100 million, and that's it.

15

MS McDONALD: The figure that I referred you to from this report, your view, is that more - substantially more money or -

MR NADAN: It is close to \$5 million in total.

20

COMMISSIONER: For what period?

MR NADAN: I think it is going back to 2021 to 2024. Close to 5 million.

25 **COMMISSIONER:** 2021 to 2024.

MS McDONALD: Close to \$5 million?

30 **MR NADAN:** Yes, because 22-2023 was a very busy year when Mr Diplas left. We had the director planning going, director corporate services going, director infrastructure going, and Chief People Officer going, so -

MS McDONALD: And your understanding is the people who occupied those positions received either a redundancy or some kind of -

35

MR NADAN: Correct.

MS McDONALD: - payment that -

40 **MR NADAN:** Yes.

MS McDONALD: - required completion of a deed of release?

MR NADAN: Yes.

45

MS McDONALD: Also - I'm sorry, I withdraw that. Last week, we heard some evidence about the employment industrial relations system at the Council, and there was a reference to the award and then a salary system, I think it's known as.

5 **MR NADAN:** Yes.

MS McDONALD: But we also heard evidence that there is also the capacity to pay what's known as a market rate?

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

MS McDONALD: So for a particular position, instead of looking at where they would come within the salary system, a determination is made that they should receive a payment above the item in the salary system -

15

MR NADAN: Yes.

MS McDONALD: - for market reasons, which usually refer to the fact that it's a special skill role, or there's -

20

MR NADAN: In-demand roles.

MS McDONALD: Yes. And there's a demand within the market, and so to attract somebody, you need to pay more.

25

MR NADAN: Correct.

MS McDONALD: Again, as the Chief Financial Officer, can you give us an indication of the number of positions which receive the market rate?

30

MR NADAN: I don't think I can give you a number off the top of my head, but there are many cases where the market rate offered - let me just take a step back and explain you how the salary system works. So there are gradings, and each grade, has four steps in it.

35

MS McDONALD: Can I just pause there. Is that the grading in the salary system?

MR NADAN: Yes. So if it is a - say, I'll take finance example. That's easier for me. If I say, "All right. I have a vacancy for an accountant." So the position description that I develop for that accountant, and the qualifications and other specific skills that are required for the role, goes through a job evaluation process, which is done by the HR team. Once they make that assessment - I don't know what system they're using - they do the input, comes out the grade. For this, depending on the judgment, the skills and others required, this grade is - this position is graded 15. So when I go to the market, grade 15 has a salary attached to it -

45

MS McDONALD: Yes.

5 **MR NADAN:** - under the award. Now, if I find someone that, in general sense, they - the candidate is appointed at grade 15 level 1, generally. But then I also have an option to give them either 2 or 3 or 4 at the time of appointment because I think they're bringing more experience or more skills on the job. I have that option or flexibility to do that. Obviously, I don't approve. I make a recommendation to my director, and he approves it.

10 Now, when we talk about market rate, it's going beyond 1, 2, 3, 4, so I'm actually giving them more than what grade 15 level 4 wants. Now, in my view, there has to be a limit of how much you can actually offer because if you think about the grading, there's another grade on top of that, which is grade 16. So if you're going to offer something which is more than the entry point for 16, I'll be questioning why are you getting this person? Why don't you regrade this position, or give them more
15 responsibilities so that the grading comes to 16. I think there is a little bit of control you can actually manage there. But, again, I know people go - were appointed at market rates, but I don't know exactly, obviously, not off the top of my head how much they've been offered. In total, I believe it's - the net impact was - that was when we were doing '24/'25 budget, it was close to a million dollars. That that was the
20 impact on the budget because of market rate appointment.

COMMISSIONER: Did you say \$1 million?

25 **MR NADAN:** 1 million. Now, I can't remember how many people were there, but there were a list of positions.

COMMISSIONER: The ultimate effect of all of those market rate appointments -

30 **MR NADAN:** Sorry?

COMMISSIONER: The ultimate effect on the bottom line, as it were -

MR NADAN: A million, yes. Correct.

35 **COMMISSIONER:** - of those market rate appointments was \$1 million.

MR NADAN: On top of that where some people were given, I guess, salary increases within the - existing staff also got some salary increases.

40 **COMMISSIONER:** But within the salary system?

MR NADAN: No. Outside the salary system.

45 **COMMISSIONER:** Right. And do you know what the net effect of those increases?

MR NADAN: Market rate and salary increases combined was about \$1.5 million.

COMMISSIONER: 1.5.

MS McDONALD: Sorry, is that an additional \$1.5 to the \$1 million?

5 **MR NADAN:** No, included in there.

MS McDONALD: Included.

10 **MR NADAN:** So \$1.5 million was the bottom line impact on salary cost due to market rate appointments and salary increases that were given to staff, and I think we provided that list to the governing body without names and gave them the positions.

15 **MS McDONALD:** And in the financial statements, that identification, just concentrating on market rates, which you identified a net impact for '24/'25 of close to a million dollars, can you identify that in the financial statements?

MR NADAN: It will be again reported in aggregate level, employee cost.

20 **MS McDONALD:** In an aggregate -

MR NADAN: "Employee-related cost". I guess the point there is if you give salary increases or make market rate appointments in one financial year, it has an ongoing impact on the forward years because the base has changed, and then the old increase would come on top of that.

25 **MS McDONALD:** Yes.

MR NADAN: So, it has an ongoing long-term impact.

30 **COMMISSIONER:** And did you say this was subject to a report to the governing body?

MR NADAN: We provided them a list of our positions where there were market rate appointments, and also people who got salary increases so without the names -

35 **COMMISSIONER:** Yes.

MR NADAN: - we gave them the position. The details of the position where actually salary rates - salary increases were provided.

40 **COMMISSIONER:** And was that a report that was given as part of the budget approval process?

45 **MR NADAN:** Correct. As part of the Council engagement process, we gave them - there was a concern about why the salary is increasing by that much. We said there is an award increase, we have created more roles, and, by the way, this many

people were appointed market rates, plus they got salary increase, so that is impact - that's having an impact on the forward years.

5 **COMMISSIONER:** So that was a report for '24/'25?

MR NADAN: Correct.

10 **COMMISSIONER:** Was there a similar report done for the most recent budget process?

MR NADAN: No. We didn't give them the positions. No.

MS McDONALD: The one - the report for '24/'25, is it a confidential report?

15 **MR NADAN:** It was provided in confidence as the supplementary information that the governing body of the Council has wanted.

MS McDONALD: And that was around June '24?

20 **MR NADAN:** Before that. April, when the draft budget was being discussed, we gave them that.

MS McDONALD: So that was part of when you're having consultation with the councillors?

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

MS McDONALD: You provided this separate report?

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

MS McDONALD: Can you assist us with the title of the report?

35 **MR NADAN:** It was not a formal report. It was just a page given to the councillors. So you would not have a - you know, like a cover page attached to that.

MS McDONALD: As we've seen -

40 **MR NADAN:** Correct. Not like that.

MS McDONALD: Not that formal?

MR NADAN: No. It's just a spread sheet and has the positions and budgeted salary, the market rate appointment, and the variance. Yes.

45 **MS McDONALD:** That report was provided in the lead-up to the '24/'25 budget?

MR NADAN: Correct. As an explanation why the salary is going up that much.

MS McDONALD: Your recollection is a similar report was not provided in the lead-up to the '25/'26 budget?

5

MR NADAN: No.

MS McDONALD: Do you know why?

10 **MR NADAN:** I guess we try - in explaining why there was a salary increase of, you know, more than certain amount, we gave them that report, but this time we didn't have that issue.

MS McDONALD: What do you mean you didn't have the issue?

15

MR NADAN: There was no - there was no request from any of the councillors for that information. And also, in terms of - I think there is a fine line between operations and the governing body, so what level of information they get is determined by the executive.

20

MS McDONALD: So is your recollection, in '24/'25, one of the councillors -

MR NADAN: I think it was the Mayor who asked for that.

25 **MS McDONALD:** - asked a question. All right. That question was not asked in the lead-up to the current budget.

MR NADAN: No. No.

30 **MS McDONALD:** Would you just excuse me? There's no further questions.

COMMISSIONER: Operator, could we have brought up document INQ.016.001.0004, and this is the "Long-Term Financial Statements" which have been shown before, so they can go on the live stream. "Long-Term Financial Plan",
35 I'm sorry. You can see there, Mr Nadan, it is the most recent long-term financial plan.

MR NADAN: That's correct.

40 **COMMISSIONER:** Can we go ahead to page 0008, and on this page there's a series of ratios?

MR NADAN: That's right.

45 **COMMISSIONER:** Are you familiar with these ratios?

MR NADAN: I am.

COMMISSIONER: These are the OLG?

5 **MR NADAN:** They were OLG ratios, but for financial year '24/'25, they were made optional for councillors to report on this.

COMMISSIONER: Yes. All right. But the OLG has a series of - have I gone wrong? You're just looking at the screen.

10 **MS McDONALD:** Sorry, I can't see the screen. I should have indicated that. I do apologise.

COMMISSIONER: I thought I'd done pretty well to that point. The OLG has a series of benchmarks for each of these ratios?
15

MR NADAN: That's right.

COMMISSIONER: All right. I just want to get your assistance in understanding them and their significance from your perspective as the CFO. The operating
20 performance ratio, what does that measure?

MR NADAN: All right. So that basically looks at operating revenue and operating expenditure and, I guess, managing your expenditure in relation to whatever - or within the revenue you're actually collecting.
25

COMMISSIONER: All right.

MR NADAN: But that, in a commercial sense, is the profit.

30 **COMMISSIONER:** And the ratio is greater than zero? The benchmark, sorry, is greater than zero?

MR NADAN: The benchmark is equal to or greater than zero.

35 **COMMISSIONER:** And according to this, that benchmark is not currently forecast to be met - I'm sorry - it is going to be met in the 2025/'26 year?

MR NADAN: Yes.

40 **COMMISSIONER:** And then not met for the next three.

MR NADAN: Correct.

COMMISSIONER: What is driving that result? Do you know?
45

MR NADAN: What is driving that result? Well, I guess there is - the key one is depreciation, which Council basically doesn't have any - much control over. It is

about \$50 million-plus that sits there, and I think that's the challenge for growth councils because even though the growth council itself doesn't deliver any infrastructure, there is infrastructure that is handed over from the developers to the council, that council needs to maintain (indistinct) if there is subdivision, drainage, whatever they put in there, once they get the consent they sell off their lots. Maintaining all those infrastructure becomes a responsibility of Council.

COMMISSIONER: And is that an impact of Austral on this Council?

MR NADAN: Yes. So Austral had mentioned all those areas. As the development is happening, all those lands - properties are handed over to Council. On the register, about 40 million worth of assets delegated to council, right. Now, because they are infrastructure assets, they start depreciating from day 1. We would argue that, you know, they're new assets. You will not actually require immediate maintenance of those assets, so - but we are required to depreciate from day 1. But that's driving that, plus the salaries and other operating costs associated with that. And on top of that, I guess, because rate is capped, Council is not able to increase rates. So, all of those impact the bottom line.

COMMISSIONER: That is the issue you were raising yesterday about the limited ability of Council to raise its funds?

MR NADAN: Correct. Exactly right. And the financial assistance grants, for example. There are timing issues. So we are assuming for '25/'26 we are going to get 85 per cent, but, as we have seen for '24/'25, they give us 50 per cent, so there will be timing issues which will actually impact on these ratios, but that's the operating ratio.

COMMISSIONER: All right. And the operating ratio being less than zero, as the CFO, is that a matter that would cause you concern?

MR NADAN: Given the factors that I have just put forward, as long as they're not overly in red, I think that's not an issue.

COMMISSIONER: What do you mean overly in red?

MR NADAN: If you're talking about 10 per cent, 20 per cent, something like that, then there is an issue because it will - eventually, it is going to impact on your cash.

COMMISSIONER: Yes.

MR NADAN: So that's what I mean when I say "overly", but, you know, less than five per cent, I don't think that's an issue.

COMMISSIONER: Not an issue in the context that you've just explained.

MR NADAN: Correct. Right. And in Office of Local Government is actually realise that. That's why they're saying -

COMMISSIONER: Optional.

5 **MR NADAN:** - optional. But I guess the important thing there is your cash. Your reserves need to be there.

COMMISSIONER: Can I take you to the next one. "Own source operating revenue ratio".

10 **MR NADAN:** Yes.

COMMISSIONER: What does that measure?

15 **MR NADAN:** What it does, it actually looks at the total operating revenue. Again, I guess it's little flawed in the way because the total revenue, which is the denominator, includes your capital income that you are getting. So what it does, it looks at your rates, which is your source of income, which is your own source, and then divides it by the total revenue, bottom line. And then, I guess, the benchmark is more than 60 per cent, I believe.

20 **COMMISSIONER:** 60, yes.

MR NADAN: Again, as the CFO, I'm not too worried about that because, as I've described, it includes capital expenditure as well. So we talk about own source
25 operating, then we should be only looking at total revenue minus the capital expenditure, then you look at it.

COMMISSIONER: Thank you. The next one, "Unrestricted Current Ratio".

30 **MR NADAN:** Yes. So that's the - the "Unrestricted Current Ratio" basically looks at your current assets and current liabilities that are not related to any restricted reserves. So, if you think about - so, basically, looks at your current assets and your current liabilities, which is due in 12 months. When we say "current", 12 months, and then 12 months in your - in your liabilities. So it basically looks at the
35 unrestricted components of your current assets and current liabilities.

COMMISSIONER: And the benchmark is greater than 1.5?

40 **MR NADAN:** I believe so, yes.

COMMISSIONER: And not expected to be met this year or in the next - over the following two years?

45 **MR NADAN:** 1.5. Yes.

COMMISSIONER: And -

5 **MR NADAN:** Probably a temporary position now, but, as I described, there are other initiatives, including the \$7.3 million we're going to get from Built when they exercise the call option, and redevelopment of the car parks and other - any cash that we're going to get through Project 26 if I may, that will improve the position. So if that dip is temporary, I guess the main reason there was - I guess there are a couple of factors. Number 1, it's naive to believe that terminating staff is not costing Council. It does cost Council. We have a legacy issue on asbestos, which has already cost more than \$45 million, and that's ongoing. \$2 million in the next 10 years, \$2 million each for every year. That's a legacy issue. We don't have any other source of income for that. And what else is there? These are the major issues that's impacting our unrestricted cash position.

15 **COMMISSIONER:** All right. And as I've understood, and correct me if I'm wrong, is you consider it's temporary because there are measures being taken to address it?

MR NADAN: Correct.

20 **COMMISSIONER:** But do I take it, though, that there's still a matter that requires ongoing review and attention?

MR NADAN: Attention. Correct.

25 **COMMISSIONER:** And if those measures were not to derive the benefits that you expect -

MR NADAN: Yes.

COMMISSIONER: - the forecast here would obviously be affected?

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

COMMISSIONER: The next one, "Cash Expense Cover Ratio". What does that measure?

35 **MR NADAN:** That looks at - that looks at - current expense cover ratio. I think again it is looking at current available cash and current liabilities in total - in total. And I guess, again, it's flawed a little bit, to the extent that it excludes "section 7.11" money.

40 **COMMISSIONER:** Excludes restricted funds.

MR NADAN: Exactly. So if you're talking about current assets and current liabilities, and you're looking at your total cash, you can't touch that.

45 **COMMISSIONER:** Do you have a sense of what the cover would be if one ignored the restriction?

MR NADAN: No, I haven't calculated that.

COMMISSIONER: The next one? "Rates and annual charges".

5 **MR NADAN:** "Rates and annual charges", that basically looks at the total rates levied and how much you haven't collected. The higher the number, that impacts on your cash because you haven't actually collected that.

COMMISSIONER: And the benchmark is -
10

MR NADAN: Is five per cent.

COMMISSIONER: - less than 5.

15 **MR NADAN:** Yes, less than 5. Again, that benchmark was set, I don't know, apparently ages ago. I don't know when. And also, if you look at the total outstanding, if you look at us, \$15 million, there is about \$3.5 million or close to \$4 million that relates to pensioners. So there is a Council policy which says, well, you can't go too aggressive debt collection on the pensioners. So as the pension basically
20 increases, and you are not actually aggressively pursuing them, then obviously your outstanding rates is going to go up.

COMMISSIONER: Is this an emerging issue, if I can put it that way, for the Council?
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MR NADAN: It is, yes.

COMMISSIONER: The next one. "Debt service cover ratio". Do you know what that measures?
30

MR NADAN: Debt service. Again, I guess it is looking at the total repayment, which is the principal and interest, and lacking at your cash. What is your ability to repay that?

35 **COMMISSIONER:** Debt service? Sorry.

MR NADAN: Same thing.

COMMISSIONER: "Debt service ratio".
40

MR NADAN: "Debt service ratio". Interest only.

COMMISSIONER: Another way of measuring a similar issue?

45 **MR NADAN:** Correct.

COMMISSIONER: "Interest cover ratio". Do you know what that is?

MR NADAN: It's interest only.

COMMISSIONER: Interest only:

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MR NADAN: Only looks at interest, not principal.

COMMISSIONER: Can I then ask you about the "Infrastructure and Service Management Ratios"?

10

MR NADAN: Yes.

COMMISSIONER: The "Building and Infrastructure Renewals Ratio". What does that look at, to your understanding?

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MR NADAN: It looks at - for a particular year, it looks at expenditure that Council has done or spent on renewing assets, compared to the depreciation of this infrastructure. There is a bit of issue about the definition of renewal - renewal expenditure - and I will have that argument with the engineers. If you take a road, for example.

20

COMMISSIONER: Take a, sorry, what?

MR NADAN: Take a road, for example. Two-lane road. And when you say renewals, in the strict definition, it is about just renewing the two-lane road. Basically, scraping the surface, and relaying it. What actually happens in practice is that two-lane road, because of traffic demands and everything, is now, when they do that, it becomes a four-lane road. That four-lane road is not classified as renewals; it is classified as new works. But actually, you renew those two roads. So, again, I guess the measurement is really flawed.

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COMMISSIONER: Except - sorry, go on?

MR NADAN: Yeah. And the other thing I talked about is the depreciation on new roads. In theory - in theory, in accounting theory, the depreciation that's there, you need to spend that much money because you're considering that asset, and at the time when you have to renew that asset, so you set aside that money. That's in theory. But in this case here, as I've said, \$40 million is dedicated assets, and they're new assets - brand-new assets. Liverpool is a growth council, and most of the infrastructure is new. It doesn't need that money on the time. So I guess there has to be, I guess, an appetite. We say, "Well, look, we have, you know, building and renewals ratio, we hit about 75. That is reasonable."

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COMMISSIONER: 75?

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MR NADAN: 75 per cent is reasonable because of these reasons. Okay. I guess it is a Council policy.

COMMISSIONER: Yes.

5 **MR NADAN:** That needs to be put in place. That's a reasonable, you know, renewal expenditure that we need to do.

COMMISSIONER: All right. And understanding the qualifiers you have put on the utility of the measure -

10 **MR NADAN:** Yes.

COMMISSIONER: - the OLG benchmark is equal to or greater than 100.

15 **MR NADAN:** 100 plus. Correct.

COMMISSIONER: In the '25/'26 budget, it is 180 per cent, and then it drops to 53 - 57, 56, 39, 52, 53 - before getting back to about your -

20 **MR NADAN:** Yes.

COMMISSIONER: - more realistic mark -

MR NADAN: Yes.

25 **COMMISSIONER:** - you would say of 75 towards the end of the period. What is driving the 180 to 50 down to 39 and back?

30 **MR NADAN:** Look, to be honest, I'm not sure. These numbers are coming from the asset and infrastructure team. They provide this, and they look at their renewals program, and then say, "This is the program, and this is the percentage."

COMMISSIONER: Does any of these ratios under the infrastructure and service management heading give you cause for concern as the Chief Financial Officer?

35 **MR NADAN:** I guess the asset maintenance one is a bit of a concern, that you need to actually maintain those assets, existing assets, and it is below average or below the benchmark. Infrastructure backlog ratio, I'm not too worried about it. It is a bit of a subjective ratio.

40 **COMMISSIONER:** Why do you say that?

45 **MR NADAN:** Because it's - I guess it says how much it's going to cost you to bring these assets to satisfactory condition. What is satisfactory condition? It could differ from council to council. So that's why I'm saying it's very subjective. The "asset maintenance ratio" is a concern.

COMMISSIONER: Why?

MR NADAN: Because you've got - the longer you don't maintain these assets, it's going to cost you more . That's why I'm saying you have got to be maintaining as you go.

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COMMISSIONER: And the benchmark is equal to or greater than 100 for that one?

MR NADAN: Correct.

10 **COMMISSIONER:** Do you have a view about the utility of that benchmark, like you raised some concerns about -

15 **MR NADAN:** For asset maintenance, I would 100 per cent - I would agree with 100 per cent plus, but for the backlog and the building infrastructure ratios, I think there needs to be some flexibility.

COMMISSIONER: All right.

20 **MR NADAN:** Depending on - it's not one fits all kind of thing.

COMMISSIONER: Yes?

MR NADAN: It has to be council-specific, I guess, a little bit.

25 **COMMISSIONER:** All right. Just focussing, then, on the asset maintenance ratio, does this forecast suggest to you that something different needs to be done in relation to asset maintenance within the council?

30 **MR NADAN:** Yes. I guess there needs to be a little bit more investment in that area.

COMMISSIONER: More investments and focus in the area, did you say?

MR NADAN: More investment in the area, asset maintenance.

35 **COMMISSIONER:** To get it close to or 100?

MR NADAN: Correct.

40 **COMMISSIONER:** All right. Can I jump ahead again in the document to -

MR NADAN: Again, an issue - on asset maintenance there, is a resourcing issue, of course, giving them the funding to do works, and there is also a delivery - whether it team has the capacity to deliver, given that we are doing all these major projects.

45 **COMMISSIONER:** Yes.

MR NADAN: So they are combined.

COMMISSIONER: It is a resourcing issue on two fronts.

MR NADAN: That's right.

5

COMMISSIONER: The financial issues and the human resources.

MR NADAN: Yes.

10 **COMMISSIONER:** I understand. But do I take it from your earlier answers, those two things are the challenge that need to be met and addressed?

MR NADAN: Correct.

15 **COMMISSIONER:** Can we jump ahead in the document to 0032, please, and this is the base case that you've seen before?

MR NADAN: Yes.

20 **COMMISSIONER:** And you've been taken to a lot of the detail. I don't want to spend too much time with you. But you'll see for the next - the forward period commencing after '25/'26, there's deficits of 2.4, 1.6, 3.8, 1.3 before it returns to surplus?

25 **MR NADAN:** Correct.

COMMISSIONER: Are you able to give me a general sense of what is driving those results?

30 **MR NADAN:** Obviously, from the cost perspective, employee-related costs is going up, and then there are obviously through the restructure, tranche 1, tranche 2, we will try to manage that. Obviously, there is a big borrowing cost attached to it, which is the second line, borrowing costs. That's -

35 **COMMISSIONER:** Borrowing costs for what?

MR NADAN: Borrowing costs. We are actually paying the loan, so that is, again, driving the bottom line.

40 **COMMISSIONER:** What are the main components of borrowing costs? Civic Place is one, for example?

MR NADAN: Civic Place. Yes. Mostly Civic Place.

45 **COMMISSIONER:** All right.

MR NADAN: And I think there was something for the Macquarie Mall, but that's almost paid off.

COMMISSIONER: Macquarie Mall is almost paid off.

5

MR NADAN: Almost, yes.

COMMISSIONER: So is the main item - the big-ticket item, to pick up a phrase you used the other day -

10

MR NADAN: Civic Place. \$200 million.

COMMISSIONER: Yes. Sorry, go on?

15

MR NADAN: And then you've got depreciation as you can see is going up significantly from 55, 58, 60. But that's the - in all these WestInvest funds projects we are talking about, once it's completed, Council needs to operate it, so that's additional cost on top of that, and then, obviously, it is going to be depreciated, so that's driving all this.

20

COMMISSIONER: In some of your earlier answers today, you indicated that there are initiatives and measures being pursued to try and -

MR NADAN: Correct. So we get cash from all these things that we're doing, and the idea is to invest that in maintenance, renewal of assets, stuff like that.

25

COMMISSIONER: But, again, do I take it that the position in the next four years and beyond, but if we just deal with the four years after the current financial year, is that something that you consider needs to be fairly closely monitored?

30

MR NADAN: In the forward years.

COMMISSIONER: Yes.

MR NADAN: Yes, of course.

35

COMMISSIONER: Because if some of the initiatives don't come to fruition, the position may trend in the other direction.

MR NADAN: The long-term financial plan is done every year. I was talking to Farooq, maybe we should start doing it every six months as best practice and start putting all these changes through because, as you know, the budget is set, but then other decisions made in between the year - creating positions, for example. Those are operational decisions that, you know, the CEO has done, or something is passed by the governing body that we need to incorporate in there. That obviously changes everything. And if there are significant items coming in, we need see how it impacts our long-term financial plan that can actually drive some strategic decisions.

40
45

COMMISSIONER: And tell me if this is too general a question, but sitting here today, how would you assess the overall financial position of the Council?

5 **MR NADAN:** I think we are satisfactory for now.

COMMISSIONER: Satisfactory for now?

10 **MR NADAN:** Yes. We've got enough cash. Yeah.

COMMISSIONER: What are the main risks moving forward for that position?

15 **MR NADAN:** Well, if I look at my current long-term financial plan, and using this year as the base, cash is looking good, so there's no issues there.

COMMISSIONER: Cash is looking good?

20 **MR NADAN:** Looking good, yes. But then again, it all depends on - again, it is based on assumptions. If we don't realise that, then, obviously, there are risks in there, so we need to manage those. And then obviously the risk is if the governing body decides to do something different, that's that. But I guess from organisational point of view, the biggest risk there or biggest issue there is the stability. The leadership keeps changing. The direction keeps changing. So that's the biggest risk. And then there's staff are just left thinking, "What's next?"

25 **COMMISSIONER:** Sorry, the biggest risk to what you describe as the satisfactory position is stability at the executive level.

30 **MR NADAN:** In the core, yes.

COMMISSIONER: And why is stability at the executive level important to managing this financial position?

35 **MR NADAN:** Well, I guess we have seen this where a CEO comes in and says, "Here's the direction. This is what we want to do." We capture that in the long-term financial plan. The next CEO comes in, and the direction changes. Some of the initiatives put in place is taken off, so that again depends or impacts on the bottom line and the cash.

40 **COMMISSIONER:** And if that sort of change were to happen again in the next, say, two to three years, this could affect the ability of the Council to return to surplus?

45 **MR NADAN:** Exactly. Exactly. So this a planning document which reflects the position of - based on the best information at the point in time. Needs to be updated regularly and monitored.

COMMISSIONER: And earlier you told me that cash is, I think, looking good, you said?

MR NADAN: Yes. For now.

5

COMMISSIONER: The position has improved since your report -

MR NADAN: From June 2024, the position has improved.

10 **COMMISSIONER:** Just pause for a moment. The position has improved since your report to the governing body in about December of last year?

MR NADAN: Correct.

15 **COMMISSIONER:** And what has driven that improvement?

20 **MR NADAN:** Obviously, the sale of - the settlement of the Hammondville piece of land. That has improved. We are able to - we were able to successfully negotiate with Bankstown to get the \$3 million that we use our money to do that, so that has actually come in. And there was a staff freeze following my report in December. A lot of vacancies kept like that. That has given us some savings. All these things have added up to give us a better position end of June 2025.

25 **COMMISSIONER:** And in answer to my earlier question, you said the position is satisfactory "for now". Why did you add the words "for now"?

30 **MR NADAN:** Yes. Well, again, it depends on which direction and what decisions are made later on. So I'm saying, based on now, this is what the reserve looks like, but if there are other decisions made that has financial implications, it might change.

COMMISSIONER: So as CFO, looking to return to surplus on this projection -

MR NADAN: Correct.

35 **COMMISSIONER:** - would you suggest that fairly close attention needs to be paid to stay on the pathway, so it were?

MR NADAN: Correct. Correct.

40 **COMMISSIONER:** All right and in answer to some of counsel assisting's earlier questions, you said that the cost of staff payments - termination payments or redundancy payments and the like - was close to \$5 million for the period '21 to '24; correct?

45 **MR NADAN:** Redundancy payments, yes.

COMMISSIONER: Is that something that those figures are able to be extracted from the Council's financial system - that is, termination or redundancy payments over a period of time?

5 **MR NADAN:** Yes. I already got that report.

COMMISSIONER: Thank you. Anything arise out of that? Does anyone seek leave to ask Mr Nadan some questions?

10 **MS MCDONALD:** Just before somebody does, could I just first hand up to be marked for identification TB-08, general exhibits.

COMMISSIONER: Is this an update to what was MFI 7? All right. That will be the updated index headed TB-08 general exhibits 2 as of 22 July at 8am will be MFI 12

15 **<MFI #12 UPDATED INDEX HEADED TB-08 GENERAL EXHIBITS AS AT 8 AM ON 22/07/2025**

MS McDONALD: May I take you to the third page.

20 **COMMISSIONER:** Yes.

MS McDONALD: I tender item 167, being document INQ.009.001.0001, Agenda to Governance Meeting held on 18 February 2025.

25 **COMMISSIONER:** That will be exhibit 27.

<EXHIBIT #27 AGENDA TO GOVERNANCE MEETING HELD 18/02/2025

30 **MS McDONALD:** Item 170, document INQ.001.001.1128, Agenda to Governance meeting held on 28 January 2025.

COMMISSIONER: Exhibit 28.

35 **<EXHIBIT #28 AGENDA TO GOVERNANCE MEETING HELD ON 28/01/2025**

MS McDONALD: Item 171, document LCC.001.003.0330, ABC article 18 December 2024 Liverpool Council Facing Serious Cash Flow Problem.

40 **COMMISSIONER:** Exhibit 29.

<EXHIBIT #29 ABC ARTICLE "LIVERPOOL COUNCIL FACING SERIOUS CASH FLOW PROBLEM" DATED 18/12/2024

45 **MS McDONALD:** That's it.

COMMISSIONER: Yes. Does anyone seek leave to ask Mr Nadan some questions?

MR EMMETT: I do, Commissioner.

5 **COMMISSIONER:** Yes.

MR EMMETT: I anticipate I will be 10 to 15 minutes.

10 **COMMISSIONER:** That's fine.

MR EMMETT: Mr Nadan, you gave some evidence about assumptions that are used to prepare the budget. Do you remember that?

15 **MR NADAN:** Correct.

MR EMMETT: Am I right that assumptions are often a matter of judgment?

MR NADAN: Yes.

20 **MR EMMETT:** And there are - sometimes reasonable minds can differ about whether a particular assumption should be made?

MR NADAN: Yes.

25 **MR EMMETT:** You can have situations where one well-informed person thinks an assumption is reasonable, and another well-informed person thinks the assumption is not reasonable or is unduly optimistic.

30 **MR NADAN:** Generally, yes.

MR EMMETT: Can I ask about the preparation of budgets. Is this the case - is it the case that budgets each year have included - typically include items that, will at an appropriate point in the coming financial year, require a Council resolution to be implemented, but where the Council resolution has not yet been made?

35 **MR NADAN:** Sorry, are you asking me whether there were some assumptions included in the budget where Council resolution hasn't been made?

40 **MR EMMETT:** Items in the budget.

MR NADAN: Items in the budget.

45 **MR EMMETT:** Yes. Where you're going to need a Council resolution in the future, but it has not been made.

MR NADAN: Corrects. So, the budget is a plan, right? So it may be included. It's a plan. But I guess it has to be a reasonable plan, whether you can actually deliver or not.

5 **MR EMMETT:** And from your perspective, that means if it is going to require a Council resolution, you need a reasonable basis for expecting that the Council resolution will be made; is that right?

MR NADAN: Yes.

10

MR EMMETT: And so can I take, by way of an example, an expectation or a budget that includes a proposed acquisition or sale of land?

MR NADAN: Correct.

15

MR EMMETT: Am I right that each year, the budget, when settled or when adopted by the Council in June, includes many items where there is going to be - includes in various items of the budget's figures that reflect that there is going to be or expected to be an acquisition or sale of land?

20

MR NADAN: Not every year.

MR EMMETT: Well, bear in mind I'm not necessarily talking about large and significant pieces of land. Most meetings Council makes resolutions in relation to the sale or acquisition of some pieces of land, doesn't it?

25

MR NADAN: Yes. Generally, there are some things included in the budget. Those items or those pieces of properties are actually identified -

30 **MS McDONALD:** I'm sorry, I didn't hear that. Those -

MR NADAN: If there is any item that is included in the budget - say, for example, sale of land - we know about that beforehand, so it is either in a delivery plan, or there's somewhere, that item is included in there. And come that financial year, we'll include that. Okay, so this sale is earmarked. I was referring to say 33 Moore Street, I mean, there is a Council resolution potentially, and the property was identified, and that property is actually included in the budget in that year. So in those cases, yes, it will be included.

35

40 **MR EMMETT:** And what you may have is a situation where a sale of land or - and just to be clear, I'm also asking about a situation where the sale of a particular plot of land or where sale of land will not necessarily feature as its own item. For example, you may be expecting a certain amount of income from sale of land without having earmarked the land to sell, but you know you're going to be selling various pieces of land, and you know the Council will come to that in the coming financial year. Does that happen?

45

5 **MR NADAN:** No. We do not make any general provision for sale of land, as opposed to what we do when we do the capital works budget. We have a general provision to buy land, and we don't know which lands are there, depending on, you know, the priority, what we want to deliver, what becomes more priority. So then that money is spent to buy the land. But in terms of sale, we don't have a general provision.

10 **MR EMMETT:** Thank you and in relation to purchasing - buying land, you make general provision because you know you're going to be buying some land; is that right?

MR NADAN: Correct. Yes.

15 **MR EMMETT:** But the actual-

MR NADAN: Sale? No.

20 **MR EMMETT:** No, no. I'm sorry. In relation to the proposed purchase of land, when you come to buy a particular piece of land, the resolution of Council to buy that land will come during the coming financial year, won't it?

25 **MR NADAN:** Yes. Sorry, sorry. Let me put it this way. So we put a general provision in the budget to buy that - a property. When we identify that property, and when we start entering into negotiations and about to settle, or the price is agreed after negotiation, we go back to the Council and get a resolution to do that.

MR EMMETT: Yes. And that latter step, going back to the Council to get the resolution, that happens during the financial year after the budget's been set?

30 **MR NADAN:** Correct. It may be the same year or could be different years, depending on when you are ready.

35 **MR EMMETT:** And can I ask this: You referred I think earlier to the absence of a rate - of a Council rate increase?

MR NADAN: Yes.

40 **MR EMMETT:** Am I right the IPART, the Independent Pricing and Regulatory Tribunal, it has a function of approving special variations to rates?

MR NADAN: That's right.

MR EMMETT: It publishes them. Is that right?

45 **MR NADAN:** It does publish, yes.

MR EMMETT: Based on your position, are you able to give the Commissioner an indication of the frequency with which those special variations are sought by other councils around the state?

5 **MR NADAN:** There are many councils who are seeking massive increases. The recent one was North Sydney. I think a couple of days ago, we heard about Blacktown raising 171 per property. Those are special rate variations that have been factored in. As far as Liverpool is concerned, to assist fund the operations of the building - of the council, we haven't sought, from memory. I have been here for 11
10 years. We haven't sought any; nor have we factored anything in the long-term financial plan.

MR EMMETT: Thank you, Mr Nadan. Commissioner, those are our questions.

15 **COMMISSIONER:** In answer to some of Mr Emmett's questions, you made reference to a provision in the capital works budget for land acquisition?

MR NADAN: Yes.

20 **COMMISSIONER:** And just to make sure I've understood it correctly, that's a provision that's made every year, although a particular piece of land may not yet have been identified?

25 **MR NADAN:** Generally, yes.

COMMISSIONER: Is there an average amount that's provisioned?

MR NADAN: Around \$50 million.

30 **COMMISSIONER:** 15?

MR NADAN: 50. Five-zero.

35 **COMMISSIONER:** 50. Each year, roughly?

MR NADAN: Yes. And it comes from the sections. Mostly they are funded from development fund provisions, and we buy land and deliver infrastructure, so that's the provision. But, as you know, the negotiations and all those settlements takes a lot of years - two years, three years, kind of thing - so about \$50 million is general
40 provision.

COMMISSIONER: Each year?

45 **MR NADAN:** Yes.

COMMISSIONER: I don't have it in front of me, but does that appear as its own line item?

MR NADAN: Land acquisition, yes, in capital works.

COMMISSIONER: Thank you.

5

MS PALMER: Thank you, Commissioner. Good afternoon, Mr Nadan. My name is Claire Palmer.

10 **COMMISSIONER:** Sorry, Ms Palmer. Would you mind moving the microphone. Thank you.

15 **MS PALMER:** Please let me know if you can't hear. I wanted to take you to an area the Commissioner addressed briefly with you. He had taken you to the document which is the 10-year financial plan, and he pointed you, in particular, to the line "Borrowing Costs".

MR NADAN: Yes.

20 **MS PALMER:** In connection to borrowing costs, you mentioned that the Civic Place had been a significant source of borrowing costs; is that correct?

MR NADAN: That's right.

25 **MS PALMER:** And I think you also mentioned in your evidence to the Commissioner that the cost of Civic Place overall was \$400 million; is that correct?

MR NADAN: I don't believe I made that statement.

30 **MS PALMER:** Excuse me. I thought I heard a figure of \$400 million?

MR NADAN: No. Not from me. Not Civic Place.

35 **COMMISSIONER:** I thought the witness was referring to the amount of the borrowings?

MR NADAN: \$200 million.

MS PALMER: The amount of the borrowings was just \$200 million?

40 **MR NADAN:** Yes. Because, sorry, the Civic Place itself has cost Council \$220 million.

MS PALMER: \$220 million.

45 **MR NADAN:** Correct. When we talk about 400, that includes the developer works. Not council's cost.

MS PALMER: That includes the - excuse me, could you just repeat that?

5 **MR NADAN:** The developer cost. So the whole Liverpool Civic Place, there are two components. One is council works, one is developer works. When you talk about council works, that is the \$220 million we are talking about. The developer works is not Council's liability.

MS PALMER: Yes.

10 **MR NADAN:** All we do is transfer that piece of land to them, and they develop, and that's their cost.

MS PALMER: Thank you. And so in that case, then, there are loan facilities with relevant institutions that total approximately \$200 million?
15

MR NADAN: \$200.5 million.

MS PALMER: \$200.5 million in respect of the Liverpool Place project. And is it correct that these loans incorporated into the budget as about \$7 million per year in interest costs?
20

MR NADAN: About that, yes.

MS PALMER: In respect of Civic Place only?
25

MR NADAN: Correct.

MS PALMER: And in light of this, would you agree that the Civic Place project has placed significant financial pressure on Council in terms of servicing those loans and paying those interest costs?
30

MR NADAN: Yes.

MS PALMER: Would you also agree, Mr Nadan, that that has placed some pressure on Council in terms of having to consider the sale of various assets in circumstances where it otherwise might not have been considering that?
35

MR NADAN: Yes. When we went to TCorp for the last tranche of the loan, we took that loan as interest only, and we did indicate that we will sell a particular property to repay that loan in five years time. Yes.
40

MS PALMER: Thank you. Thank you. Mr Nadan, I now want to take you to the events of April 2024. This a different topic.

45 **MR NADAN:** 2024? Okay. Yes.

MS PALMER: Yes. And just one event in particular. I understand that there was -

MR NADAN: Sorry. Sorry, can I interrupt?

MS PALMER: Excuse me. Of course?

5

MR NADAN: Have you left Liverpool Civic Place topic or you're going to come back?

MS PALMER: I've left the Civic Place topic.

10

MR NADAN: All right. I guess, for the information of the Commissioner, this project started back in 2015.

MS PALMER: Yes.

15

MR NADAN: A contract was signed with Built, and the PDA was agreed. When I talk about the PDA, it is a legally binding contract.

MS PALMER: Yes?

20

MR NADAN: That was signed in 2016 with Built.

MS PALMER: Yes?

25 **MR NADAN:** Now, things - the prices changed, the scope of the project changed, and I guess that was due to some planning requirements and some additional things that the councillors wanted. And the price then changed from 70 at that point in time to \$195 million, and I think that has been explained by various audit documents that have actually done that. I guess that's - and then there was a - an attempt to get out of
30 that contract and -

MS PALMER: Could I just pause you there. I know you've mentioned that originally - I believe it was in 2016 you mentioned that the net cost was originally -

35 **MR NADAN:** No, the cost of the building.

MS PALMER: Of the building was believed to be \$75 million?

40 **MR NADAN:** 75 or 70 million at that point in time. Now -

MS PALMER: I'll just pause you for a second there. And I think you mentioned the Council component was then revised to \$195 million?

MR NADAN: Correct, yes.

45

MS PALMER: And that was around October 2018 that the Council passed a resolution approving that expenditure?

MR NADAN: 18, I believe. November 18, somewhere there. The Council - I guess at that point in time there was legal advice sought whether we can actually - Council can get out of that PDA.

5

MS PALMER: Right.

MR NADAN: I think advice was that you're going to [REDACTED]

10 **COMMISSIONER:** Hang on. Just pause.

MS PALMER: Mr Nadan, that advice might be subject to legal professional privilege?

15 **MR NADAN:** I'm not giving more details except that it's going to [REDACTED]

MS PALMER: Excuse me.

20 **MR EMMETT:** I'm sorry to do this. The difficulty is that may not be proven (indistinct) seek a confidentiality order (indistinct) at least while I -

COMMISSIONER: Do I have to stop the stream? Dump it, as it were?

25 **MS PALMER:** Commissioner, we don't need - it might be appropriate to stop it in the circumstances.

MR EMMETT: It is with real hesitation, I say yes. Whether Ms Palmer needs it or not (cross-talking).

30 **COMMISSIONER:** Mr Operator, before - can we cut the feed so that that last answer isn't published, and then we'll attend to Mr Emmett's microphone. Just pause a moment. Thank you. I actually didn't hear the last answer.

35 **MR EMMETT:** I did, so I'm in a position to find out -.

COMMISSIONER: All right. What I will do in the meantime is, pursuant to section 12B of the Royal Commissions Act, the last answer given by the witness in which to - in which he made reference to legal advice obtained by the Council is not to be published. Now, what qualifier should I put on this, given it is at the council's
40 privilege? Those in the room have already heard it to the extent they have heard it, but some should not be published otherwise then to the legal representatives of the Council, which includes the deputy - the general counsel, deputy counsel and Council CEO.

45 **MR EMMETT:** Yes, Commissioner.

COMMISSIONER: For the moment.

MR EMMETT: Yes.

COMMISSIONER: All right. I have made that direction, and when we're ready,
5 Mr Operator, we'll return to public streaming. I want everything cut until now. Yes.

<THE HEARING RESUMED AT 3.32 PM

<THE HEARING RESUMED AT 3.32 PM

5 **MS PALMER:** Thank you, Commissioner. Mr Nadan, I don't have any more specific questions about Civic Place, but I appreciate you were explaining some issues to the Commissioner, and I interrupted you in your answer?

10 **MR NADAN:** Yes. I guess I was trying to make a point that this is something that we have inherited, and we are just managing the best as possible.

MS PALMER: Something that you inherited - the present Council as constituted inherited?

15 **MR NADAN:** Yes.

MS PALMER: Yes. Thank you. I'm moving briefly to another topic. A very small number of questions. I wanted to take you to April 2024, and there was a significant Council meeting on 24 April in 2024. Can you recall any particular Council meeting that took place at this time that has special significance?

20 **MR NADAN:** In April 2024.

MS PALMER: April 24 and I might - this might assist in helping you recall. At this - in advance - and please say if you don't recall this - but in advance of this particular meeting, there was an allegation circling that Council was looking at sacking 150 staff members. Do you have any recollection of that?

30 **MR NADAN:** I believe that was something which was advocated by the union from - that's all but as far as our discussions or my discussions with the executives and the CEO, I don't recall any discussions around that?

MS PALMER: Does that mean it's the case, Mr Nadan, that you didn't complete any financial modelling at that time in respect of any proposal to cut 150 jobs?

35 **MR NADAN:** No.

MS PALMER: Are you aware of any other person in the Council who completed such modelling?

40 **MR NADAN:** I don't think so.

MS PALMER: And as CFO, you would have been aware, isn't it the case, if anyone had completed such modelling?

45 **MR NADAN:** I would have.

MS PALMER: Thank you. I have no further questions. Thank you, Commissioner.

COMMISSIONER: Does anyone in the back row seek to ask Mr Nadan any questions? No. Anything from you, Mr D'Arville? No. Ms McDonald?

5 **MS McDONALD:** Yes. Mr Nadan, you were asked some questions about the sale of land, and you said, look - something along the lines of, "We know because there's a delivery plan."

MR NADAN: Yes.

10

MS McDONALD: When you referred to a delivery plan, what were you referring to?

15 **MR NADAN:** It's one of the key documents. It has a four-year term so, when the Council normally comes in they say, "Here's what we're going to deliver in four years." Then that plan, obviously, is reviewed each year, but not significantly. There is another plan which sits underneath that, which is the operating plan. So that basically talks about what is going to be delivered in the next financial year, and then that is supported by the resourcing plans, which is the (indistinct) diversion plan, the
20 asset management plan, and the workforce management plan. They all supplement those. So when I talk about the piece of land, that was not in any of these documents. I guess there was a bit of - if we are - if I may assume that you are using 3 Hoxton Park Road as a piece of land, there's a bit of history attached to that.

25 **MS McDONALD:** There's what, sorry?

MR NADAN: A bit of history attached to that. So the history is this, that we - Council once upon a time owned that piece of land, and, later on, Council actually sold that piece of land, and then Council bought it back. And the rationale or
30 the reasoning provided to the governing body at that point in time, why we are buying that land back, was that the location of this piece of land was very strategic addition, and that would have impact on the development of the Woodward Park master plan if Council had to do that, and that's the reason we had to buy it. So I guess the decision, in retrospect, to sell it back didn't make sense - didn't pass the
35 reasonable person test, if you like.

MS McDONALD: Okay. The - again, a rough indication of approximately when the Council bought 3 Hoxton Park Road back?

40 **MR NADAN:** I can't recollect, but it has to be seven, eight years ago.

MS McDONALD: You spoke about the sale of land - I'm sorry - purchasing land, and that there is a provision for potential purchase of the land.

45 **MR NADAN:** Correct.

MS McDONALD: And my note was that that was related to - is it a capital expenditure?

5 **MR NADAN:** It's funded through the developer contributions, "section 7.11", that Council has collected, and then we buy these pieces of land to deliver infrastructure within those contribution plans.

10 **MS McDONALD:** I was going to ask why wasn't the purchase of Cowpasture Road funded by that means, but I think you've answered it when you said it's linked with the "7.11" contributions?

15 **MR NADAN:** Correct. So there is a plan for each area, and then Council then says, "I want to deliver all this infrastructure because you're developing that, and you need to pay this amount." We collect it, and then we deliver that infrastructure", and Cowpasture Road was not part of those plans.

20 **MS McDONALD:** You were asked about increases in rates, and you gave evidence that there hadn't been any special variation to the rates charged through Liverpool City Council to the community?

MR NADAN: Correct. Sorry, when I talk about special rate variations, that is on top of what IPART has already determined.

25 **MS McDONALD:** That was what I was going to ask you. For the current - this financial year, there's been an increase of six per cent?

30 **MR NADAN:** Correct. So they take two parts of it within the six per cent. So IPART said - I think it's two per cent - two per cent as a growth factor, and the balance of four per cent, thereabouts, is for the general cost increases. Yep.

MS McDONALD: Yes. Nothing further.

35 **COMMISSIONER:** Can you just give me an example of land that might be purchased through this capital works provisioning using the section 7.11 grant, just leading on from the answers you've given to counsel assisting?

MR NADAN: An example of land?

40 **COMMISSIONER:** Yes. Just an example of how that provision might actually come to be used. One from the past, or just a hypothetical even, just so I can get a sense of how that money might be used from time to time.

45 **MR NADAN:** Okay. So under the contribution plan, Council could have indicated to the developers that due to your development, these are the other facilities that Council needs to provide for these people who are going to come and live there, and typically it could be parks.

COMMISSIONER: I see.

MR NADAN: Right. So if there is a piece of land in there, and that needs to be converted into a recreational area, Council will use that money to buy that land.

5

COMMISSIONER: Great. Thank you. That's very helpful.

MS McDONALD: I'm sorry. Can I just ask -

10 **COMMISSIONER:** Of course. I set the ball running. You can kick it again.

MS McDONALD: You were asked some questions about Civic Place. Civic Place currently not only houses Council facilities and staff, but also different floors are privately leased?

15

MR NADAN: Yes. So we have - Council has entered into lease with - or certainly we have the St George Housing Commission. I believe we have a university who's already taken five levels.

20 **MS McDONALD:** So that might be University of Wollongong?

MR NADAN: I believe so. And we have also entered into a head of lease agreement with New South Wales Police, so I think they're taking Level 11. Sorry, 7.

25 **MS McDONALD:** So that results in the building being 100 per cent occupied?

MR NADAN: Correct.

30 **MS McDONALD:** And the St George Housing Commission, the university and the police, they've entered long leases?

MR NADAN: Yes. About 10, 15, I believe.

35 **MS McDONALD:** And that's generating income for the Council because of the rent they pay.

MR NADAN: That's right.

40 **MS McDONALD:** No further questions.

COMMISSIONER: Thank you. Thank you, Mr Nadan . That completes your evidence for the moment. As has been happening with all other witnesses, I won't formally excuse you from further attendance at the moment. In the event that we need to get you back, someone will let you know. But as soon as you can be released from your summons, that will be communicated to you. Thank you for your attendance and your assistance over two, I accept, very long days. I'm most grateful for your assistance, and you're free to go for the moment?

45

MR NADAN: Thank you

<WITNESS RELEASED

5

COMMISSIONER: Is there anything else I need to do this afternoon?

MS MCDONALD: No, thank you.

10

COMMISSIONER: We'll adjourn until 10 am tomorrow

<THE HEARING ADJOURNED AT 3.43 PM