



CRIME AND MISCONDUCT COMMISSION

TRANSCRIPT OF PUBLIC INVESTIGATIVE HEARING

10 **CONDUCTED AT LEVEL 2, NORTH TOWER, 515 ST PAULS TERRACE,
FORTITUDE VALLEY AT LEVEL 2, NORTH TOWER, 515 ST PAULS
TERRACE, FORTITUDE VALLEY WITH RESPECT TO**

File No: MI-09-1057

HEARING NO: 08/2009

20 **DAY 1 - MONDAY 23 NOVEMBER 2009
(DURATION: 1 HR 48 MIN)**

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LEGEND

30 **Presiding Officer – Robert NEEDHAM, Chairperson, CMC
Counsel Assisting – Russell PEARCE, Director, Misconduct Investigations
Hearing Room Orderly – Alicia VIEIRA
Witness – Judith SPENCE
Legal Representative – D. K. BODDICE**

THE HEARING CONVENED AT 10.14 AM

THE PRESIDING OFFICER: Good morning. This is hearing No. 8 of 2009 of the Crime and Misconduct Commission, conducted under section 176 of the Crime and Misconduct Act 2001. The Commission resolved on 30 October 2009 to hold public hearings in relation to alleged official misconduct of a former senior ministerial adviser to the Minister for Police, Corrective Services and Sport arising from a grant of funds from the State to the Queensland Rugby Union.

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This hearing is conducted in the context of a Misconduct investigation and I, as Chair of the Commission, will be conducting the hearing. Mr Russell PEARCE has been appointed as Counsel Assisting this inquiry. I nominate the Hearing Room Orderly, Alicia VIEIRA, to administer an oath or affirmation to any witness appearing at the hearing.

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Pursuant to section 5 of the Recording of Evidence Act 1962, I direct that any evidence to be given and any ruling, direction or other matter be recorded by mechanical device and by recorders within the meaning of the act. The recorders will be Mr Jason BRADLEY and Ms Jane EDWARDS. Witnesses are entitled to legal representation. It is proposed that witnesses will give evidence on oath or affirmation, will be examined by Counsel Assisting and then by their own Legal Representative. Whether there will be any cross-examination of any witness by a Legal Representative for another party will be a matter for leave on a case-by-case basis. Should any cross-examination be permitted, the witness's Legal Representative and then Counsel Assisting will be permitted to further examine the witness. Mr PEARCE, any preliminary matters?

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MR PEARCE: I think it's just appropriate now to take appearances, Chairman.

THE PRESIDING OFFICER: Mr Devlin?

MR DEVLIN: Good morning, Mr Chairman. Ralph DEVLIN of Senior Counsel, instructed by Gilshenan & Luton. I seek leave to appear for Simon TUTT.

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THE PRESIDING OFFICER: Yes.

MR BODDICE: Good morning, Mr Chairman. My name is BODDICE, initials DK, Senior Counsel instructed by Gilshenan & Luton. I seek leave to appear for the witness Judy SPENCE.

THE PRESIDING OFFICER: Each witness is entitled to legal representation. It's a matter then if you desire to be present for more than just the evidence of that witness.

MR BODDICE: Yes. Could we ask -- I don't think it's proposed that I will be here for the rest, but my instructing solicitor will so I seek leave to appear for the remaining, on behalf of the witness.

THE PRESIDING OFFICER: As to whether you will be given leave to cross-examine any other witnesses apart from the one that you are representing, we'll deal with that at the time.

10 MR BODDICE: That's as I understand it. Thank you.

THE PRESIDING OFFICER: Yes, Mr LAWLER.

MR LAWLER: My name is LAWLER, Initial N. Bell Miller. I seek leave to appear for Craig MATHESON, and I will be here for the duration.

THE PRESIDING OFFICER: Yes, all right.

20 MR GUEST: GUEST initials AC, Guest Lawyers. I appear for Dianne FARMER and Michael KINNANE and I will be here for the duration, if that's acceptable.

THE PRESIDING OFFICER: Yes, I can't see there'll be any conflict in appearing for both those witnesses.

MR GUEST: Not according to myself or Counsel Assisting.

30 MR SHIELDS: SHIELDS, initials PJ. I seek leave to appear on behalf of Benjamin Michael KLAASSEN. Similarly I would like to be here for the duration of the hearing.

THE PRESIDING OFFICER: Yes. Mr CARMODY.

MR CARMODY: Yes, Mr Chairman. I appear for Ken FREER, who is appearing under notice, and also seek leave to appear for the Queensland Rugby Union to protect its interests if necessary. I'm instructed by Mullins Lawyers, for both Mr FREER and the QRU.

40 THE PRESIDING OFFICER: All right. You've considered the issue of any conflict in acting for both those parties?

MR CARMODY: Yes, I have.

THE PRESIDING OFFICER: Yes, Mr Pearce.

MR PEARCE: Thank you. Mr Chairman, I will commence by citing from the Fitzgerald report. On page 129 of the report it is said, "The

Westminster system of parliamentary democracy is based on the proposition that government is answerable to the people to decide policy and public servants implement it. Fitzgerald was there discussing the dangers of a politicised public service but his words are nonetheless applicable to the matter now being examined, namely the role of a ministerial adviser. Fitzgerald continued, “Politicians have neither the time nor the qualifications and skills to make informed judgments upon the numerous complex issues which they confront. They are dependent on their advisers. Of course, politicians are entitled to political advice from staff appointed for that purpose. But that is not the job of the bureaucracy. Its role is to provide independent, impartial expert advice on departmental issues. Public officials are supposed to be free to act and advise without concern for the political or personal connections of the people and organisations affected by their decisions”.

Fitzgerald’s observations distinguish the role of the public servant from that of a ministerial adviser. Providing advice to government is an important function of the public service in a Westminster system of governance. When advising his or her minister a public servant is expected to act impartially and apolitically. On the other hand, a ministerial adviser provides personal support to the minister. This will involve the performance of functions that cannot be delegated to the department or to public servants employed by the department, including, for example, the giving of politically partisan advice. There is no argument that ministerial staff can ease the demands on a minister, at the very least by facilitating communication between the minister and the department. However, as this matter will demonstrate, the role of the ministerial adviser can be an extremely influential one particularly in the eyes of public servants. It is envisaged that this investigation will expose an episode in which public servants, and indeed very senior public servants, allowed themselves to be unduly influenced by a ministerial adviser. The consequence was that the advice ultimately delivered to the minister was neither impartial nor in accordance with applicable policy and guidelines. A further consequence is that this investigation has been required and the fact that those associated with the episode must now endure the embarrassment that will come from the public exposure and examination of their conduct.

By way of brief background, in February of this year, that is, in the lead-up to the March general election, the CMC received an anonymous complaint concerning Mr Simon TUTT who was then the senior adviser to the then Minister for Police, Corrective Services and Sport, the Hon. Judy SPENCE. The anonymous complaint alleged that Mr TUTT had orchestrated a payment by way of a sporting grant to the University of Queensland Rugby Club. It was further alleged that at the relevant time Mr TUTT was a committee member of the University of Queensland Rugby Club. In response to that anonymous allegation, the CMC made inquiries with the Department of Sport and Recreation. Information

provided by the department revealed that since 2004 a total of five applications for grant funding had been made by the University of Queensland Rugby Club. And significantly, none of those applications had been successful. In light of that advice, the CMC determined there was no reasonable suspicion of official misconduct and the matter was then closed. Subsequently, in May of this year the CMC received further information from the department. This concerned a sporting grant of \$4.2 million which had been awarded to the Queensland Rugby Union Limited, or QRU, in July of last year, that is 2008. The QRU is the state administrative body for Rugby Union in Queensland. It is responsible for managing the development and running of the game.

The CMC was advised by the department, now termed the Department of Communities, that it, that is, the department, had been informed by the CEO of QRU that at the direction of Mr TUTT \$200,000 from the \$4.2 million state government grant had been diverted to the University of Queensland Rugby Academy, an entity in which the University of Queensland Rugby Union Club has a one third interest. Such a payment, if it occurred, would be outside the terms upon which monies had been granted to the QRU and arguably would constitute an offence of fraud. The CMC was also advised that the CEO of the QRU had disclosed to the department that quite apart from the \$200,000 paid to the University of Queensland Rugby Academy, other monies had been dealt with in a manner that was contrary to the terms of the grant. But again, it was said this had occurred with the knowledge and imprimatur of Mr TUTT. In essence, it was suggested that of the \$4.2 million grant monies which had been earmarked for the development of facilities at Ballymore, \$200,000 had been redirected with Simon TUTT's imprimatur to the University of Queensland Rugby Academy and the balance had been applied against a line of credit which was to be used by QRU to meet operating and recurrent expenditure. The CEO contended that Mr TUTT had been aware that the QRU required funding to offset such expenses and that the formal grant was merely a mechanism by which to facilitate the funding.

Upon receiving this information, the CMC commenced an investigation. In the initial stages of that investigation the CMC awaited documentation from the QRU. This had been sought by the department with the Director-General having formally requested an explanation from the QRU. The CMC also conducted some interviews and more recently has conducted a series of closed hearings. Having regard to the evidence garnered to that point, on 30 October The Commission resolved to conduct a public hearing in respect of this matter. A number of reasons exist as to why it is in the public interest that the further investigation of this complaint should be conducted in a public forum. I will refer to those reasons in due course. At this point, however, I propose to say something more by way of background to the matter. As I have just stated, this misconduct investigation centres upon the

circumstances surrounding the grant of \$4.2 million awarded in mid-2008 by the then Department of Sport and Recreation from its major facilities program, that money being awarded to the Queensland Rugby Union. Twelve months earlier, in July 2007, the then federal government had announced a grant of \$25 million to the QRU to assist in the funding of a \$60 million plan to redevelop Ballymore stadium at Herston. Subsequent to that announcement, the QRU embarked on a process of preparing a development application seeking Brisbane City Council approval. The redevelopment plan was thrown into disarray when in early 2008 the newly elected Rudd federal government withdrew the \$25 million grant. Faced with the loss of federal funding, QRU determined to approach the state government.

In February 2008, a delegation from the QRU which included its CEO Mr Ken FREER, attended upon Minister SPENCE to brief her in general terms about the QRU's plans for redevelopment. The minister, you will hear, was sympathetic but noncommittal. The evidence suggests that throughout the first half of 2008 Mr TUTT, the minister's then senior policy adviser, was closely involved in efforts to secure government support for the QRU. On or about 10 May, Mr TUTT is alleged to have informed Mr FREER that he, that is, Mr TUTT, and the minister had been speaking about the QRU's situation and that they considered it was possible to make available a grant. According to Mr FREER, the figure mentioned was \$3 million over three years. On 3 June 2008, Mr FREER attended the minister's office where he had a meeting with Mr TUTT and discussed the possibility of a grant. On 24 June, it is said that Mr TUTT told Mr FREER that while nothing had had yet been approved a \$4 million grant was to be made available to the QRU. Mr FREER alleges that Mr TUTT then went further and said that \$4.2 million would be awarded on the basis that \$200,000 was to be transferred to the University of Queensland Rugby Club.

The evidence also suggests Mr TUTT was anxious to take advantage of an opportunity that would permit the minister to announce the funding of the grant at the Reds' gala ball which was held in Brisbane on Friday, 11 July 2008. In the lead-up to the gala ball there was a flurry of activity. On Tuesday, 8 July, two days prior to the ball, Mr TUTT directed the then acting Deputy Director-General Mr Craig MATHESON to prepare a ministerial submission recommending that Minister SPENCE approve a grant to the QRU of \$4.2 million. This was despite the fact that Mr TUTT had been advised by Mr MATHESON that the information provided by the QRU to that point was insufficient to allow a proper assessment of an application. Indeed, strictly speaking no formal application had yet been made. It arrived as Mr MATHESON's subordinates were drafting the ministerial submission recommending the award of the grant. Having been so instructed by Mr TUTT, Mr MATHESON had in turn instructed his senior officers to prepare a ministerial submission in the terms

Mr TUTT had demanded. Those officers were directed to complete the submission within the hour, meaning that even if the supporting documents had been sufficient there could never have been a proper assessment of the merits of the application. The task of preparing the ministerial submission fell to Mr Ben KLAASSEN, who, at the time, held the title of Director, Program and Industry Development. Like Mr MATHESON, Mr KLAASSEN is a senior executive service officer. Mr KLAASSEN did not quite meet the one-hour deadline. It took him just over one hour to produce a draft document, some three pages in length. He emailed the draft to Mr MATHESON who then made substantial amendments to the document. Both documents will be tendered and will be considered.

The final version of the ministerial submission recommending that the minister approve the grant of \$4.2 million was presented to the acting executive director sport and recreation, who was asked to sign the document. That officer, who was in fact performing Mr MATHESON's substantive position, has been examined by the CMC. She has conceded that she read the document but otherwise did not consider or value add to the process. She was aware the document had been prepared on the instruction of Simon TUTT. At this point it is not intended to examine that officer publicly although that option remains open. The final ministerial submission recommended, inter alia, that the minister approve grant funding of \$4.2 million payable over three years, targeted at the development of a new rugby field and a heated swimming pool and that she approve that the grant be funded out of a yet to be called future round of the major facilities program. In other words, there was no funding then available. Attention will be drawn to the fact that the final ministerial submission was not entirely consistent with the QRU's request for funding.

QRU had sought funding to address three priority areas, namely a new rugby field, the estimated cost of which was \$1.5 million, a new indoor 25 metre heated swimming pool, the estimated cost being \$1.6 million and the construction of new corporate and seating facilities in the western grandstand at an estimate cost of \$0.9 million. The total estimated cost of the three priority areas was \$4 million. The total grant recommended to the minister was \$4.2 million. Moreover, the ministerial submission recommended funding of only two of the three priority areas. That is, the request for funding relating to construction in the western grandstand was not supported. That, I remind you, was an estimated cost of \$0.9 million. However, there was no commensurate reduction in the total of the grant.

Minister SPENCE approved the grant on Thursday, 10 July 2008 and announced publicly the awarding of the grant at the Reds gala ball the next evening. The minister's announcement was made notwithstanding that the grant required endorsement by Executive Council, which did

not occur for some weeks. The minister later held a media conference at Ballymore to announce the grant on 31 July. A formal funding agreement was executed over the period of 11 and 12 August 2008. As part of the process that led to the preparation of the funding agreement the standard draft agreement was provided to the QRU. The standard form reflected the fact that grant monies would be made available to the QRU by way of reimbursement of expenditure. In other words, the standard practice is, in cases such as this, that the department will either pay on the presentation of an invoice or by way of reimbursement of expenses incurred. This arrangement did not suit the QRU. Funding was needed up front. In fact, this reflected the QRU's true need, namely the meeting of day-to-day operational expenses. The public servants tasked with preparing the funding agreement were instructed by Mr TUTT that the agreement was to be drafted in such a way as to allow for up front payment. In this regard we will hear evidence from Ms Dianne FARMER who was at the time job sharing in Mr MATHESON's substantive role. Her evidence will be that Mr TUTT said to her words to the effect, "Just do it". Consistent with Mr TUTT's instruction, the funding agreement was redrawn to facilitate an up front payment of \$1.4 million.

I turn now to the issue of the \$200,000 that found its way to the University of Queensland Rugby Academy. We will hear evidence in this regard from Mr FREER and from Mr ANNING, who is the chairman of the academy and deputy president of the University Queensland Rugby Club. I have already mentioned that Mr FREER's evidence will be that he was told by Mr TUTT the \$200,000 was being added to the grant monies and that this sum was to be paid to the University of Queensland Rugby Club. Mr FREER was told by Mr TUTT to make contact with Mr ANNING. On Monday, 14 July 2008, the Monday following the Reds gala ball, Mr FREER received an email from Mr ANNING who was seeking a meeting. Attached to the email was information pertaining to the elite player development program run by the University of Queensland Rugby Academy. I should point out the academy is a venture conducted jointly by the University of Queensland, the University of Queensland Sport and Recreation Association and the University of Queensland Rugby Football Club. At the material times Mr TUTT was a member of the committee of the University of Queensland Rugby Football Club. Ultimately, two payments, each of \$100,000, were made by the QRU to the academy for a number of scholarship places in the academy's elite player development program. The circumstances of those payments will be examined.

What is relevant at this point, however, is that Mr ANNING will give evidence that he had met with Mr TUTT, he says, in early July 2008, and had inquired about the possibility of government funding for the academy. They met, Mr ANNING says, over coffee and their meeting

culminated in Mr TUTT informing Mr ANNING that steps were then under way to secure government funding for the QRU and recommending that the academy approach the QRU with its request for funding. It is not precisely clear when this meeting occurred. Mr ANNING has told the CMC he thought it was early July. However, Mr FREER suggests Mr TUTT made mention of the \$200,000 funding in late June. What is clear is that by 4 July 2008, Mr TUTT had advised Mr MATHESON, the Deputy Director-General, that the grant to the QRU would be \$4.2 million, not \$4 million. The grant to the QRU was funded out of a future round of the major facilities program. In other words, as I've said, there was no current source of funding available in July 2008. While the funding may have come from the major facilities program, the applicable guidelines for the program were not followed. For instance, the published guidelines for the 2009 major facilities program, which is the applicable year, provide that up to 50 per cent of eligible costs can be funded to a maximum of \$1.5 million in any one year. The calculations in this case were based on a grant to the QRU of 100 per cent funding.

20 The 2009 major facilities program operated in the following manner. Expressions of interest were called. This then required an organisation that was interested in funding to provide certain limited information and some documentation. Selected organisations were then invited to submit formal applications with appropriate documentation. A further assessment process was then undertaken before recommendations made their way to the minister. Stage 1 of the 2009 program, that is, the call for expressions of interest, did not open until 27 August 2008. By that time, of course, the grant to the QRU had been approved and the \$1.4 million paid. The 2009 program was oversubscribed and the number of recommended expressions of interest outstripped the available funds. Only \$30 million was available less of course the \$1.4 million already committed to the QRU. Coincidentally, an audit of aspects of the 2009 major facilities program has been undertaken by the department. It is likely that some aspects of the 2009 program will be the subject of examination this week.

I add at this point that insofar as this exercise is focused upon the grant to the QRU, we are concerned with the process, not the merits. In other words, it is not contended that the QRU was not deserving of public funding. It may well be a most worthy cause. Rather, the issue for the CMC is the proprietary with which the grant was dealt with, approved and paid. In summary, it is envisaged the evidence adduced this week will be capable of establishing that while senior policy adviser to the minister, Mr TUTT instructed the acting Deputy Director-General to prepare a ministerial submission recommending the approval of a \$4.2 million grant to the QRU notwithstanding that he was aware that the material provided in support for such an application was insufficient, that following the approval of the grant Mr TUTT directed

a senior public servant to alter the standard terms of the formal agreement between the department and the QRU in order to facilitate an up front payment of \$1.4 million to the QRU, and that Mr TUTT was intricately involved in the redirection of \$200,000, in the \$1.4 million grant to the QRU to the University of Queensland Rugby Academy contrary to the terms of the grant. In short, the evidence is likely to reveal conduct by Mr TUTT that is contrary to the proper principles of public administration. It is contrary to the notion that public servants should provide independent, impartial advice to ministers.

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The CMC's investigation has reached the stage where, ordinarily, the allegations would be put to Mr TUTT and a determination would be made as to whether the evidence warrants consideration of disciplinary or other proceedings. However, in this case, The Commission has seen fit to finalise its investigative process by means of a public hearing. Moreover, evidence will be adduced from witnesses who have already been interviewed and in some cases have been examined on oath. We will hear from those people again. This course has been adopted not to cause embarrassment to Mr TUTT or to the others, rather, this course has been adopted because The Commission considers this matter provides an ideal platform to expose the different roles played by public servants on the one hand and ministerial advisers on the other.

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Anecdotal evidence suggests to the CMC that the issue of ministerial staff attempting to influence public servants may be prevalent. Certainly, the CMC is aware of some recent episodes in which public servants have been directed in inappropriate ways. By way of simple example those present may recall the gravy train incident. Formal complaints to the CMC in this area are rare. That is perhaps not surprising. It probably reflects a reluctance by public servants to raise the issue. However, misconduct by ministerial advisers of the type suggested in this case is a serious concern. Public ventilation of the allegations in this matter followed by a public report will serve to heighten the awareness of the inappropriateness of certain types of conduct and will assist the CMC to achieve one of its statutory functions, namely, to raise standards of integrity and conduct in units of public administration.

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Mr Chairman, it is proposed today to hear evidence from the former Minister for Sport, the Hon. Judy SPENCE, and after Ms SPENCE, from Mr Ken FREER, who at relevant times was the CEO of Queensland Rugby Union. The timing for other witnesses remains relatively flexible, although it is proposed that tomorrow we will hear evidence from Mr ANNING, who is associated with the rugby academy, Mr KLAASSEN, who was the senior public servant involved in the awarding and processing of the grant, and thereafter from Ms FARMER, Mr MATHESON and finally from Mr Michael KINNANE who was at the relevant time the Director-General of the department. If

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it pleases you, Mr Chairman, I call the first witness, Judith SPENCE.

THE PRESIDING OFFICER: Yes. I don't think we had an appearance announced for Ms SPENCE.

MR BODDICE: I did, Mr Chairman.

10 THE PRESIDING OFFICER: I'm sorry, Mr BODDICE. How could I forget you? My apologies. The process we are adopting, you will see that we allowed the media to record Counsel Assisting's opening comments. The procedure that we will be adopting in accordance with the normal process is that any witness will be asked if they are prepared to have the formal portion of their evidence recorded. If they do it's only to be the formal portion and then the media will leave the room. The media have been instructed that if they are granted that privilege by the particular witness they are then to leave the witness alone and not to chase them up the street. That will be a matter for each individual witness as he or she comes to be called to give evidence.

20 MR PEARCE: I understand Ms SPENCE has elected not to be photographed in the witness box.

THE PRESIDING OFFICER: I can well understand that.

MR PEARCE: Ms SPENCE, can we just get you to take an oath or affirmation before we commence please.

THE WITNESS: I will take an oath.

30 MR PEARCE: Could you just stand for a moment..

JUDITH CAROLINE SPENCE ON OATH, EXAMINED:

MR PEARCE: You are Judith Caroline SPENCE?

THE WITNESS: That's correct.

MR PEARCE: And you are the member for Sunnybank in the Legislative Assembly?

40 THE WITNESS: That's correct.

MR PEARCE: And you are currently the Parliamentary Secretary to the Premier; is that correct?

THE WITNESS: That's correct.

MR PEARCE: In 2008 you were the Minister for Police, Corrective

Services and Sport?

THE WITNESS: That's correct.

MR PEARCE: And you had held that portfolio since 13 September 2007?

THE WITNESS: Yes.

10 MR PEARCE: According to the parliamentary website in any event?

THE WITNESS: Yes.

MR PEARCE: You've been a member of parliament now for just shy of 20 years, that's correct?

THE WITNESS: Yes.

20 MR PEARCE: And you've held various ministerial portfolios since 1998?

THE WITNESS: That's correct.

MR PEARCE: You gave evidence to the CMC in respect of this matter just a few weeks ago; is that correct?

THE WITNESS: That's correct.

30 MR PEARCE: You would be aware from the notice that was served upon you back then and more recently the issue that the CMC is concerned with?

THE WITNESS: Yes, I am.

MR PEARCE: Can I ask you to tell The Commission then what you know of Mr Simon TUTT in terms of when he came on to your staff and what dealings you have had with him since that time.

40 THE WITNESS: Simon came on to my staff when I first became the police and corrections minister, and he was the police policy adviser. After that first term he became then the senior policy adviser with responsibility to oversee all my portfolios. But he particularly was responsible for the police portfolio. He had less, less influence over the corrections portfolio because I had another policy adviser who dealt with corrections. And then when I became the sports minister he also had some responsibility for the sports portfolio. At that time, though, all of my policy advisers, and there were three of them, had some involvement in the sports portfolio in terms of seeing sporting

organisations on my behalf, and I also had a parliamentary secretary who did a similar job.

MR PEARCE: I do take it from what you say that he had already been or was already a police policy adviser to your predecessor?

THE WITNESS: No.

MR PEARCE: Or did he come into your office?

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THE WITNESS: He came into my office as a first time ministerial adviser when I first became Police Minister.

MR PEARCE: Did you at any time give instructions to Mr TUTT, or speak to Mr TUTT, about the role you expected of him as a ministerial adviser?

THE WITNESS: I would have given many -- had many conversations with all my policy advisers about their role.

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MR PEARCE: Is there any formal training that is given to ministerial advisers, to your knowledge?

THE WITNESS: Yeah. Ministerial advisers get formal training by the Premier's office on a fairly regular basis.

MR PEARCE: Your ministerial advisers were entitled to convey information on your behalf?

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THE WITNESS: Many ministerial advisers would see their role as that, yes.

MR PEARCE: And convey instructions to public servants?

THE WITNESS: I think so, yes.

MR PEARCE: In what way, or with what conditions?

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THE WITNESS: Well, I think many ministerial advisers would pretend to represent the minister and speak on the minister's behalf, probably inappropriately sometimes. I think different directors-general had different ways of dealing with that. For example, my corrections Director-General who had been with me for seven years certainly believed that it was his job to deal with any ministerial advisers who purported to represent the minister, and his public servants were always told that they should go to the Director-General and the Director-General would find out what the minister really wanted, and not to take that direction from the ministerial. So I think different

Directors-General had different ways of handling these issues.

MR PEARCE: Were there ever any concerns about Mr TUTT's manner of dealing with public servants brought to your attention?

THE WITNESS: No, I don't believe there were.

THE PRESIDING OFFICER: Are you finished with that topic?

10 MR PEARCE: Yes.

THE PRESIDING OFFICER: You say that ministerial advisers could convey your instructions on to public servants?

THE WITNESS: Well, I don't know about my instructions. I mean, ministerial advisers sit in meetings with me, with for example a sporting group, and would tell public servants that the minister has visited this sporting group, usually with a departmental officer and was very impressed by that sporting group's application and performance.
20 So there would be, I think the general conveying of ideas rather than instructions.

THE PRESIDING OFFICER: Yes. Yes, there is a difference there. As you say, that's conveying your impressions, your ideas.

THE WITNESS: Absolutely.

THE PRESIDING OFFICER: Rather than an instruction. Does a ministerial adviser ever have to instruct a public servant? I could envisage some things might be, say, if you had a parliamentary question or something and you needed an answer, they might say, "The minister requires this by 10 o'clock tomorrow."
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THE WITNESS: Yes, of course, yes.

THE PRESIDING OFFICER: That sort of thing.

THE WITNESS: Yes.

40 THE PRESIDING OFFICER: Beyond that, sort of, where you need assistance by a certain time obtaining information, that sort of thing --

THE WITNESS: Absolutely.

THE PRESIDING OFFICER: -- are there any other ways a ministerial adviser might have to give instructions to a public servant?

THE WITNESS: I think, you know, for example, a letter needs to be

returned because it was written incorrectly or we weren't happy with the nature of the content of the letter, it would be sent back to the department. Certainly, if we were waiting for correspondence and it was overdue, that would be an issue that the ministerial adviser would take up with the department. Certainly, the ministerial adviser would discuss with the department legislation, probably not in sport because I don't think we did any. But, with police, on a regular basis because we were putting through a lot of legislation or corrections. So there would be those sorts of discussions.

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THE PRESIDING OFFICER: All right. Do you put in place with your Director-General in a particular area any form of protocol or an agreement as to how the liaison will be between your advisers and the department, whether you will go through the DG, whether you will go through a ministerial liaison officer or whether they can go directly to a more junior public servant?

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THE WITNESS: Different directors-general had different views on these issues and, as I have been a minister for 10 years and had quite a number of directors-general over that time, I would say that most directors-general want most things to go through their office but there are times when they would appreciate that sometimes a ministerial policy adviser had to go directly to a public servant who was further down, if it was a point of urgency. So, for example, most of our dealings with the police would be through the Commissioner's office but there would be from time to time when I as a minister or even my policy people would want to talk to an assistant Commissioner or even someone with a rank further down. Generally those people would check up with the hierarchy to see if that was okay but we would from time to time speak to public servants who had particular knowledge in their field and not deal for example with the Director-General's office. I think it is very case specific.

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THE PRESIDING OFFICER: Certainly. We have looked at some instances where a ministerial adviser could convey on a direction to a public servant, such as the need for ministerial correspondence by a certain date, et cetera. Would a ministerial adviser ever direct a public servant as to what was to be put in a submission?

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THE WITNESS: No, I don't believe that would be appropriate.

THE PRESIDING OFFICER: And why not?

THE WITNESS: Well, I would hope that the public servant is so independently minded that they are going to give the minister frank and fearless advice without that kind of direction.

THE PRESIDING OFFICER: Yes, thank you. Mr PEARCE.

MR PEARCE: Do you think there is room, Ms SPENCE for a rigid set of guidelines or rules in this area?

THE WITNESS: Perhaps there is, yes.

MR PEARCE: You have told us about your experience with other directors-general, various directors-general; do you have any knowledge of how other ministers operate in this area with their staff?

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THE WITNESS: Yes, I have spoken to other ministers over the years. I would think that they would operate on a similar basis where they would talk to the Director-General and find out how the Director-General felt policy advisers should liaise with departmental staff.

MR PEARCE: And then they would instruct their ministerial staff accordingly?

THE WITNESS: Absolutely.

20

MR PEARCE: What you are saying is that it's really a portfolio by portfolio type situation and then again a case by case situation?

THE WITNESS: I would say that.

MR PEARCE: Do you recall ever being approached by Mr Michael KINNANE while he was Director-General of the department of local government and sport and recreation and having Mr KINNANE raise with you concerns about the way Simon TUTT was approaching public servants?

30

THE WITNESS: You know, I don't recall him ever having that conversation with me. He may have had it but quite honestly I can't recall that conversation and I believe it is of such importance that I would remember it and have taken action.

MR PEARCE: We are concerned obviously with an award of a grant of \$4.2 million to the Queensland Rugby Union. Are you aware that Mr TUTT had some association with Rugby Union?

40

THE WITNESS: I am aware and I think -- it was very public knowledge -- that Simon was on the board of the Queensland University Rugby Union Club and he occasionally played rugby union with that club.

MR PEARCE: In February of 2008, that's February of last year, I understand you had a meeting with Mr Peter LEWIS and Mr Ken FREER from the Queensland Rugby Union, in your parliamentary

office, I think the meeting was; do you recall that meeting at all?

10 THE WITNESS: I do recall the meeting. They came to me with their plans for the redevelopment of Ballymore. They expressed their disappointment at the previous federal government, the Howard federal government, had allocated \$25 million in the budget for the redevelopment of Ballymore and when the Rudd government was elected that money was withdrawn. So, they had obviously done quite a bit of work to convince the federal government to receive that money and they were wondering whether the state government could provide some assistance. I don't believe any sums of money were particularly talked about at that meeting, although I certainly gave an indication that we wouldn't have \$25 million to replace the federal government funding. But I did give an indication that they should work with the department to see in what way we could be of assistance.

MR PEARCE: Was Simon TUTT present for that meeting?

20 THE WITNESS: I'm sure he would have been.

MR PEARCE: From what you say, the meeting was focused upon what had gone before and there was nothing specific put to you in terms of what we want for the future; is a fair way to summarise it?

THE WITNESS: I would say so.

MR PEARCE: Did Simon have input into the meeting? Did he express any opinions one way or the other?

30 THE WITNESS: Look, I can't remember the detail of the meeting to know whether he had some input.

MR PEARCE: But you certainly remember there was no monetary figure mentioned other than the \$25 million grant that had fallen over?

THE WITNESS: That's right.

MR PEARCE: What happened after that meeting?

40 THE WITNESS: Well, after that meeting I just assumed that the Queensland Rugby Union worked with the department of sport on working up an application.

MR PEARCE: And when did you next hear anything about a grant of money to Queensland Rugby Union; do you recall?

THE WITNESS: Well, I received a brief from the department recommending that we allocate \$4.2 million to the Queensland Rugby

10 Union to redevelop Ballymore over three years. The brief was quite extensive. It was very enthusiastic about the proposal. It talked about how Ballymore was quite unique, green space, five kilometres from the city. How Ballymore -- how the Queensland Rugby Union had changed their original ideas about development away from a commercial objective into a more community focus and the department was very happy about that, as I was. It also pointed out that the Queensland Government had spent \$9 million on the redevelopment of Ballymore since 1997 and if we weren't going to continue to redevelop Ballymore that it risked further deteriorating. So I think the brief given to me was quite enthusiastic and supportive of our support for the Queensland Rugby Union development.

20 MR PEARCE: I will take you to the ministerial submission in a moment. Just for clarity, I don't propose to question your thinking, your actions in approving the grant. Can I ask you this: between your meeting in February and your receipt of the ministerial submission did you stay in contact with Queensland Rugby Union or did Queensland Rugby Union stay in contact with you?

THE WITNESS: I don't believe I had any further meetings with them. I can't recall.

MR PEARCE: As minister did you attend any of the games?

THE WITNESS: I think I went to one game at Suncorp but I don't know whether it was in that timeframe.

30 MR PEARCE: Did Mr TUTT indicate to you again his opinion as to funding, the appropriateness of funding QRU at the time you were considering the ministerial submission?

THE WITNESS: I'm quite sure that Simon would have mentioned to me during that period that the department was working with the Queensland Rugby Union on the application.

MR PEARCE: Did he ever indicate to you that he had instructed the department to prepare the ministerial submission?

40 THE WITNESS: No, he did not.

MR PEARCE: Much less that he had instructed the department to prepare a ministerial submission recommending the grant?

THE WITNESS: No, he did not.

MR PEARCE: Can I show you now a series of documents.

MR PEARCE: I'm showing you now what appears to be a letter addressed to you dated 8 of July from Mr Ken FREER. I will just get you to identify that document and tell me what you know of it.

THE WITNESS: Look, I can't recall -- it's likely that if the letter had been sent to me then I wouldn't have seen the letter until a reply had come from the Department because that was the normal process.

10 MR PEARCE: You accept that what I've shown you is a letter addressed to you?

THE WITNESS: That's right.

MR PEARCE: Signed by Mr FREER with a one page attachment or additional third page?

THE WITNESS: I accept that.

20 MR PEARCE: Can I tender the document on that basis, please?

THE PRESIDING OFFICER: Yes, that letter of 8 July 2008 from Queensland Rugby addressed to the Hon. Judy SPENCE MP will be Exhibit 1.

ADMITTED AND MARKED EXHIBIT 1

30 MR PEARCE: I'll show you now -- I suspect these documents come together, though they were separated during the course of the investigation. One is a single page document headed Minister for Sport. It appears to be a cover sheet for the accompanying document. Can I just get you to look at both of these documents? Firstly, the five-page document, is that to your recollection a copy of the ministerial submission that reached you recommending the grant to the Queensland Rugby Union?

THE WITNESS: It is.

40 MR PEARCE: And that's the document you referred to earlier when you were indicating that the department was, I think you said positive about or excited about the prospect?

THE WITNESS: That's correct.

MR PEARCE: And it was based upon the information conveyed to you in that ministerial submission that you adopted, the recommendations that appear on the last page?

THE WITNESS: That's correct.

MR PEARCE: I tender the ministerial submission.

THE PRESIDING OFFICER: Does it come with that cover sheet? If it's all one document --

MR PEARCE: How was the document presented to you, Ms SPENCE, with a cover sheet?

10 THE WITNESS: It would have been presented -- it's just a very standard ministerial approval document that would have been together, stapled together.

MR PEARCE: That's the single document that you have, the cover sheet?

THE WITNESS: That would have been stapled with the submission.

MR PEARCE: Perhaps they can be tendered.

20

THE WITNESS: That's very standard.

THE PRESIDING OFFICER: So the single page is the cover sheet and stapled to that would be the five-page document?

THE WITNESS: Yes.

THE PRESIDING OFFICER: The four-page document which is the submission?

30

THE WITNESS: That's how it would have come.

THE PRESIDING OFFICER: All right.

MR PEARCE: I think it's a five-page document, Mr Chairman, the fifth page being the page headed "Recommendation".

THE PRESIDING OFFICER: Yes, but it's four pages, the first page is the cover sheet.

40

MR PEARCE: No, the ministerial submission is a five-page document, page 5 being a page headed "Recommendations".

THE PRESIDING OFFICER: The one that I have starts with the first page being page 2.

THE WITNESS: No.

MR PEARCE: No, that's not the document that I have.

THE PRESIDING OFFICER: You better show me what you've got there. Which document number is that?

MR PEARCE: Document 12 in the bundle that I have.

THE PRESIDING OFFICER: Yes, well, the number 12 I've got is only four pages.

10

MR PEARCE: All right. We will check that and correct it.

THE PRESIDING OFFICER: So -- my apologies. Ms VIEIRA has pointed out to me that there is another page. So the cover sheet and five-page submission will be Exhibit 2.

ADMITTED AND MARKED EXHIBIT 2

20

MR PEARCE: Ms SPENCE, I will show you the document again if you need to see it, but paragraph 2 of the ministerial submission refers to the possibility or the opportunity, as it's described, for you to announce the public funding commitment at the Reds gala ball on the Friday night, that is Friday, 11 July. It was the day after you signed the document. Do you recall there being some discussion in the lead-up to this ministerial submission about the opportunity that you would have to announce a grant at the Reds gala ball?

THE WITNESS: I'm sure there would have been.

30

MR PEARCE: Do you know with whom you would have had that discussion?

THE WITNESS: Well, I'm sure I would have had it with Simon or officers of the department. I can't recall specific discussions but I'm sure that would have been part of it.

MR PEARCE: I should ask you: Did the fact that you were going to the Reds gala ball influence your mind when you were considering the merits of the ministerial submission that was put before you?

40

THE WITNESS: Not at all. I think that the -- the submission that was put before me is a very strong submission endorsing the paying of the money to the Queensland Rugby Union for the development.

MR PEARCE: Thank you for that. I'll show this document now. It's a copy of a letter under your hand to Mr FREER. Do you recall signing that document?

THE WITNESS: I'm sure I did. I can't recall it but obviously I signed the document.

MR PEARCE: That's -- we can describe it as a letter announcing your decision to award the grant to the Queensland Rugby Union?

THE WITNESS: That's correct.

MR PEARCE: I tender that document, please, Mr Chairman.

10

THE PRESIDING OFFICER: Yes, the letter of 11 July 2008 from Ms SPENCE to Mr FREER will be Exhibit 3.

ADMITTED AND MARKED EXHIBIT 3

MR PEARCE: The Commission has been told that you publicly announced the grant at the Reds ball on the Friday evening; is that correct?

20 THE WITNESS: That's correct.

MR PEARCE: That was notwithstanding that the grant still had to receive the approval of Executive Council.

THE WITNESS: That's correct.

MR PEARCE: Is that --

30 THE WITNESS: It also says in that letter that the grant is subject to a funding agreement being in place with the department.

MR PEARCE: What I want to know is: Was there any constraints upon you in making announcements such as this in respect of grants that still required Executive Council approval, or is it something that in your discretion you could do?

THE WITNESS: I believe I could.

40 MR PEARCE: The risk of embarrassment fell to you, I suppose, if Executive Council ultimately knocked back the grant?

THE WITNESS: Sure.

MR PEARCE: I think I'm correct in saying that your previous evidence was that you would have had discussions with Mr TUTT about the Reds ball.

THE WITNESS: Yes.

MR PEARCE: And the fact that you were going to make the announcement of the grant at the Reds ball?

THE WITNESS: I'm sure we had, yes.

MR PEARCE: Can I show you this document, please. It purports to be an email from Mr TUTT to Mr Mark SYMONS. Can you tell me who Mr Mark SYMONS is?

10

THE WITNESS: He was my senior media adviser.

MR PEARCE: Was Mr SYMONS aware of your intention to announce the \$4.2 million grant at the Reds ball?

THE WITNESS: Look, I don't know whether he was aware of it.

20

MR PEARCE: You see this email was sent by Mr TUTT just after 1 am on Saturday, 12 July. So that's the morning after the ball, if you like. It conveys in the body of the email, what I can tell you, a cut and paste of the body of the ministerial submission in respect of this matter, with one exemption that I will draw your attention to in a moment. But what I'd like you to note is the subject line. Do you see the subject line is: "This is the brief she referred to last night? I did not know she was going to do it." I suppose there are two statements there. The email, if it contains a cut and paste of the ministerial submission would be the brief you referred to when you were making the announcement; is that correct?

30

THE WITNESS: It seems so.

MR PEARCE: The statement, assuming it's one made by Mr TUTT, "I did not know she was going to do it", that wouldn't be correct, would it?

THE WITNESS: No, that would not be correct.

40

MR PEARCE: Now, I mentioned there was one passage of the document that was not cut and pasted. The passage that's missing, you will note, is paragraph 2.

THE WITNESS: (Witness nods).

MR PEARCE: Is that correct?

THE WITNESS: That's correct.

MR PEARCE: And paragraph 2 is the passage in the ministerial submission that

refers to the opportunity that the Reds ball provided to you to make the announcement.

THE WITNESS: (Witness nods).

MR PEARCE: Is that correct?

THE WITNESS: Well, I haven't got the --

10 MR PEARCE: Can I show you the previous Exhibit, it's Exhibit 2.

THE WITNESS: Well, that's correct.

MR PEARCE: That's been excised from the email.

THE WITNESS: Yes, it has.

MR PEARCE: All right. I tender the email, thank you, Mr Chairman.

20 THE PRESIDING OFFICER: That email of 12 July 2008 will be Exhibit 4.

ADMITTED AND MARKED EXHIBIT 4

MR PEARCE: Can you think of any reason why Mr TUTT might have been reluctant to acknowledge to your senior media adviser that you were going to make the announcement of the grant at the Reds gala ball?

30 THE WITNESS: No, I can't.

MR PEARCE: What I'm showing to you now is another email. This time it's from Mr TUTT to yourself.

MR DEVLIN: Mr Chairman, it would be helpful if Mr PEARCE would give us a document number.

40 MR PEARCE: I'm sorry, there are numbers floating around everywhere. You will see this is 17, Mr DEVLIN. You will see that I'm progressing sequentially. It's an email sent you to, dated 7.13 pm the next evening, 12 July. Now, just for fairness, if you see down the bottom it's got the word "tracking" and then there's two recipients, yourself and Kerry Humphreys. Who is Kerry Humphreys?

THE WITNESS: She's my personal assistant.

MR PEARCE: If you follow the line across from Kerry's name you'll see it's clear that she read the document at 8 am on 14 July but there is

no corresponding entry for you. That may well indicate that you didn't open the email. Firstly, do you recall seeing the email?

THE WITNESS: Not particularly, no.

MR PEARCE: It's quite probable that your executive assistant has opened it and dealt with it.

THE WITNESS: Probably.

10

MR PEARCE: Do you see the body of the email is, "Lucky Prems do not read page 110 of sport. Have not heard a skerrick from anyone about last night." And then there's a further paragraph that's not really relevant for the moment. What do you understand Mr TUTT to have been saying with the line, "Lucky Prems do not read page 110 of sport"? Do you know?

THE WITNESS: No, I don't know what he meant by that.

20

MR PEARCE: I'll show you document 18. It's a two-page document, the first page is the relevant document. It appears there was an article published on page 110 of the Courier-Mail that Saturday announcing your announcement of the \$4.2 million grant. Logically, it appears the reference in the email to you about page 110 of sport is a reference to an article by Mr Jim Tucker in the Courier-Mail which was published on page 110 of that day's newspaper; do you see the connection?

THE WITNESS: I can.

30

MR PEARCE: Can you then think of why Mr TUTT would have been suggesting to you that it was lucky Prems do not read page 110 of sport?

THE WITNESS: No, you'll have to ask him what he meant by that.

MR PEARCE: It appears to be a reference, does it not, to the premier's office?

THE WITNESS: It does.

40

MR PEARCE: May I tender the email of 12 July, 7.13 pm?

THE PRESIDING OFFICER: The email of 12 July from Mr TUTT to Ms SPENCE is Exhibit 5.

ADMITTED AND MARKED EXHIBIT 5

MR PEARCE: And a print-out of the article was published in the

Courier-Mail on 12 July 2008; I seek to have that tendered as well.

THE PRESIDING OFFICER: That print-out of that Courier-Mail article will be Exhibit 6.

ADMITTED AND MARKED EXHIBIT 6

10 MR PEARCE: Evidence has been given to the CMC, Ms SPENCE, that in matters of this type there is a standard funding agreement entered into between the department and the receiving organisation whereby grants are handed over, if you like, by way of reimbursement for monies spent by the organisation. And it's been suggested by the senior public servants in this matter that an instruction was given by Mr TUTT to change the standard funding arrangement so that a \$1.4 million up front payment could be made to the Queensland Rugby Union. Did you have any knowledge of that?

THE WITNESS: This is the first I've heard of that suggestion.

20 MR PEARCE: Would you have approved that change to the standard practice?

THE WITNESS: No, I would not.

30 MR PEARCE: It has also been suggested to the CMC that of the \$1.4 million up front payment, \$200,000, being two \$100,000 payments, was forwarded by the QRU to the Queensland University Rugby Academy and, again, this was done at least with Mr TUTT's imprimatur. Do you have any knowledge of that?

THE WITNESS: I have no knowledge of it at all. In fact, the first I heard of this was when a journalist contacted me and told me of the allegation.

MR PEARCE: Well, it's not your function as minister to involve yourself in such things, that is, the execution of funding agreements?

THE WITNESS: No, it's not.

40 MR PEARCE: Or giving or declining permission for money to go on particular projects?

THE WITNESS: No, I would have nothing to do with that.

MR PEARCE: Can you tell The Commission what the practice was in terms of your involvement in the awarding of sporting grants, how the information generally came to you, what you did and how you went about your decision making?

THE WITNESS: Generally, the information would come to me via a recommendation like we have just seen from the department of sport.

MR PEARCE: Are you familiar with the major facilities program?

THE WITNESS: Yes.

10 MR PEARCE: How did that program run in terms of putting information to you? Did you have to deal with every single application or were they summarised in some form and put before you; can you just explain?

20 THE WITNESS: When I became the minister we hadn't had a major facilities program funding round for two years before I became the minister because all the money, I understand, was allocated as election promises. So when I became the minister it was the first time anyone had had the funding round for two years. We actually had another \$10 million added to the fund so that brought it to \$30 million. The department put to me that they establish a new process of applying for those funds, a two-round process, so the first process would be an expression of interest. The second process would be a more detailed application by the sporting body. I thought that was a very good idea because a lot of organisations spend a lot of money on their applications. But it wasn't unusual for commitments to be given out of round, either, out of that fund, and I think the brief that was given to me makes mention of that, that it wasn't unusual for the department or the minister or the government to use that fund for purposes outside those formal funding rounds.

30 MR PEARCE: But that would be a decision you would make based upon advice given to you?

THE WITNESS: On advice from the department. Obviously the department is the organisation that knows how much money we have in the kitty and what we can afford.

40 MR PEARCE: Albeit that as minister you can exercise your discretion at any time and approve or authorise payment of the grant?

THE WITNESS: That's true.

MR PEARCE: Within your portfolio. The funding for what was the \$1.4 million that was paid to the QRU came out, indeed the entire \$4.2 million, was to come out of the major facilities program for 2009; were you aware of that?

THE WITNESS: No, I think the brief said that it was going to come out

as a \$1.4 million payment over three years, which didn't seem to me excessive out of a \$30 million fund.

MR PEARCE: But in fact, you can see the document if you wish, what was intended was \$1.4 million over each of three years, being a total of \$4.2 million.

THE WITNESS: Absolutely, but, like, it was only 1.4 million out of the fund --

10

MR PEARCE: Out of that year?

THE WITNESS: Each year.

MR PEARCE: That's right. The guidelines for the 2009 major facilities program provide that funding can be provided up to 50 per cent of the amount sought, that is 50 per cent of the cost of the development. In this case what was being provided to the Queensland Rugby Union was 100 per cent of the funding that was sought for the two items. Were you aware of that?

20

THE WITNESS: No, I wasn't aware of that and I think the brief didn't make mention of that. It did make mention of the fact that the QRU had indicated that they had other funding sources, but it didn't mention that.

MR PEARCE: Subsequent to this matter coming to light, there's been some attention paid to other grants that were subsequently made out of the major facilities program. I don't want to take you to all of those but I want to ask you a question about a couple of items. The reason for that will become clear. Do you recall an application being presented to you in respect of a grant of monies to the Warrigal Road State School?

30

THE WITNESS: In what way?

MR PEARCE: Do you recall seeing a schedule of applications similar to the large page I'm handing up to you?

THE WITNESS: I'm sure I do.

40

MR PEARCE: I'll produce to you the document. Could the witness be shown this document? I am sorry it's so cumbersome but it's only recently come into our possession. If we just number our pages through, on the sixth page in, do you see the second line item from the bottom?

THE WITNESS: Yep.

MR PEARCE: An application to construct amenities and redevelop the kitchen at Warrigal Road State School at Eight Mile Plains?

THE WITNESS: Yes.

MR PEARCE: I can indicate to you that the tick at the extreme right hand edge of the page indicates that, if you like, you have given the approval.

THE WITNESS: Are they my ticks?

10 MR PEARCE: No, they have been put there by one of the public servants.

THE WITNESS: Okay.

MR PEARCE: Do you recall considering this application?

THE WITNESS: I'm sure I would have seen this, this list.

20 MR PEARCE: All right, the reason I'm raising this one with you is that the CMC has some information to suggest that Mr TUTT instructed the Deputy Director-General that this matter was to be make the category 1 list, category 1 list being those matters that, if you like, were the highest priority in terms of possible funding. Can you say anything about that?

THE WITNESS: Can you repeat the question?

30 MR PEARCE: The reason I'm interested in this item is because the CMC has some information that suggests that Mr TUTT instructed the Deputy Director-General to ensure that this application made this list.

THE WITNESS: I'm sure that there would have been some discussion about the list but I'm not sure that that would be the case. This was just an expression of interest phase, wasn't it?

40 MR PEARCE: Yes. What I can indicate to you, though, is that the information given to the CMC is that this matter would not have made the category 1 list but for Mr TUTT's intervention. You see, that's the significance of it. So I'm interested to know what you know about this matter.

THE WITNESS: Look, I don't, I don't believe that that would have been the case.

MR PEARCE: Well, you don't know.

THE WITNESS: Obviously, the public servant is saying that but --

MR PEARCE: The Deputy Director-General?

THE WITNESS: -- the Deputy Director-General is saying that.

MR PEARCE: You don't believe it, is that what you are saying?

THE WITNESS: I don't believe Mr TUTT would have given that ...

THE PRESIDING OFFICER: Did you ever instruct Mr TUTT to give that direction to the Deputy Director-General?

10

THE WITNESS: No.

MR PEARCE: There are a few others that I want to take you to, because information provided to us by the department suggests that matters were put in the position in which they appear "at the request of the former minister" for reasons unknown. I don't know whether that suggests that it was your request or a request made by Mr TUTT on your behalf or a request made by Mr TUTT of his own volition, but I want to take you to them and give you an opportunity to comment on them. One of them concerns, the line item immediately above the Warrigal State School; it's headed Macgregor State High School; do you see that one?

20

THE WITNESS: Yes.

MR PEARCE: It concerned an application or an expression of interest for money for an upgrade of an existing 30-year old multipurpose sports facility including new playing surface to accommodate two volleyball courts, a show volleyball court, a badminton court, a basketball court, canteen and additional toilet facilities and a new stage area for volleyball at Macgregor State High School. Again, this is one where it's suggested this application would not have made this list but for there being a request of the former minister for reasons unknown. Do you recall having any involvement at all in this matter?

30

THE WITNESS: No, I don't. I mean, I can obviously say that these obviously were in my electorate but I wasn't particularly keen to ensure that my projects in my electorate got up or not.

40

MR PEARCE: And, look, to be fair, I can indicate that on my analysis of this document there are matters that get up in coalition electorates and matters that fail that are in Labor Party electorates. There is no obvious rhyme nor reason to approving some matters and declining others, but I'm taking you to these matters because they are the ones in respect of which information suggests changes were made based upon requests out of your office. Do you see in the final or the right-hand column in respect of Macgregor State High School matter?

THE WITNESS: Sure.

MR PEARCE: The comment is, this project is not recommended as a short-listed applicant.

THE WITNESS: (Witness nods).

MR PEARCE: Yet it's nonetheless made the category 1 list of recommended matters.

10

THE WITNESS: (Witness nods).

MR PEARCE: In any event, you say you can't recall having any involvement in that matter?

THE WITNESS: No.

MR PEARCE: And it's not your practice to involve yourself in promoting applications for organisations within your electorate?

20

THE WITNESS: No, it's not.

MR PEARCE: Okay, thank you.

THE WITNESS: Having said that, you know, I visited some of these -- not those two, but I visited some of these clubs during my time as minister and I would have come back enthusiastic about their applications. I'm looking at Burleigh, for example, I visited there, I would have come back enthusiastic about their application but at the end of the day it's really up to the department to make a recommendation. After they've done the analysis of the clubs' application to me.

30

MR PEARCE: Well, I think the point of this exercise is even had these matters not made the category 1 list you could still have nonetheless approved them and there are some examples of that occurring with other matters, later in the bundle of documents I've given you. What I'm particularly interested in ascertaining is whether the information that's been given to the CMC by the department is correct and that information is that those two matters made this list because in the case of the Warrigal State School Mr TUTT made a representation and in the case of Macgregor State High School you made a request that it make that list; you can't comment in either respect?

40

THE WITNESS: No, I can't.

THE PRESIDING OFFICER: Are you tendering that list?

MR PEARCE: Shortly. I've got some other matters. If we keep paging through, you will see eventually there are some page numbers that appear on the bottom of the page. When we hit the category 2 list. It's probably easier if I get the document back for the moment, to find it.

THE WITNESS: Not recommended.

10 MR PEARCE: Yes, it's in the not recommended schedule. Page numbers are in the bottom right hand corner. I would like you to go to the first page, page 1 of 15. And about halfway down that schedule there is a line item "Morningside Australian Football Club"; do you see that one?

THE WITNESS: Yes.

20 MR PEARCE: To renovate the main clubhouse at the Morningside AFL Club. Again, this is a matter which according to the audit report undertaken by the department, that matter was -- I will read it to you -- at the request of the former minister for reasons unknown it made this list. Once quotes for the project's costs were confirmed as part of the stage 2 application it became ineligible. But in any event the audit report suggests you had some involvement in recommending that this matter proceed. Can you comment upon that?

THE WITNESS: Look, I've had no association with the Morningside Australian Football Club and never visited there. I don't think I had representations from them.

30 MR PEARCE: You will see in this regard the significance of the ticks and crosses in the right-hand margin. Although this item appears on the list as being not recommended, it's nonetheless apparently been ticked off by you.

THE WITNESS: Ticked off by me?

40 MR PEARCE: You gave it the tick of approval. The physical application of the tick was done by someone else but it's a matter that was to progress to stage 2 based on your endorsement; do you have any recollection of that?

THE WITNESS: No, I don't.

MR PEARCE: The next relevant item is on page 7 of 15, and it concerns an application by the Cooee Bay progress and sports association. It's at the top of that page; do you see that? xx

THE WITNESS: Yes.

MR PEARCE: Again this is one where apparently you endorsed this application to go to stage 2, even though it was not recommended. Do you have any memory of this?

10 THE PRESIDING OFFICER: Mr PEARCE, if it's just the minister's involvement I don't really see the relevance to this hearing. The minister has the final discretion on these and she can approve or disapprove of any of these that she wants. That's her job. I thought we were just interested in ones where the ministerial advisers perhaps became involved.

MR PEARCE: I'm endeavouring to ascertain, based upon the information that the department has given us, whether the request as it's been termed of the former minister was actually one conveyed by the former minister through Mr TUTT.

THE PRESIDING OFFICER: I don't know that you have asked that particular question in regard to these. If you can go to that.

20 MR PEARCE: Ms SPENCE has indicated, if you like, that she has no knowledge of the matter. In respect of the ones you talked about you have no knowledge of Mr TUTT's involvement, either; would that be fair?

THE WITNESS: I, I think -- I'm quite aware that Mr TUTT would have talked to the department about these recommendations. He certainly had discussions with the Deputy Director-General.

30 MR PEARCE: All right. Again, we are at the Cooe Bay progress and sports association matter.

THE WITNESS: It's not an organisation I have had anything to do with.

MR PEARCE: You can't imagine why it would have been, if you like, raised to the second stage of the program at your request?

THE WITNESS: No.

40 MR PEARCE: I won't pursue that matter further. Can I tender the schedule of matters pertaining to the 2009 major facilities program.

THE PRESIDING OFFICER: That schedule will be Exhibit 7.

MR DEVLIN: Will my friend be tendering the audit report as well?

MR PEARCE: I will be in due course.

ADMITTED AND MARKED EXHIBIT 7

THE PRESIDING OFFICER: You say that was the 2009 ...

MR PEARCE: 2009, yes.

THE PRESIDING OFFICER: Was that major facilities program?

MR PEARCE: That's correct.

10

THE PRESIDING OFFICER: Thank you.

MR PEARCE: I'm not sure whether we have canvassed this previously, Ms SPENCE, but I will just suggest it to you formally. The CMC has received evidence that Mr TUTT instructed Mr Craig MATHESON, the acting deputy director of the department at the time to produce the ministerial submission that I showed to you earlier recommending approval of the grant to the QRU. Are you able to comment on that proposition?

20

THE WITNESS: Would you repeat it again?

MR PEARCE: The Commission has information from Mr Craig MATHESON, the Deputy Director-General or acting Deputy Director-General as he was then, to the effect that he was instructed by Mr Simon TUTT to prepare the ministerial submission in respect of the QRU grant?

30

THE WITNESS: I can't comment on that and I'm surprised if that's the case. I would expect the department if they had any concerns about a significant grant like that, to bring their concerns to me, which, which no-one did. Quite honestly, the first, the first inkling I had that there was any concerns over this grant to the QRU was when it became a media issue and I found out that the CMC was involved in it, because it seemed at the time to me a particularly straightforward grant from the government to the Queensland Rugby Union.

MR PEARCE: Do you know Ms Di FARMER?

40

THE WITNESS: Yes, I do.

MR PEARCE: In July of last year she was occupying an SES position in your department?

THE WITNESS: That's correct.

MR PEARCE: The CMC has received information from Ms FARMER that in respect of the preparation of the funding agreement she was

instructed by Mr TUTT to make the changes that would allow for the up front payment; would you care to comment upon that proposition?

THE WITNESS: Well, I have no knowledge of the up front payment so I can't comment on that proposition.

MR PEARCE: If we just accept for the moment that the propositions I've put to you are correct, that is, Mr TUTT did give the instruction to the Deputy Director-General and did give the instruction to Di FARMER, what would you say about that sort of proposition?

THE WITNESS: Well, obviously I would say that the conduct is improper but I'm also surprised that thank a public servant would allow themselves to be engaged in that improper conduct.

MR PEARCE: Particularly a senior level public servant?

THE WITNESS: Absolutely.

MR PEARCE: That's all I have by way of examination of Ms SPENCE at this time.

THE PRESIDING OFFICER: Thank you, Mr PEARCE.
Ms SPENCE, if any such instructions were given by Mr TUTT was it given with your approval; in other words was it your instructions that were being conveyed or was he acting on his own?

THE WITNESS: Absolutely not. As I said I was absolutely unaware that the instruction was given to give an up front payment.

THE PRESIDING OFFICER: And you indicated previously that the ministerial submission that came to you, Exhibit 2, was a fairly straightforward but reasonably strong recommendation in favour of making this payment to the Queensland Rugby Union?

THE WITNESS: That's correct.

THE PRESIDING OFFICER: If the ministerial approval had in fact been recommending against making the payment, is that something that you would have taken into account in determining whether to finally approve this to go on to Executive Council?

THE WITNESS: If the department had not recommended the payment then I would have endorsed that; I would not have recommended it.

THE PRESIDING OFFICER: Thank you. Do people want a mid-morning break? I'm happy to sit through but some.

MR DEVLIN: Yes, I would appreciate a little time.

THE PRESIDING OFFICER: We will adjourn for 10 minutes or if you need extra time. Mr Devlin, if you just get a message through to me?

THE HEARING ADJOURNED AT 11.37 AM

THE HEARING RESUMED AT 11.55 AM

MR BODDICE: I don't have any questions.

THE PRESIDING OFFICER: Did you have any questions, Mr Devlin?

10

MR DEVLIN: Yes, I do. Ms SPENCE, in relation to Mr TUTT, he also performed an adviser's role in relation to the Police Service?

THE WITNESS: That's correct.

MR DEVLIN: To your knowledge did the Commissioner of police speak highly of him?

20

THE WITNESS: Yes, he did. In fact, I'm sure the Police Commissioner would say that Simon always behaved in a professional way and he knew the boundaries and didn't cross them.

MR DEVLIN: In relation to the levels at which you as a minister dealt with the public servants, would it be true to say that from time to time you not only dealt with the Director-General and the Deputy Director-General but also the next level down, the Executive Director, if the circumstances required it?

30

THE WITNESS: That's correct.

MR DEVLIN: And it would not surprise you if your ministerial advisers dealt with those levels as well?

THE WITNESS: No, it wouldn't.

MR DEVLIN: In relation to the February meeting with the Queensland Rugby Union, is it fair to say that you were quite supportive of the proposal at that point?

40

THE WITNESS: That would be fair to say that.

MR DEVLIN: When you heard what it was. And that you were particularly pleased about the prospect of an indoor swimming pool that was not just for the use of that sport but would be of use to the surrounding community; is the way you saw it?

THE WITNESS: That's correct. The Queensland Rugby Union put to me that the pool would be for medical purposes, for people who need hydrotherapy and it would be used by the whole community.

10 MR DEVLIN: If we just go to the ministerial brief for a moment, which is Exhibit 2, if the witness could have that back in your hands, please. There are a couple of features of this that I want to take you to. At paragraph 13, on what's marked as page 2, are these some of the features that caused you to describe it in your evidence-in-chief as a strong submission, namely that you saw it as an opportunity to revitalise and reinvigorate the Ballymore facility?

THE WITNESS: That's correct.

MR DEVLIN: That you saw it as a facility being close to the Brisbane CBD and possessing unique characteristics?

THE WITNESS: That's correct.

20 MR DEVLIN: There was a risk that if some form of redevelopment did not continue the site might deteriorate?

THE WITNESS: Yes.

MR DEVLIN: I should mention over the page, page 3, it was pointed out that it would potentially support the needs of other sports as well as the community.

THE WITNESS: That's correct.

30 MR DEVLIN: But there were some risks pointed out, at paragraph 14, that the cost estimates for the three elements proposed did not appear to include any contingency?

THE WITNESS: That's correct.

MR DEVLIN: So you would have noted that, is that is right?

THE WITNESS: Yes.

40 MR DEVLIN: It was considered the budget estimate for the swimming pool might be low but it was then proposed that the funding committed by the department be targeted to the first two priorities?

THE WITNESS: That's correct.

MR DEVLIN: That wouldn't necessarily suggest that it was only to be those two priorities, would it?

THE WITNESS: What do you mean by that?

MR DEVLIN: Well, the use of the word “targeted”, does that suggest that the first two items, the new rugby field and the swimming pool, would become prioritised out of the project?

THE WITNESS: That’s correct.

10 MR DEVLIN: And there is something else about this submission that I’d like to draw your attention to, and it must have struck you -- go to paragraph 11, what the submission was recommending was a grant in full for the proposed projects?

THE PRESIDING OFFICER: Sorry, would you repeat that?

MR DEVLIN: A grant in full, that is for \$4 million for the cost estimate of the project.

20 THE WITNESS: Is this in paragraph 11?

MR DEVLIN: Yes. In effect, so up in 10 the gross amounts in the project were listed?

THE WITNESS: That’s a fair point.

MR DEVLIN: So that on the face of the submission the recommendation was that \$4.2 million would cover in full the suggested projects.

30 THE WITNESS: That’s a fair point.

MR DEVLIN: You must have noted that at the time that you signed off on the proposal.

THE WITNESS: Yes, I did. But you know, obviously, I didn’t realise that, it didn’t make mention of the fact that there wasn’t a 50 per cent contribution. But certainly I noted that at the time, I guess.

40 MR DEVLIN: And, again, these matters were within your complete discretion or were you in some way fettered?

THE WITNESS: No, that’s my discretion. I also note that the department in paragraph 9 says that they have been dealing with this issue since earlier this year, which led me to believe that quite a lot of work had gone into the submission.

MR DEVLIN: Yes. I take it that when you met with the Queensland

Rugby Union in February you made it clear that you were generally supportive of the project?

THE WITNESS: I did.

MR DEVLIN: You don't recall any discussion between the parties who were present and yourself and your advisers as to -- and those with you -- as to the poor state of the Queensland Rugby Union and that they needed an injection of cash flow?

10

THE WITNESS: I was not advised of that.

MR DEVLIN: Do take it that in Mr TUTT's role as a ministerial adviser he showed a degree of enthusiasm for various projects not confined to rugby but also spread across other sports?

THE WITNESS: Absolutely. He had a great contact with a number of sports and he was -- always spoke enthusiastically about cricket or -- a number of other codes, rugby league. So he certainly didn't seem to me to in any way favour Rugby Union over any other sport.

20

MR DEVLIN: And Mr Gawin(?), he was another adviser a little bit junior to Mr TUTT?

THE WITNESS: That's correct.

MR DEVLIN: Did he have any particular known associations with a particular sport?

30

THE WITNESS: Yes, he was associated with cricket and he played cricket at a fairly senior level.

MR DEVLIN: And similarly he showed an interest across the board?

THE WITNESS: I was quite pleased that some of my staff had some association was sport and were very enthusiastic about a range of sports.

40

MR DEVLIN: Just for completeness there was another fellow who was a bit more junior, again, called Ian Laning(?).

THE WITNESS: He was actually a bit more senior than Fred and he met with sporting organisations on my behalf as well.

MR DEVLIN: All right. I take it then that if there had been complaints to be made by the Director-General or Deputy Director-General you would expect to hear from those persons direct about those complaints about, perhaps, the stepping over of boundaries by a ministerial staffer?

THE WITNESS: I would expect so. Those gentlemen had my mobile phone number as did the Police Commissioner and other directors-general and spoke to me frequently during the day when they saw the need. My day started at 7.30 every morning with a call from the Police Commissioner and he would call me numerous times during the day if he felt the need, as did the Director-General of corrections, so it was not as if I was inaccessible.

10 MR DEVLIN: As to whether a junior, more junior public servant below executive director level, for example, had such a complaint, how would you expect to hear of that complaint so that it could be addressed?

THE WITNESS: I would expect that person to report up and for that to go to the Director-General and for the Director-General to bring up those issues with me.

20 MR DEVLIN: I asked you about the Commissioner of Police. The Director of Corrective Services through your time there was Mr Rocket at least during the relevant time?

THE WITNESS: That's correct.

MR DEVLIN: He didn't advance to you any complaints about Mr TUTT's role?

THE WITNESS: No, he did not.

30 MR DEVLIN: Just turning to the major facilities fund itself, were you generally aware that funding agreements required regular acquittals that were overseen by the public servants then for their accountability?

THE WITNESS: That's correct.

40 MR DEVLIN: So you wouldn't have known the nuts and bolts of that but you would have been generally assured that the public servants in the time that followed the granting of the grants had a mechanism for checking everything on a basis of returns submitted by those who were successful, for example?

THE WITNESS: That's correct.

MR DEVLIN: For example, you'd be aware that project milestone guidelines had to be adhered to, that there had to be regular reporting by the successful sporting body as to progress --

THE WITNESS: There would be but they wouldn't have come to me as

a minister.

MR DEVLIN: You would expect the public servants to deal with those?

THE WITNESS: That's right.

MR DEVLIN: Oversee them, audit them, as it were, and give them a tick.

10

THE WITNESS: That's correct.

MR DEVLIN: Or a cross.

THE WITNESS: That's correct.

MR DEVLIN: Thank you. If you can now have a look at the letter to the QRU on 11 July.

20 THE PRESIDING OFFICER: Exhibit 3, thank you.

MR DEVLIN: Exhibit 2 can perhaps go back. The letter that coincided with the Reds ball was against two backgrounds, I would suggest to you for your comment. The first, which you have already mentioned was that it was still subject to Executive Council approval?

THE WITNESS: Yes.

30 MR DEVLIN: And then if you go to the third last paragraph, it was also conditional upon the QRU executing an appropriate funding agreement with the department?

THE WITNESS: That's correct.

MR DEVLIN: So there were really two hoops you had to go?

THE WITNESS: Yes.

40 MR DEVLIN: But you were satisfied that as a minister you had the ability to announce -- it was perfectly proper for you to announce the initiative at a gathering of those who follow the sport?

THE WITNESS: Well, indeed the brief to me suggested that.

MR DEVLIN: Thank you. Now, there are some circumstances about this grant that you've canvassed. There was the meeting of February 2008, which you were generally supportive of and you saw the community benefits to it. Then there was what you described as a

very strong submission. So, in those circumstances, it would not have been unusual for a commitment of this size in the majors budget to be decided on an out of round basis, that was still something within your discretion?

THE WITNESS: Well, the brief to me from the department suggested that.

10 MR DEVLIN: Thank you. Had this been your first major facilities round as minister?

THE WITNESS: It was.

MR DEVLIN: For sport, that is? You had been a minister for 10 years but Minister for Sport only since 2007; have I got that right? We will come back to my original question, it was a lot simpler. It was your first major facilities round that you had overseen?

20 THE WITNESS: That's correct.

MR DEVLIN: And so, as to whether the granting of 100 per cent of what was sought was unusual in the broader scheme of things as to what had happened in the past you wouldn't know one way or the other?

THE WITNESS: Probably not, no.

30 MR DEVLIN: Okay. I just wanted to draw your attention to another statement at page 15 of that audit report which hasn't been tendered yet but Mr PEARCE read some of it to you. I'll just read this to you to see if it rings a bell about Warrigal Road State School. "No reason was provided to support the school's inclusion although it should be noted that schools were a targeted group per the 2009 guidelines." Does that ring any bells with you?

THE WITNESS: Not particularly. I mean, I guess Simon and I, and maybe even Craig MATHESON, had discussions about these issues but that doesn't particularly ring a bell.

40 MR DEVLIN: So as to whether schools were or were not a targeted group?

THE WITNESS: Yeah, I'm not sure who targeted them. I'm not sure they were as targeted group before I became minister or how they became a targeted group.

MR DEVLIN: If, indeed, some guidelines said that, that schools were to be preferred or looked at favourably --

THE WITNESS: Yes.

MR DEVLIN: -- that might explain some of the schools getting an approval or a recommendation?

THE WITNESS: Certainly, certainly.

MR DEVLIN: Thank you. Chairman.

10

THE PRESIDING OFFICER: Mr PEARCE?

MR PEARCE: I have nothing, thank you.

MR CARMODY : Mr Chairperson, could I ask for leave to ask some questions?

THE PRESIDING OFFICER: Yes, if they are totally confined to issues that concern Mr FREER or the QRU.

20

MR CARMODY : I'll tell you what they are in general, Mr Chairperson. The first one relates to Exhibit 3, which is a letter to Mr FREER, whom I represent. And also --

THE PRESIDING OFFICER: You don't need to go through it. If they are in relation to your clients then I give the approval.

30

MR CARMODY: Ms SPENCE, can I just ask you some questions about that 11 July 2008 letter from you to Keith FREER? You see in the fourth paragraph the offer of the grant is said to be conditional on the QRU executing an appropriate funding agreement; do you see that? You didn't say a "standard funding agreement", you said an "appropriate" one. Do you know why you chose that term or whoever drafted the letter for you chose that term?

THE WITNESS: No, not at all. This was a letter that was drafted for me, presumably by the department, and I couldn't comment on why that was the choice of words.

40

MR CARMODY: Do you know whether that was the standard choice of words?

THE WITNESS: I don't know.

MR CARMODY: The same term is used in Exhibit 4 (iii), under the recommendations, but I just raise that, you don't need confirm that. You don't have a copy of Exhibit 4 but can I ask you to have a look at it?

THE WITNESS: Sure.

MR PEARCE: This is the recommendation from the Department. You see it's supported in the bottom left-hand corner, all on 9 July by Mr MATHESON in two separate capacities, one as acting deputy director and one as for the Director-General.

10 MR DEVLIN: I'm having some difficulty with that. Exhibit 4 is the email, Saturday 12 July, from TUTT to SYMONS. The signature block is left out.

MR BODDICE: I think it's the cover sheet for Exhibit 2.

THE PRESIDING OFFICER: I think you are meaning Exhibit 2.

MR CARMODY : I am sorry. Could the witness see Exhibit 2? Thank you. Exhibit 2?

20 THE WITNESS: I don't have the cover sheet on this one.

THE PRESIDING OFFICER: Exhibit 2 comprises the submission and cover sheet. It's two folders.

MR CARMODY : It's a recommendation right at the back.

THE WITNESS: Yes.

30 MR CARMODY : Do you see those, supported in three boxes there by various departmental people and --

THE WITNESS: That's correct.

MR CARMODY : -- and Mr MATHESON purports to support the recommendation in two separate capacities. His actual capacity was acting Deputy Director-General and presumably the Director-General either wasn't away or not available. Do you know why the Director-General himself didn't?

40 THE WITNESS: I don't know. The Director-General had about 10 weeks in America some time that year so --

MR CARMODY : It was a tough year.

THE WITNESS: -- whether that was when he was away. Whether he was aware or not I'm not aware. I suspect it was.

MR CARMODY : All right. He was sick. Okay. But normally when

you've got a recommendation it would be from the deputy and the Director-General?

THE WITNESS: That's correct.

MR CARMODY : Not from the one person acting as both.

THE WITNESS: But this is not absolutely unusual if the Director-General is not around.

10

MR CARMODY : Now, the next couple of questions relate to Exhibit 4, I hope it is, this time. Exhibit 2, it's the balance of Exhibit 2. This is the submission, the ministerial submission.

THE WITNESS: That's correct, yes.

20

MR CARMODY : All right. Can I just take you to the first page, the paragraph numbered 1. Do you see there that the purpose of the submission is to seek your approval for a funding commitment of \$4.2 million?

THE WITNESS: That's correct.

MR CARMODY : And then over at paragraph 11, which Mr Devlin has already referred to, on page 2, you see, you will remember, perhaps that the QRU was only seeking \$4 million, wasn't it?

THE WITNESS: It seems so.

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MR CARMODY : Yes, and the breakdown of the \$4 million is in paragraph 10?

THE WITNESS: Correct.

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MR PEARCE: But in paragraph 11 it's noted that there is no contingency regime. So then there are a few more paragraphs until we reach paragraph 14 on page 3. And again the three elements, that is, the pool, the new field and the western grandstand, which were proposed by the QRU, it's noted appear not to include any project contingency. And then in the next sentence it says that it's considered the budget estimate for the swimming pool may be low, the budget estimate for the swimming pool was \$1.6, you will remember? And then in the next sentence it says, "On this basis it is proposed that any funding committed by the department is targeted at QRU's first two priorities plus an appropriate contingency budget." Now, if you took away the third element, that is the western grandstand, from the other two you would have about 0.09 million to play with as a contingency budget, wouldn't you?

THE WITNESS: Yes.

MR CARMODY : In the next sentence, apparently without -- well, the next sentence reads, "In the department's view, a funding contribution of up to \$4.2 million should be considered to support the delivery of these two elements." So, a fair interpretation of that is, look, the \$4 million they are asking for is not enough even to do the first two, so why don't we give them \$4.2 million instead?

10

THE WITNESS: That's correct.

MR SHIELDS: I seek leave to ask some questions in relation to my client Mr KLAASSEN, only a very short number of questions.

THE PRESIDING OFFICER: Well, we'll see how you go.

MR SHIELDS: Do you recall on or about 29 January 2009 having a meeting with Mr Simon TUTT and Mr Craig MATHESON and discussing the major projects?

20

THE WITNESS: Well, I don't recall the meeting but, you know, it's obviously possible that I had one.

MR SHIELDS: In particular Exhibit No. 7, which is the schedule that was before you a short time ago, if that could be -- do you recall being asked some questions by Mr PEARCE in relation to this document?

THE WITNESS: Being asked by Mr PEARCE? Yes, sure.

30

MR SHIELDS: This is the document that has the ticks and crosses on it?

THE WITNESS: Sure.

MR SHIELDS: Do you recall having a discussion on or about 29 January 2009 with Mr TUTT and Mr MATHESON about these projects?

40

THE WITNESS: It's entirely possible, but I can't recall it.

MR SHIELDS: And if you were having a discussion about these projects would it also be possible that you would give an opinion as to the relative merits based on the material before you?

THE WITNESS: It's possible.

MR SHIELDS: And that as a consequence of giving your opinion

certain investigations might be conducted?

THE WITNESS: That's possible.

MR SHIELDS: Because as far as a chain of command is concerned, if I can use that clumsy expression, you are at the very top, you are the minister?

THE WITNESS: Sure.

10

MR SHIELDS: And if I can just get it right, who was directly underneath you in relation to the projects? Was it Mr Michael KINNANE?

THE WITNESS: In terms of what?

MR SHIELDS: The Deputy Director-General the Department of Local Government, Sport and Recreation.

20

THE WITNESS: I don't understand your question.

MR SHIELDS: Well, in relation to these projects, if there was a chain of command, you are at the top, you are the minister?

THE WITNESS: That's correct.

MR SHIELDS: Who was next person in charge?

THE WITNESS: The Director-General.

30

MR SHIELDS: Who was that at the time.

THE WITNESS: That would be Michael KINNANE, if he was there; was he there at the time?

MR SHIELDS: If he was there at the time it would be him; if he was not, who would it have been?

THE WITNESS: It would be Craig MATHESON.

40

MR SHIELDS: Do you know my client, Mr Ben KLAASSEN?

THE WITNESS: That's correct.

MR SHIELDS: Did Mr KLAASSEN have your mobile phone number?

THE WITNESS: I don't believe so.

MR SHIELDS: Thank you, nothing else.

THE PRESIDING OFFICER: Yes, Mr BODDICE?

MR BODDICE: No questions.

MR PEARCE: I have nothing arising out of any of that.

10 THE PRESIDING OFFICER: All right. Ms SPENCE, thank you for attending today. I don't propose to excuse you. It might be necessary to call you back. I appreciate that parliament sits this week so that will be taken into account and any further attendance, if it is needed, the staff will have to liaise with you as to when you would be able to attend.

THE WITNESS: Sure.

THE PRESIDING OFFICER: Thank you.

20 MR PEARCE: I call Mr FREER.

MR BODDICE: Mr Commissioner, might I be excused?

THE PRESIDING OFFICER: Certainly.

THE HEARING ADJOURNED AT 12.20 PM
