



## **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**

**DAY 1 - MONDAY 23 NOVEMBER 2009**

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#### **LEGEND**

**Presiding Officer – Robert NEEDHAM, Chairperson, CMC**

**Counsel Assisting – Russell PEARCE, Director, Misconduct Investigations**

30 **Hearing Room Orderly – Alicia VIEIRA**

**Witness – Kenneth FREER**

**Legal Representative – Mr Tim CARMODY**

THE HEARING RESUMED AT 12.21 PM

MR PEARCE: I call Mr FREER.

MR BODDICE: Mr Commissioner, might I be excused?

THE PRESIDING OFFICER: Certainly.

10 MR PEARCE: Just come forward, Mr FREER, thank you. Can I ask you to take an oath or an affirmation, please.

KENNETH FREER ON OATH, EXAMINED:

MR PEARCE: Just take a seat, Mr FREER and relax. Your full name is Kenneth Eric FREER?

THE WITNESS: That's right.

20 MR PEARCE: And you were, at least as at last year, Chief Executive officer of the Queensland Rugby Union Limited?

THE WITNESS: That's right.

MR PEARCE: What do you do now?

THE WITNESS: I'm currently working for myself.

MR PEARCE: When did you leave the employ of the QRU?

30 THE WITNESS: At the end of -- near the end of October.

MR PEARCE: This year?

THE WITNESS: This year.

MR PEARCE: So just recently?

THE WITNESS: That's right.

40 MR PEARCE: The QRU has its offices at Butterfield Street at Herston; is that correct?

THE WITNESS: That's correct, that's correct.

MR PEARCE: Can you just describe for those present the Ballymore set-up?

THE WITNESS: Yeah. We have our offices on Butterfield Street.

Beyond that is what we call the second field and then beyond that is the main, main number 1 field, which is the Ballymore stadium which consists of grandstands on either side. There's -- to the left of that is a gymnasium for the players. And then there's quite a degree of space around that for parking and other sort of recreational use.

MR PEARCE: We have heard some mention this morning of a \$25 million federal government grant. Could you just step through what occurred in that regard, please.

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THE WITNESS: Yes. My Chairman at the time, Mr Peter Lewis, had -- when he had come into that position with the QRU, had begun lobbying and prepared a proposal that -- and ultimately we were successful in securing a \$25 million grant from the then federal government which was the Liberal government. That was announced around 30 June 2007. And then when the -- and then following the federal, a federal election when the new Labor government came into power, they reviewed a lot of the projects of the previous federal government and cancelled the \$25 million grant that we had.

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MR PEARCE: What had been done, if anything, between the announcement of the \$25 million grant and its withdrawal?

THE WITNESS: We -- quite a lot. We'd begun to do a lot of the preparation for a development application and it was quite a detailed development application because we wanted to make sure that we were able to expedite its approval. We were talking about survival of the QRU. We were in a difficult financial position and we were trying to make assets that were a considerable drain on our resources into income producing assets. So in that respect we were just wanting to become self-sufficient.

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MR PEARCE: Did the withdrawal of the grant cause the QRU to incur any additional expense, that is, had there been money expended by way of progressing the development application?

THE WITNESS: Yes, absolutely.

MR PEARCE: How much?

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THE WITNESS: It would have been in excess of half a million dollars at that point, I would say. Obviously, some things had been put in -- had been commissioned. So, the meter was running, so to speak.

MR PEARCE: I'll come back to that in a moment, I'll just ask you now about Mr TUTT. Do you know Mr Simon TUTT?

THE WITNESS: Yes, I do.

MR PEARCE: When did you meet Mr TUTT?

THE WITNESS: I think the first time I met Mr TUTT was at the -- I think it was the Hyatt in Canberra. I was down there for a game against the Brumbies and I knew Minister SPENCE and we came back there after the game and they had had -- I think they might have been staying there and she was there and I said hello to her and she introduced me to Mr TUTT.

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MR PEARCE: From that time forward you've had dealings with Mr TUTT?

THE WITNESS: Not, not a lot, no, up until, up until we ...

MR PEARCE: Up until the beginning of last year?

THE WITNESS: Yeah.

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MR PEARCE: What sort of contact would you have had from the time you met him until the beginning of last year, and what was the nature of the contact?

THE WITNESS: I can't recall having any contact with him up until that point other than, I guess when Ms SPENCE became minister for sport I might have, I might have met him then, I suppose, but I don't recall that.

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MR PEARCE: Did you have any knowledge of Mr TUTT's interest in or involvement in the sport of rugby union?

THE WITNESS: I am aware that he had an involvement with UQ rugby, but I'm, I'm not aware of -- I'm not exactly sure when I knew that.

MR PEARCE: Do you regard Mr TUTT as a friend, as an acquaintance; what's the situation?

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THE WITNESS: He's an acquaintance. I wouldn't call him a friend. We've never met on a social basis.

MR PEARCE: I will take you back to the situation that existed when your federal funding was withdrawn. What was done vis-à-vis trying to replace that lost funding?

THE WITNESS: Well, we sought to, to meet with both Labor federally as well as trying to set up a meeting with the state minister for sport, Ms SPENCE.

MR PEARCE: And how did that progress?

THE WITNESS: And we ended up having a meeting with the minister and Mr TUTT on 12 February, from memory.

MR PEARCE: 2008?

THE WITNESS: In 2008.

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MR PEARCE: You were present at that meeting?

THE WITNESS: I was.

MR PEARCE: Who else was there?

THE WITNESS: It was just the four of us, from my recollection. The minister, Mr TUTT, Peter Lewis and myself.

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MR PEARCE: Mr Lewis is?

THE WITNESS: Mr Lewis was then the Chairman of the QRU.

MR PEARCE: Can you tell me were there any notes or minutes kept of the meeting?

THE WITNESS: No, I didn't make any notes. I wasn't aware that, that Mr TUTT or Ms SPENCE made any notes either. We certainly didn't receive any written notes back from them about the meeting.

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MR PEARCE: With the assistance of your recollection, are you able to tell us what occurred at that meeting?

THE WITNESS: Yes. We -- Mr Lewis did most of the talking and he, he went through the whole scenario of, of the QRU, our financial situation, how we had a need to make the assets into income producing assets to make ourselves sustainable, otherwise, you know, in all likelihood we might have to close it down; we couldn't afford to keep up, keep up the maintenance or the depreciation costs of the stadium. And that was why he'd, he'd put a proposal together to get the grant from the federal government in the first place. We went through that and how we'd, how we'd lost the grant. And then, you know, he really sought -- and then I think he expanded on, you know, the benefits of the development, how it would benefit other sports, and that it wasn't just for rugby, and that it was about, you know, making another great asset in Brisbane for the use of sport. So another good asset in the minister's sporting portfolio. He then -- and then, effectively, was asking assistance either to try and have a meeting at a federal level or whether

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or not the, the state would be in a position to assist.

MR PEARCE: Can you describe the reception?

THE WITNESS: I mean, both the minister and Mr TUTT were quite supportive of, you know, what we planned to do, thought that it was, it was a good project. And that it was good that we were looking to, to make ourselves self-sufficient. But there, there were certainly no, no, no promises in terms of, you know, helping us with funding at that point.

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MR PEARCE: Was there a dollar figure mentioned, other than the \$25 million of the grant?

THE WITNESS: I don't recall. It would have been feasible that, that Mr Lewis would have, you know, would have suggested a total figure that we were looking for for the redevelopment.

MR PEARCE: You've been sitting in the public gallery, this morning, have you?

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THE WITNESS: Just for a little while.

MR PEARCE: Did you hear what former Minister SPENCE had to say about the meeting on 12 February.

THE WITNESS: Yes.

MR PEARCE: Do you have any dispute about what she said?

30 THE WITNESS: Other than again from my recollection, Mr Lewis would have, I think would have talked through briefly the financial situation of the QRU.

MR PEARCE: That is, your then current financial status?

THE WITNESS: Yeah.

MR PEARCE: Which I presume was not rosy?

40 THE WITNESS: No, no,. We'd, we had -- no, we, we struggled to, to generate a net profit each year. So we, you know, with the depreciation and the cost of maintaining Ballymore, generally we end up with -- we try and get to an operating profit but invariably net profit will be something around the 1 to 1.2 million loss.

MR PEARCE: Does QRU pay tax?

THE WITNESS: No.

MR PEARCE: What occurred after the meeting on 12 February? Everyone went on about their business, did they?

THE WITNESS: Yep, pretty much. Mr Lewis, my recollection is that he did end up having some meetings in Canberra with some of the ministers, some of the federal ministers involved but I didn't attend those meetings.

10 MR PEARCE: Specifically with respect to the minister and Mr TUTT, what involvement did you have as time progressed?

THE WITNESS: Okay. Well, the super 14 season started around mid February. We, as is our common practice, invited the minister and Mr TUTT as her 2IC to all the games. Generally, generally the minister wouldn't attend but would be attending often times in their, their hospitality suite which is next door to the hirer suite, which is the suite that the QRU have as a hirer of Suncorp. On some occasions I would have gone into their suite if they were there and we would have had  
20 some conversations. But around the beginning of May we had a post match -- we always had a post match function, in that year they were held at the Caxton Hotel. That was where our VIPs and the players would go back to a designated room at the back of the Caxton Hotel and we would have, you know, a relatively informal post match function. It was at one of those post match functions around the beginning of May 2008 that I was having a discussion with Mr TUTT. He said to me that the minister and he had been talking about the QRU and that they were looking to assist us with, with a grant. He mentioned at that time a grant of between 3 to 4 million, or it was around  
30 \$3 million. We sort of -- the rationale was around trying to nullify the effects of our depreciation which was around, around a million dollars a year and that's why the \$3 million kind of resonated with me. So a million dollars over three years. And so I said that I would prepare some, some financial documents and make, and make an appointment with, with he and the minister to take them through that to begin the process of applying for a grant.

MR PEARCE: You must have been pleased to hear this?

40 THE WITNESS: Yeah, I was ecstatic.

MR PEARCE: What did you do, having learnt that the government was prepared to give you this grant?

THE WITNESS: Well, I informed my board that I had this conversation and I began preparing some documentation and, and ended up having -- arranging a meeting with Mr TUTT in early June.

MR PEARCE: Document 1, please. Did you prepare some notes for your meeting with Mr TUTT?

THE WITNESS: Yes, I had -- so in addition to preparing a suite of financial reports and other information on, on the QRU, I also prepared for my own use some discussion notes.

MR PEARCE: I'll get you to have a look at this document. The meeting on -- certainly your notes indicate that the meeting was on 3 June?

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THE WITNESS: Yes.

MR PEARCE: Is that correct, the meeting was on 3 June?

THE WITNESS: I believe that it was.

MR PEARCE: Did you envisage that you would be meeting with Mr TUTT alone?

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THE WITNESS: No, my recollection was that I was, that I was coming in to talk to both the minister and Mr TUTT.

MR PEARCE: But in any event you only spoke to Mr TUTT?

THE WITNESS: That's right.

MR PEARCE: By reference to your notes and your recollection, can you tell us what took place during the meeting of 3 June?

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THE WITNESS: Well, I, I pretty much went through my, my discussion notes there and, and left the QRU strategic plan and an update on the Ballymore redevelopment and a suite of our financials that I discussed with, with Mr TUTT. I also discussed the, the situation with regards to the Souths Rugby Union as well, which was something that they'd, they'd asked me to discuss with Mr TUTT because they knew that I was coming in.

MR PEARCE: Souths Rugby Union had incurred some legal expenses?

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THE WITNESS: That's right. They had been given -- I'm not sure when -- they had had a grant approved for the development of a second field and they'd run into some difficulties with a, with a local resident group who opposed that and they'd run up a large number of legal costs defending that action.

MR PEARCE: Well, did you leave these notes with Mr TUTT?

THE WITNESS: I didn't leave my -- I didn't leave this one page of

written notes.

MR PEARCE: What did you leave?

THE WITNESS: I left with him the suite of financial statements, a copy of our strategic plan and ...

MR PEARCE: Can I tender the meeting notes from the meeting of Tuesday, 3 June?

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THE PRESIDING OFFICER: Yes, Mr FREER's meeting notes for that meeting of 3 June will be Exhibit 8.

ADMITTED AND MARKED EXHIBIT 8

MR PEARCE: What was the next relevant event?

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THE WITNESS: I think later that month I had a phone call from, from Mr TUTT and then -- and I don't recollect exactly whether it was a phone conversation or we actually met. I believe we actually met later in that month, sort of, around 24 June. And he said, you know, nothing's, nothing's approved yet, but, but I think that I'll be able to offer -- I can give the QRU a grant of \$4 million and then he said -- and then he mentioned that -- and my recollection was that he was talking about UQ rugby but I understand that he was talking about the UQ Rugby Academy. He said that they were in a similar financial difficulty and that he was going to give the QRU a \$4 million grant but he was actually going to advance us \$4.2 million and he wanted me to transfer \$200,000, the extra \$200,000 to UQ rugby, and that I should get in contact with a gentleman there called Mr ANNING and work with Mr ANNING to develop a program to use those funds appropriately for the benefit of rugby.

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MR PEARCE: What did you do as a consequence of this conversation?

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THE WITNESS: Well, he, he was adamant that I, that I didn't talk to my board about this, which I understand, because, you know, he was A, it hadn't been approved, and B, my board at the time perhaps had a history of leaking information so he wanted to ensure that that didn't happen. But I, but I did inform my chairman but also told him that -- told my chairman that it was extremely confidential and that nothing had been approved at this point.

MR PEARCE: He mentioned Mr ANNING's name. Did you know Mr ANNING?

THE WITNESS: I knew Mr ANNING, yes. I wasn't aware of -- I knew Mr ANNING was associated with UQ rugby. I wasn't aware at that

time of the, of the fact that he was chairman of the UQ Rugby Academy.

MR PEARCE: Did you understand at that time that the University of Queensland Rugby Academy was a separate entity to the University of Queensland --

THE WITNESS: No, I didn't.

10 MR PEARCE: -- University of Queensland Rugby Football Club.

THE WITNESS: No, I didn't understand that at that time.

MR PEARCE: You have subsequently gathered that?

THE WITNESS: I understand that now, yes.

MR PEARCE: Do you recall when it was you had this conversation with Mr TUTT?  
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THE WITNESS: That was on or around 24 June.

MR PEARCE: Did you at about that time send by email some documentation through to the department?

THE WITNESS: No, that was a bit later. So, around the, around 2 July I had a --

MR PEARCE: I'll just stop you there. I'll just show you a document.  
30 Document 4, please. What I want to show you now is an email that purports to have been sent on 25 June.

THE WITNESS: Right.

MR PEARCE: From a lady by the name of any Naomi Enchong, who was a departmental officer who works in the office of the Minister for Sport.

THE WITNESS: Right.  
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MR PEARCE: She has addressed the email to Mr MATHESON and it concerns Queensland Rugby Union proposal. And the attachments more particularly. Do you recognise the attachments?

THE WITNESS: Yes, I do.

MR PEARCE: Did you prepare those documents?

THE WITNESS: Yes, I did.

MR PEARCE: Do they happen to be the documents you gave to Mr TUTT when you met with him on 3 June?

THE WITNESS: Yes, they are. So I note also that, that my, my meeting notes are included in those as well.

10 MR PEARCE: It contains your meeting notes? Very well. Is it more likely that you provided those documents to him on 3 June or that you emailed those documents to him later in June?

MR DEVLIN: Sorry, to whom?

MR PEARCE: To Mr TUTT.

THE WITNESS: No, I --

MR PEARCE: Do you recall?

20 THE WITNESS: I would have left them with him at that meeting on 3 June.

MR PEARCE: Can I tender the email dated 25 June and the bundle of documents that are the attachments to this email?

THE PRESIDING OFFICER: Who is the sender of that, Naomi Enchong?

30 MR PEARCE: Naomi Enchong is a departmental public servant who works as a ministerial liaison officer in the office of the minister.

THE PRESIDING OFFICER: I see. Okay. I thought it might have been an assistant to Mr FREER or something.

MR PEARCE: No.

THE PRESIDING OFFICER: The email from Ms. Enchong to Mr MATHESON of 25 June is Exhibit 9.

40 ADMITTED AND MARKED EXHIBIT 9

MR PEARCE: That will include, Mr Chairman, the bundle of attachments which are headed "Background Papers for Simon TUTT, Chief of Staff".

THE PRESIDING OFFICER: Yes.

MR PEARCE: I'm sorry, the Exhibit No. is?

THE PRESIDING OFFICER: Exhibit No. 9.

MR PEARCE: Thank you. When was your next contact with Mr TUTT after your conversation on 24 June?

10 THE WITNESS: I -- it would have been around 2 July. And at that point I recall he, he rang and said that it looks, it looks very promising in terms of the grant to the QRU. But for the purpose of the announcement that we needed to target the funding to some bricks and mortar that were part of the redevelopment.

MR PEARCE: Is this a conversation you had by phone?

THE WITNESS: I believe that it was, yes.

MR PEARCE: So we needed to target some bricks and mortar?

20 THE WITNESS: Correct. So, he wanted, he wanted me to provide some elements of the Ballymore redevelopment that the funding could be targeted against for the purposes of -- as he said, for the purposes of the announcement.

MR PEARCE: What did he say to you in respect of the announcement or plans for the announcement?

30 THE WITNESS: He mentioned that he was -- sorry, I had previously invited both he and the minister to our Reds gala ball, which is effectively an awards night at the end of the season, and he mentioned that he was working and that she would like to be able to make that announcement at the Reds gala award night.

MR PEARCE: And that evening was?

THE WITNESS: That was on 11 July.

MR PEARCE: So on the Friday, the end of the week that you were speaking to him, or within the fortnight, anyway?

40 THE WITNESS: Correct.

MR PEARCE: Did you set about identifying some bricks and mortar?

THE WITNESS: He also requested that I send in a letter as a formal request for the grant as well which up to that point I hadn't done or hadn't been asked to do. I then confirmed with Mr Lewis, my chairman, and he gave me -- he sent to me a listing of the various elements of the development and in discussions with him we, we -- so I was looking for

a figure of \$4 million and we, we chose the three elements, the third field, the pool and -- and a refurbishment of the western stand, as the three elements that added to \$4 million. So, I then constructed a letter to the minister formally seeking the grant and including an attachment which, which outlined those specific three pieces of bricks and mortar that added to \$4 million.

10 MR PEARCE: Can I just get you to have a look at document 6, please. This is -- I will get you to confirm this -- but it appears to be an email from yourself to Mr MATHESON dated Thursday, 3 July, 12.55 pm; do you recall sending that email?

THE WITNESS: Yes, I do.

MR PEARCE: Can you tell me why it would be directed to Mr MATHESON?

20 THE WITNESS: I can only assume that, that that I was directed to do that by Mr TUTT.

MR PEARCE: Did you know Mr MATHESON as at that date?

THE WITNESS: I don't recall having met him prior to that, no.

MR PEARCE: Can you just describe for me what's attached to the email?

30 THE WITNESS: So, the, the email includes the, the page that has Ballymore redevelopment with a preliminary costing for the total development which lists out all the key elements coming to a total estimated cost of \$4.2 million and then another paragraph that includes the current status.

MR PEARCE: This comes to a total estimated cost of \$45.2 million.

THE WITNESS: Sorry, did I not say that?

MR PEARCE: You said 4.2.

40 THE WITNESS: Sorry, \$45.2 million, correct.

MR PEARCE: You have listed a number of items there, 10, 10 line items?

THE WITNESS: Correct.

MR PEARCE: And the first three are the ones that you say were the priority items.

THE WITNESS: That's right.

MR PEARCE: Does this document with these attachments identify anywhere those three items as priority items? I suggest to you that it doesn't.

THE WITNESS: No, it doesn't.

10 MR PEARCE: Very well. Can I tender the email of 3 July 2008 from Mr FREER to Mr MATHESON together with the attached documents.

THE PRESIDING OFFICER: That's Exhibit 10.

ADMITTED AND MARKED EXHIBIT 10

MR PEARCE: Might the witness be shown document 10, please. This email and attachment purports to be an email from you to Mr MATHESON dated 8 July. Attached to the email appears to be a scanned copy of the letter that you had sent to the minister dated the same day; is that correct.

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THE WITNESS: That's right.

MR PEARCE: What had happened between 3 July and the creation of this email.

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THE WITNESS: Well, the -- obviously between that time I had had the conversation with Mr TUTT, who had asked me to nominate three items that totalled \$4 million as the target for the funding.

MR PEARCE: You told us previously that that had occurred in a conversation you thought had taken place on I think you said 2 July.

THE WITNESS: Yeah, that was my recollection.

MR PEARCE: What then followed it seems is that on 3 July you sent material through to Mr MATHESON.

40 THE WITNESS: (Witness nods).

MR PEARCE: Is that correct.

THE WITNESS: Yeah, that's right.

MR PEARCE: And then five days later you sent through to Mr MATHESON a copy of the letter that you had addressed to the minister.

THE WITNESS: That's right.

MR PEARCE: Is there anything that happened that prompted you to send to Mr MATHESON a copy of the letter that you were sending to the minister, that you can recall.

THE WITNESS: No, I can't, can't recall.

10 MR PEARCE: I tender the email of 8 July at 1.30 pm from Mr FREER to Mr MATHESON.

THE PRESIDING OFFICER: That's Exhibit 11.

ADMITTED AND MARKED EXHIBIT 11.

THE PRESIDING OFFICER: And the attachment with it.

MR PEARCE: Yes, please.

20 Just to complete the record, might the witness be shown document 11? I'm sorry, it's Exhibit 1, it's already been tendered. Might the witness be shown Exhibit 1. Is that a copy of your letter to the minister together with an attachment?

THE WITNESS: Yes, it is.

MR PEARCE: And the attachment is the single page that formed part of the pun delve documents that you sent to Mr MATHESON on 3 July; is that the case.

30 THE WITNESS: That's right.

MR PEARCE: Thank you. Can you return that document. What followed your letter to the minister?--The next thing that followed I guess was the, was the gala ball on 11 July. And even up until that day Mr TUTT was still saying that it hasn't, hasn't been approved but it's, but it's, it's looking extremely promising. Then, and then on the -- at the gala ball I went down stairs to, to greet the minister, who, who had been detained at a previous engagement so I knew that she was going to be arriving later with Mr TUTT. And as she exited the car he handed her a letter, she signed it, gave it to me and that was a letter that confirmed that, that we were being offered the grant of \$4.2 million.

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MR PEARCE: May the witness be shown Exhibit 3. Is that a copy of the letter handed to you in those circumstances by the minister.

THE WITNESS: Yes, it is.

MR PEARCE: Thank you. If you could return that. You say the minister signed that in front of you, did she.

THE WITNESS: She did.

MR PEARCE: Subsequently I understand the minister made the announcement publicly?--She did.

MR PEARCE: She did that during the course of the gala ball?

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THE WITNESS: Yes. We had a slot up for her to address guests during the function and it was during that that she announced it.

MR PEARCE: Am I correct from what you said that you didn't know until the minister had handed you the letter that the grant had in fact been approved.

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THE WITNESS: I knew that it was extremely promising and I don't recall whether or not I had a phone call during the day that told me that it had been but it was literally around that day or -- just don't recall whether I knew before that or when she actually arrived.

MR PEARCE: Other than telling Mr Lewis of this pending decision did you tell anybody else.

THE WITNESS: I don't, don't recall, I don't recall whether I did or I didn't.

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MR PEARCE: This was something of a surprise announcement.

THE WITNESS: Yes, for the -- yeah. Yeah, no, I don't -- I may have, I may have informed the finance, the finance manager on our board, but I can't recall.

MR PEARCE: The news hadn't spread beyond.

THE WITNESS: No, no.

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MR PEARCE: Mr Chairman, I'm about to move on to another area and I note the time. Is it convenient to break now.

THE PRESIDING OFFICER: Yes, all right. 2.00 o'clock.

MR PEARCE: Thank you.

THE PRESIDING OFFICER: Does that suit everyone?

THE HEARING ADJOURNED AT 12.57 PM

THE HEARING RESUMED AT 2.03 PM

MR CARMODY: Could I have a whinge before we start and get it out of my system? The deal with the media was if they had access to Mr FREER at the beginning of his evidence and could take pictures and leave him alone, well, they chased us down the hall way into the lift and with microphones being shoved in his face, rhetorical questions being asked of him. Is there something --

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THE PRESIDING OFFICER: Sure, my media people, my media lady is not here at the moment.

MR DEVLIN: I have the same complaint.

THE PRESIDING OFFICER: Your witness perhaps didn't agree, so I mightn't have the same control. But the arrangement was that the media, if they are allowed in here for the witness, it has to be on the understanding they don't chase the witnesses.

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MR CARMODY: And especially the ones with the microphone.

THE PRESIDING OFFICER: It applies to Mr CARMODY's client. Wendy, could that be passed on to Leanne Hardyman and perhaps she could speak to them.

MR CARMODY: I'm happy for them to chase me.

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MR DEVLIN: My point, Chairman, is my client is not yet a witness. I understand that. There has been plenty of footage taken, as I understand it, and he has been asked questions in the corridor and I find that demeaning and unsettling for my client.

THE PRESIDING OFFICER: We will ask all the media to stop filming in the corridors in here, it's not appropriate.

MR CARMODY: Thank you, Mr Chairman.

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THE PRESIDING OFFICER: It's normally outside and they chase up the street. We try to avoid that by giving them a couple of minutes when the witness is sworn in but ...

MR CARMODY: I don't want to get out of the frying pan into the fire. I don't want them to say we won't take pictures inside but we will do it outside.

THE PRESIDING OFFICER: And then do it in the restaurant downstairs. Yes. Thank you, Mr PEARCE.

MR PEARCE: Mr Chairman, I'm about to move on to question Mr FREER about his contact with Mr ANNING and the procedures that were gone through in terms of securing some changes to the funding agreement. Mr CARMODY indicated to me prior to the adjournment that he suspected Mr FREER might object to answering questions along that line. I will just flag it at this point so that having indicated to Mr FREER that I'm about to ask questions, I suppose directed towards the purpose for which the monies were to be expended, that this is an appropriate point for him to raise an objection and for a direction to be given.

MR CARMODY: Mr Chairman, can he raise it through me?

THE PRESIDING OFFICER: Certainly, yes.

MR CARMODY: He wants to be cooperative obviously, but I have advised him to take advantage of the protection in section 172(3), insofar as his truthful answers to any questions relating to two areas, one, the QRU's disbursement of the \$1.4 million funding in 2008 and two, any subsequent acquittal of those disbursements on self-incrimination grounds. He has told me that he would like to take advantage of that.

THE PRESIDING OFFICER: Thank you, Mr CARMODY. Is that so, Mr FREER, that you seek to claim the privilege against self-incrimination on those two issues?

THE WITNESS: Yes.

THE PRESIDING OFFICER: All right. Your claim is noted. I now direct you to answer questions on those two topics as asked of you by Mr PEARCE or indeed of anyone else. Having claimed that privilege now, the effect that is your answers will not be able to be used against you in any other subsequent proceeding, unless the proceeding is, of course, for perjury in respect of any evidence you might give in those answers; do you understand that?

THE WITNESS: Yes.

THE PRESIDING OFFICER: Thank you. Mr PEARCE?

MR PEARCE: Just before I move on to that line of questions, can I ask you this: Do you know Mr MATHESON at all; did you ever meet Mr MATHESON?

THE WITNESS: Yes.

MR PEARCE: Whereabouts did you meet him?

THE WITNESS: In his offices.

MR PEARCE: Did you ever meet him at your offices at Ballymore?

THE WITNESS: It's possible.

10 MR PEARCE: Do you recall any occasion on which you met with him at Ballymore?

THE WITNESS: No, I don't.

MR PEARCE: If Mr MATHESON were to tell us that he met with you on an occasion at Ballymore what would you say to that proposition?

THE WITNESS: It's possible. I just don't recollect it.

20 MR PEARCE: Following the minister's announcement of the grant at the Reds' gala ball on the evening of Friday, 11 July, did you have some contact with Mr ANNING?

THE WITNESS: My first recollection is that on the Monday following the gala ball Mr ANNING rang and left a message for me at QRU offices and also sent me an email.

MR PEARCE: Document 19, please.

30 THE PRESIDING OFFICER: Which came first, the email or the phone call?

THE WITNESS: I'm not sure.

MR PEARCE: Might the witness be shown this document, please. What I'm showing to you now is an email that purports to have been sent by Mr ANNING to you at 12.50 pm on 14 July 2008. Is that the email to which you've just referred?

40 THE WITNESS: Yes, it is.

MR PEARCE: The attachment to the email concerns the University of Queensland Rugby Academy and is an elite player development program, information and application pack. Do you see that?

THE WITNESS: Yes.

MR PEARCE: And indeed the body of the email, "May we please get together to talk about how the 12 academy scholarships will work. The

selection process for academy reporting, et cetera, please ring me on my mobile.” What can you tell me about the 12 academy scholarships? How did that subject arise?

10 THE WITNESS: I actually don't have any recollection of -- I know now that the -- that subsequently when I was shown the program that had been developed that the concept was that, that a number of scholarships would be made available to each of the Premier clubs and in that way all of the Premier clubs would take advantage of the, you know, of this funding.

MR PEARCE: Had you been asked to contact Mr ANNING at some point?

THE WITNESS: The only -- so when I had the conversation with Mr TUTT, he said to, to get into contact with Mr ANNING to develop a program for the use of the \$200,000 that was being made available.

20 MR PEARCE: Did you do that?

THE WITNESS: To my recollection Mr ANNING contacted me.

MR PEARCE: And that's on 14 July?

THE WITNESS: Yeah.

30 MR PEARCE: All right. Did this thing come out of the blue, this attachment concerning the elite player development program? Did it mean anything to you at all?

THE WITNESS: It, it does, but I don't know that it did at that time.

MR PEARCE: So you recall receiving the email?

40 THE WITNESS: I do. That week I was, there was -- I was doing interviews and I was exceptionally busy and I, I -- I also had discussed with my high performance manager the, that we were to develop a program and that -- I'm not quite sure when I did that either but I discussed that with my high performance manager, whose name is Ben Whittaker and he liaised with UQ Rugby Academy in the development of that program.

MR PEARCE: Can I first of all, Mr Chairman, tender the email of 14 July 2008, 12.50 pm.

THE PRESIDING OFFICER: That will be Exhibit 12.

ADMITTED AND MARKED “EXHIBIT 12”

MR PEARCE: With the attachments.

THE PRESIDING OFFICER: Okay, the email and the attachment, Exhibit 12.

MR PEARCE: Might the witness be shown two documents currently identified as 19A, that's the next tab. I'm just showing you now, two emails, one dated 14 July and one dated 18 July, asking you to call  
10 Mr ANNING.

THE WITNESS: That's correct.

MR PEARCE: Are they emails sent to you by your receptionist?

THE WITNESS: That's right. That's the process that I had.

MR PEARCE: Can I tender those two emails as one Exhibit?

20 THE PRESIDING OFFICER: Those two emails will be Exhibit 13.

ADMITTED AND MARKED "EXHIBIT 13"

MR PEARCE: Now, did you at some point communicate with Mr ANNING?

THE WITNESS: Again, I -- well, we must have because we set up a meeting for later in July, I think around, around the 25th.

30 MR PEARCE: Perhaps I can show you this document, document 22. An email chain culminating in an email sent on your behalf to Mr Whittaker dated 24 July 2008 at 10.42 am. Earlier in that email chain there is an email from Mr ANNING to you dated 23 July; is that correct?

THE WITNESS: Yes, that's right.

THE PRESIDING OFFICER: Which number was that?

40 MR PEARCE: This was document 22.

THE PRESIDING OFFICER: Thank you.

MR PEARCE: Prior to receiving -- I take it you recall receiving Mr ANNING's email on 23 July, do you?

THE WITNESS: Well, I -- I accept that that was sent to me.

MR PEARCE: Do you have a memory of receiving it?

THE WITNESS: Yeah, I think I do. Because it's basically the same attachment as I was sent.

MR PEARCE: As the earlier email, that's correct. And you've on forwarded it to Mr Ben Whittaker?

THE WITNESS: Correct.

10

MR PEARCE: It looks like in preparation for the meeting on Friday.

THE WITNESS: That's right.

MR PEARCE: Which would have been 25 July.

THE WITNESS: That's right.

MR PEARCE: Did you attend the meeting on 25 July?

20

THE WITNESS: Yes, I did.

MR PEARCE: Can you tell me about that meeting, please?

THE WITNESS: It was 9 o'clock in the morning. I attended with Mr Whittaker. From UQ Rugby Academy there was Mr ANNING, Zane HILTON and their CEO, David MUIR.

MR PEARCE: Whereabouts was the meeting?

30

THE WITNESS: That was in our boardroom at Ballymore.

MR PEARCE: What was the purpose of the meeting?

THE WITNESS: The purpose of the meeting was to discuss the program to, to correctly utilise the \$200,000.

MR PEARCE: There's nothing in the material, the written material we've seen to this point that raises the concept of the \$200,000 being applied to the elite player development program. When did that come about?

40

THE WITNESS: That was, that was my direction from Mr TUTT.

MR PEARCE: With respect, your direction from Mr TUTT was to develop a program for the use of the money; is that correct?

THE WITNESS: Correct, yes.

MR PEARCE: When was it that that program became tied to, if I can use that expression, the elite player development program?

THE WITNESS: Well, the elite player development program was actually, was already in existence. It was something that the rugby academy had been already doing.

MR PEARCE: Yes, I appreciate that.

10

THE WITNESS: So it became tied to it. So, then, the program, the scholarship program was developed to, to enable Premier clubs and subsequently one country affiliate to be able to put a player into that program. He sent -- Mr ANNING sent, sort of, the final proposal on that through to me around 12 August.

MR PEARCE: I appreciate what you're saying but what I want to know is whose idea it was to put two and two together. That is, put \$200,000 to the elite player development program and more particularly the 12 scholarship places?

20

THE WITNESS: I don't know. I, I, I believe that that was developed by UQ Rugby Academy perhaps with the involvement of Mr Whittaker.

MR PEARCE: So far as you're concerned it was a fait accompli? It was just served up to you?

THE WITNESS: Yep, pretty much. And in that respect I was comfortable with it as, as something for the good of rugby and something that could apply, that all of the Premier clubs could take some advantage of.

30

MR PEARCE: Can I tender the email chain that concludes with the email dated 24 July 2008, at 10.43 am.

THE PRESIDING OFFICER: That will be Exhibit 14.

ADMITTED AND MARKED "EXHIBIT 14"

40

MR PEARCE: As at this stage, that is, about 25 July or thereabouts, what had been done to facilitate the receipt of the monies, the \$1.4 million grant?

THE WITNESS: Well, nothing -- at some point following the announcement on 11 July and given, and given our cash flow management, I rang Mr TUTT -- I don't, I don't recall exactly when that was, and, and sought his assistance in expediting the process. And subsequently I had had a phone call or my PA did, we had a meeting set

up with, with the department on, it was 1 August.

MR PEARCE: There appear to be entries in your diary for 29 July and 30 July, making reference to Simon TUTT. The entry on 29 July indicates Simon TUTT -- perhaps I should show you. Might the witness be shown document 2. I'm sorry, it's document 3. No, that's not it. Document 3 should be a series of papers -- document, sorry, not Exhibit. The pages in front of you, are they a collection of pages extracted from your diary?

10

THE WITNESS: Yes.

MR PEARCE: Did you put those together for the Commission?

THE WITNESS: I did.

MR PEARCE: While we are at it, perhaps we might start at the beginning and go through quickly. How did you come to put these pages together? What is the significance of them?

20

THE WITNESS: I, I went back through my diary and if I had any reference to Simon TUTT, Eric ANNING or government funding then I pulled those pages out and copied them.

MR PEARCE: Very well. There is an entry on 2 June 2008 which appears to read "Simon TUTT paper"?

THE WITNESS: Yes.

30 MR PEARCE: That would fit with your evidence earlier, the meeting you had, I think on 3 June?

THE WITNESS: Yes.

THE PRESIDING OFFICER: That's under "Activities". This is an unusual diary it's split up into different parts.

THE WITNESS: Yeah, well, that's signifying that I needed to have that paper prepared to take to my meeting.

40

THE PRESIDING OFFICER: I see.

MR PEARCE: As we look at that page in front of you would that be a right-hand page of the diary or left-hand page?

THE WITNESS: That's a right-hand page.

MR PEARCE: What's on the left-hand page? If we were looking at that

page in your diary what would appear on the left-hand side?

THE WITNESS: The fact that it's not there means that I've probably written nothing on it.

MR PEARCE: I appreciate that. If you just turn the page.

THE WITNESS: Yep.

10 MR PEARCE: Is that the complete two sides to your diary?

THE WITNESS: Yes.

MR PEARCE: And again on 3 June there is mention of Simon TUTT, at 1600 hours.

THE WITNESS: That's right.

20 MR PEARCE: What does that signify?

THE WITNESS: That signifies the time that we met.

MR PEARCE: There's an entry on the facing page for 20 June, 11.25 am Simon TUTT and his phone number.

THE WITNESS: That's -- that would signify that he rang me at that time.

30 MR PEARCE: Okay. A few lines under that there's an entry 1.3 million per annum; what does that relate to? Do you know?

THE WITNESS: I don't know.

MR PEARCE: And there's an entry towards the bottom, third from the bottom, concerning Ballymore redevelopment.

THE WITNESS: That's right.

40 MR PEARCE: Do you know what that indicates?

THE WITNESS: Um.

MR PEARCE: Is it linked to this matter in any way?

THE WITNESS: I think, I think, seeing that I've -- to me that looks like some notes I'm making for a staff meeting. I don't think it's related.

MR PEARCE: Okay. The next entry concerns 24 June so we're getting

close to where we were.

THE WITNESS: Yep.

MR PEARCE: On the left-hand page under a heading that you've placed there a week ahead.

THE WITNESS: Yes.

10 MR PEARCE: Entry 14, catch up Simon TUTT.

THE WITNESS: Yes.

MR PEARCE: Does that indicate you were anxious to catch up with him for some reason?

THE WITNESS: That -- yeah, that would signify that we either needed to talk or have a meeting.

20 MR PEARCE: And then on the right-hand side --

THE PRESIDING OFFICER: Below that one list of bricks and mortar --

MR PEARCE: Do you see that?

THE WITNESS: Yes.

30 MR PEARCE: Does that indicate that that was something you needed to do?

THE WITNESS: Yeah. That's an action that I, that I needed to do.

MR PEARCE: And that was the list of bricks and mortar that he had asked that you prepare?

40 THE WITNESS: Yes. That -- that's right. I'm just, I'm thinking that that's maybe the list that I ended up sending to Craig MATHESON that you reminded me of earlier that I had to list out all of the elements of the redevelopment.

MR PEARCE: All right. On the right-hand page you've got an entry there, "Contacts: Simon TUTT/Souths"?

THE WITNESS: That's right. That's a follow-up on whether he had an opportunity to consider the Souths issue that we talked about earlier.

THE PRESIDING OFFICER: Before you go on, can you recall when

you photocopied this whether that one on the left-hand side with the catch up of bricks and mortar, was that the page opposite the 24 June or opposite some other day? It's a bit difficult to tell when you've just got them--

THE WITNESS: I appreciate that. I, I-- my recollection is that I definitely put them in order. In fact, I don't, I actually provided my actual diary pages. I don't -- I didn't -- I don't believe I copied them. I believe that I -- the Commission copied them.

10

THE PRESIDING OFFICER: So it could have been copied within the Commission?

MR PEARCE: Did you hand over loose pages or the diary?

THE WITNESS: Yes. Loose pages from the diary, but they were -- they were in sequential order.

20

THE PRESIDING OFFICER: So is your diary one where the pages can be removed?

THE WITNESS: Yes, it is. Yes, it is.

THE PRESIDING OFFICER: Do you know if the originals came back to you?

THE WITNESS: Yes, they have.

30

THE PRESIDING OFFICER: Could we get them again from you?

THE WITNESS: Absolutely.

THE PRESIDING OFFICER: I think it would be better.

MR PEARCE: Perhaps the complete diary?

THE WITNESS: That's fine.

40

THE PRESIDING OFFICER: You've finished with it now?

THE WITNESS: Yes.

MR PEARCE: We have nearly finished, there are only two more pages. You've got an entry on 25 June, Simon TUTT. Is that correct?

THE WITNESS: Yep, that's under "contacts". That means I need to call him.

MR PEARCE: There's another one on 2 July, 1300 hours.

THE PRESIDING OFFICER: There's one opposite the 26th, the subject, Simon, on the left-hand page.

MR PEARCE: Together with the name Craig MATHESON as well.

THE PRESIDING OFFICER: Souths, 150,000, Craig MATHESON.

10 THE WITNESS: Yes. So, again, these would be -- generally what I would do is I would make a note under "Contacts" that I need to call them and my preparation would have been on the page opposite but I haven't written down there to call him but I do have my preparation of the things that I wanted to discuss with him when I rang him.

MR PEARCE: 27 June is a note on the left-hand page, point 7 to ring Simon TUTT.

20 THE WITNESS: Yes.

MR PEARCE: And in your schedule you have got on the other page, again, ring Simon TUTT?

THE WITNESS: That's right.

MR PEARCE: Then 2 July I've touched on, you've got a note there at 1300 hours, Simon TUTT.

30 THE WITNESS: Yes.

MR PEARCE: Would that signify a meeting, would it where you have scratched out the entire hour?

THE WITNESS: That would be, yes.

MR PEARCE: Then on the right-hand page with 3 July, point 1, proposal to Craig.

40 THE WITNESS: Yes.

MR PEARCE: Is that a document you prepared for Craig MATHESON?

THE WITNESS: That's right.

THE PRESIDING OFFICER: Where is that one?

MR PEARCE: Thursday, 3 July, right-hand column on the right-hand

page.

THE PRESIDING OFFICER: Yes, thank you.

THE WITNESS: And similarly underneath that, Ballymore costs, Peter Lewis.

MR PEARCE: The "PL" is Peter Lewis?

10 THE WITNESS: Yes.

MR PEARCE: That brings us to where we were, 25 July or thereabouts, which is the next page.

THE WITNESS: Yes.

MR PEARCE: Do you see there's an entry there mentioning Eric ANNING at 0900 hours.

20 THE WITNESS: That's right, that's that meeting.

MR PEARCE: That's the meeting you were telling us about earlier, is it?

THE WITNESS: Correct.

MR PEARCE: What was the upshot of that meeting?

30 THE WITNESS: I -- it was -- from memory was relatively brief and there was broad consensus on, on, on the program. And that I -- I guess a resolution would be that they would formalise that in a proposal.

MR PEARCE: Your interest in the matter, correct me if I'm wrong, was to facilitate a program whereby \$200,000 could be transferred to some other entity; is that the extent of your interest?

THE WITNESS: Pretty much. Although, I mean, Mr TUTT had said for the interests of rugby.

40 MR PEARCE: For the interests of rugby?

THE WITNESS: Yes.

MR PEARCE: And your presence at the meeting on 25 July left you satisfied that what was being proposed was a suitable program for the transfer of the \$200,000 for a project that was in the interests of rugby?

THE WITNESS: That's right.

MR PEARCE: We still haven't received any money, have we, so what did you do about securing the funding?

THE WITNESS: I think we touched on that earlier. I, I -- again, I don't remember exactly when, but I did speak with Mr TUTT about expediting and I think subsequently I then had a meeting with the department to begin the process of the funding agreement being prepared.

10

MR PEARCE: Look at your diary now, the left-hand page for 30 July.

THE WITNESS: Yes.

MR PEARCE: There is an entry there, Simon TUTT, it looks like, is it, meeting, something in Peter.

THE WITNESS: That's a "c" with a dash over the top which for me is "with". So meeting with Peter.

20

MR PEARCE: Meeting with Peter tomorrow.

THE WITNESS: Yes, and then David Hinchliffe. I'm not sure why I had that there.

MR PEARCE: And then on the right-hand page there's an entry Simon TUTT.

THE WITNESS: That's right. Again, that would --

30

MR PEARCE: What can we take from those?

THE WITNESS: I'm sort of wondering whether I've rung Simon because my chairman wanted to have a meeting with him. Because, see, I've got: Simon TUTT 15 to 20 minutes. ARU.

MR PEARCE: Meeting with Peter.

40

THE WITNESS: Yeah. I can only -- I can only assume that the chairman had asked me to set up a meeting for him with Mr TUTT.

MR PEARCE: Okay. And then just to complete the package we've got a copy of your diary for 5 August where there's reference to Simon T?

THE WITNESS: That's right.

MR PEARCE: I understand that's a reference to Simon Taylor?

THE WITNESS: That's right. That's -- so I had regular one-on-one meetings with my direct reports.

MR PEARCE: That's fine. The other relevant entry on that page is a reference to Eric ANNING on the right-hand page in the right-hand column under "Contacts"?

10 THE WITNESS: Yes. And I'm -- and again that would be that I needed to -- he'd either left me a message and I had to return his call or I had some reason to call him. I don't recall when that was.

MR PEARCE: Can I tender that bundle of diary extracts from Mr FREER's diary.

THE PRESIDING OFFICER: Yes, that's Exhibit 15.  
ADMITTED AND MARKED "EXHIBIT 15"

20 MR PEARCE: You mentioned a moment ago the arrangements you had put in place to deal with public servants to get the funding moving. What did you exactly do? Who did you meet with and what did you do?

THE WITNESS: I had a meeting with Di FARMER, and Ben KLAASSEN attended that as well and I took with me Simon Taylor, who was the manager for our community rugby department.

MR PEARCE: And the venue for that meeting was?

30 THE WITNESS: That was at Di FARMER's office. And they just briefly took me through the elements of a pro forma funding agreement.

MR PEARCE: To what end?

THE WITNESS: To -- so that I understood the elements of a funding agreement.

MR PEARCE: What did you discover, if anything?

40 THE WITNESS: Um, nothing. Well, I guess, I guess it informed me the elements of -- I mean, I don't know that we, we -- we agreed that Ben should come out to Ballymore and look at the development and I updated them, presumably, on where we were in terms of -- we hadn't put a development application in at that point so it was a bit of sharing information and then taking me through the elements of the funding agreement.

MR PEARCE: You were given a draft agreement to look at, were you?

THE WITNESS: Yes.

MR PEARCE: They spoke to the draft agreement?

THE WITNESS: Yes.

MR PEARCE: What was the schedule of payments in the draft agreement; do you recall?

10 THE WITNESS: It wasn't specific -- to my knowledge -- my recollection is that it wasn't specific around our grant. It was a pro forma.

MR PEARCE: Do you recall how the pro forma dealt with the payment of the grant monies? You know the issue here. The issue is that there ended up being an up front payment to you. How did that come about?

20 THE WITNESS: Well, the way that we'd always discussed the grant was that we were able to use it to assist with the cost we'd already expended on the, on the development application.

THE PRESIDING OFFICER: You say "we".

THE WITNESS: Sorry --

THE PRESIDING OFFICER: Who is the "we"?

30 THE WITNESS: With Simon TUTT. So that -- and so the point at which that changed was -- well, it, it -- when he informed me that there needed to be something to target the \$4 million at and that's when we went down the track of --

MR PEARCE: Nominating priority.

THE WITNESS: -- nominating some elements of that. But, but in my mind -- and I, you know, and we discussed it a number of times and I, again, that's -- at some point during this process I said to him again --

MR PEARCE: Said to?

40 THE WITNESS: I said to Mr TUTT again we, we require -- you know, that we require this funding as part of our operating funding at this point in time, because this is -- at that time of the year we still have to pay players, et cetera, but we don't get any income in from either matches or, or -- and very little from sponsorship so it's a tight cash flow period.

MR PEARCE: So you wanted money up front to use for operating -- to meet operating expenses?

THE WITNESS: Yes.

MR PEARCE: The draft funding agreement that was shown to you, did it permit that to occur?

THE WITNESS: No.

MR PEARCE: What did you do about that?

10

THE WITNESS: Well, well, it provided for the money to be paid. But again the funding agreement was linked to the, to the -- those two elements.

MR PEARCE: It was also, I suggest to you, an acquittal and reimbursement process?

THE WITNESS: Yes.

20 MR PEARCE: That's what the draft document looked like.

THE WITNESS: That's right, yes.

MR PEARCE: Did you say or do anything to voice your dissatisfaction with such an arrangement?

30

THE WITNESS: I -- so when Mr KLAASSEN came out he had -- again, we went through then, I think the -- you know, more a complete funding agreement and I raised it with him at that point. I said this is, this is different to, you know, what I discussed with the minister's office, meaning Mr TUTT. And he, he looked -- didn't look surprised and I, sort of, answered the question, I said I guess I'll need to take that up with the minister's office.

MR PEARCE: What response did he give?

THE WITNESS: He didn't give a response.

40

MR PEARCE: That was a conversation you had with Mr KLAASSEN?

THE WITNESS: Yes.

MR PEARCE: When he was in attendance at Ballymore?

THE WITNESS: That's right. That was on 6 August.

MR PEARCE: Might the witness be shown document 28. Are you able to identify this for me. It purports to be an email from Mr KLAASSEN

to you dated 8 August 2008, a draft funding agreement.

THE WITNESS: That's right.

MR PEARCE: Do you recall receiving that?

THE WITNESS: Yes, I do.

MR PEARCE: Is that the document we've just been talking about --

10

THE WITNESS: Yes, it is.

MR PEARCE: -- although this one, if you see schedule A, provides for the up front payment; do you see?

THE WITNESS: That's right.

MR PEARCE: So this is the one that was in the form that was acceptable to you?

20

THE WITNESS: Yes.

MR PEARCE: Which means, by a process of deduction, any conversations you've had about changing the draft form must have occurred prior to 8 August; does that follow? Because on 8 August, under cover of this email, you've received the document.

THE WITNESS: Well, yeah, that's right. So, the conversation I had with Mr KLAASSEN was two days before I received this on 6 August.

30

MR PEARCE: Can I tender the email and attachment, the email being dated 8 August 2008, 12.48.

THE PRESIDING OFFICER: Yes, that email and the funding agreement attachment is Exhibit 16.

ADMITTED AND MARKED "EXHIBIT 16"

MR PEARCE: From the time that the grant was announced on 11 July to 8 August when this document arrived in its final form, had you had any contact or discussion with Simon TUTT about the method of payment?

40

THE WITNESS: Yes, I had sought his reassurance that, that the funding would be provided with the flexibility that we'd originally discussed.

MR PEARCE: How and when did you do that?

THE WITNESS: I believe that would have been over the phone some time. I mean, I had that conversation with him the first time that he rang to say that it was being targeted for the bricks and mortar. So we had that conversation and, and I think subsequent to that when I was -- and you know, my recollection is, is that I had that conversation probably again when, when I was seeking for him to expedite the payment because I was again explaining that, you know, we had a need to get those funds.

10 MR PEARCE: Just a moment or two ago you told us about a conversation that you had with Ben KLAASSEN in which you said words to the effect, "I suppose that's something I'll have to take up with the minister's office".

THE WITNESS: (Witness nods).

MR PEARCE: The something you had to take up was this issue of payment, was it not?

20 THE WITNESS: The, the -- what I had to take up was the, the, the difference in the understanding that I had that minister's office had given me in terms of how I was getting the funding versus what the department was proposing.

MR PEARCE: What did you do after telling Mr KLAASSEN this was something you had to take up with the minister's office?

THE WITNESS: I assume that I had another conversation with Mr TUTT.

30 MR PEARCE: Do you recall such a conversation?

THE WITNESS: No. I know that, I know that I had the conversation on a number of occasions. I don't, I don't recall exactly when that was.

MR PEARCE: But in any event --

THE WITNESS: In any event I was acting in good faith in the way that --

40 MR PEARCE: That's not the issue for the moment. In any event, you say that two days after you spoke with Mr KLAASSEN about an agreement that was in a form you were not happy with, you then received the email on 8 August conveying the final form of the agreement?

THE WITNESS: That's right.

MR PEARCE: And you don't, you can't recall whether you spoke to anyone in the minister's office in that period or not?

THE WITNESS: No, I can't.

MR PEARCE: May the witness now be shown document 30. Have a look at that document. I understand it's one that bears your signature. Yes, if you just scroll through, page 15 of 24.

10 THE WITNESS: That's right.

MR PEARCE: Is that your signature?

THE WITNESS: It is.

MR PEARCE: You signed it, did you, on 11 August?

THE WITNESS: I did.

20 MR PEARCE: May I tender the copy of the funding agreement dated August 2008 bearing Mr FREER's signature and the date 11 August 2008.

THE PRESIDING OFFICER: That copy of the executed funding agreement will be Exhibit 17.

ADMITTED AND MARKED "EXHIBIT 17"

30 MR PEARCE: I'll get you to look at this document, please. Again, it's an email chain. It culminates in an email from Mr Simon Taylor to you concerning the UQ academy scholarships. Do you recall receiving this document --

THE WITNESS: Yes, I do.

MR PEARCE: -- and the attachments? What appears to be attached is something in the form of an unsigned or unexecuted Memorandum of Understanding; would you agree with that? Or Memorandum of Agreement?

40 THE WITNESS: Yes.

MR PEARCE: And does that document reflect your understanding of the arrangement or the program that had been put in place for the transfer of the \$200,000 to the University of Queensland Rugby Academy?

MR DEVLIN: Mr Chairman --

THE WITNESS: Yes, it does.

MR DEVLIN: -- do I have my permission to take off my coat? I'm really struggling in here.

THE PRESIDING OFFICER: Yes, certainly, Mr Devlin.

MR DEVLIN: I don't know whether I'm unwell or just struggling.

THE PRESIDING OFFICER: It is a bit stifling in here --

10 MR SHIELDS: That's my fault. I'm sitting underneath a vent and it's difficult to hear the answers and questions so I apologise to my learned Friend.

MR DEVLIN: My head is starting to spin, I'm sorry.

THE PRESIDING OFFICER: Has the air conditioning been turned down or something?

MR SHIELDS: If the witness could perhaps speak up a little bit.

20 THE PRESIDING OFFICER: Could we move the microphone closer to the witness because that does help. And if we turn the air conditioning back on.

MR PEARCE: Yes, I'm finding it warm.

MR DEVLIN: I have never felt distressed ever and I'm feeling quite distressed.

THE PRESIDING OFFICER: I think we'll adjourn for a few minutes so that Mr Devlin can hopefully recover.

30 MR DEVLIN: If I knew it was Mr SHIELDS's fault I would have had words with him earlier.

THE PRESIDING OFFICER: We will adjourn for a few moments.

THE HEARING ADJOURNED AT 2.49 PM

THE HEARING RESUMED AT 2.56 PM

THE PRESIDING OFFICER: Are you okay now, Mr Devlin?

40 MR DEVLIN: Yes, thank you.

THE PRESIDING OFFICER: If you need an adjournment at any stage just say so. If anyone wants to take their coats off anywhere in the room feel free to do so.

MR PEARCE: Can we clarify this, you signed the document on 11 August --

THE WITNESS: That's right.

MR PEARCE: -- in this particular form. Were you ever shown a document similar to that but with a different funding schedule in the body of the document?

THE WITNESS: Not to my knowledge.

10 MR PEARCE: What you were shown initially was a draft document; is that correct?

THE WITNESS: Which meeting are we talking about? The one on the 6th or the one on the 1st?

MR PEARCE: I'm concerned to differentiate between the document you signed on 11 August and what it was that was shown to you at some prior point in time that led you to say that you should --

20 THE WITNESS: No, I believe -- I believe the document that I was shown on the 6th is the same as what I -- on the 8th is what I signed on the -- sorry, on the 6th is what I signed on the 11th having received it on the 8th.

MR PEARCE: That document in the form that it was then would not have caused you any concern, would it not? Because it allowed for an up front payment of \$1.4 million.

30 THE WITNESS: That's right, except the terms were against the, against the pool and field. No, you're right.

THE PRESIDING OFFICER: You said earlier you were shown a pro forma.

THE WITNESS: Yes.

MR PEARCE: What did you mean by the term "pro forma"?

40 THE WITNESS: Well, it was -- I believe it was just a standard sort of funding agreement and they were talking about, it will have a schedule like this and it will have a schedule like that, and that's what I saw on the 1st.

THE PRESIDING OFFICER: 1 August?

THE WITNESS: 1 August, when I was in Di FARMER's office.

THE PRESIDING OFFICER: Okay. And was that the one that didn't

allow for an up front and immediate payment?

THE WITNESS: No, it didn't, I mean it didn't, it didn't, it didn't say that. It was just a pro forma. So it -- it didn't go into the detail of it until Ben came out on the 6th. But you're right, it was, you know, it had the up front, it did have the up front. And that's what I wanted to see, definitely.

10 MR PEARCE: Now, I'm not going to take you through all of the documents one by one. Is it correct to say that at some point after 11 August, \$1.4 million was transferred to the Queensland Rugby Union?

THE WITNESS: Yeah, plus GST. That happened on 15 August.

MR PEARCE: Into what account or accounts was that money deposited?

THE WITNESS: It went into our general operating account.

20 MR PEARCE: What form of account is that?

THE WITNESS: Just a general business account.

MR PEARCE: Is it an account that's held in credit balance or is it an overdraft account or line of credit? What's the situation?

THE WITNESS: Line of credit.

30 MR PEARCE: At that point in time was that account in creditor in debit?

THE WITNESS: Sorry, I -- it -- we have a line of credit. We would have, we would have been drawn on that line of credit. This was in a business account that we use for making regular transactions.

MR PEARCE: So it went in -- if you like -- to the one bucket of money?

40 THE WITNESS: Into our general operating account.

MR PEARCE: The bucket of money from which you operate your business?

THE WITNESS: Correct.

MR PEARCE: Is it also the case that at a particular point in time -- and I can find the dates, although it's not necessary -- you received two invoices from the Queensland University Rugby Club or Rugby

Academy.

THE WITNESS: Correct.

MR PEARCE: Each for \$100,000.

THE WITNESS: That's right.

MR PEARCE: Were those invoices met?

10

THE WITNESS: Yes.

MR PEARCE: That is, they were paid?

THE WITNESS: They were.

MR PEARCE: And that was from money that came from?

THE WITNESS: From the --

20

MR PEARCE: The general operating account?

THE WITNESS: Correct.

MR PEARCE: Into which, the 1.4 million grant had been deposited?

THE WITNESS: Correct.

MR PEARCE: If I can bring you to the events of this year?

30

THE PRESIDING OFFICER: Sorry, can we get the approximate dates. How quickly did those payments occur?

THE WITNESS: One was made on 3 September and the other one was made on, I think, 24 November.

MR PEARCE: Can we bring you to the events of this year. I understand that on 30 April this year you met with Mr Craig MATHESON?

40

THE WITNESS: That's right.

MR PEARCE: And you disclosed to him what had been the QRU's dealings with the \$1.4 million.

THE WITNESS: Correct.

MR PEARCE: Taking you back in time, what led you to your meeting with Mr MATHESON?

THE WITNESS: The board had met in February and, and there was an action coming out of the board meeting for me to contact the department to discuss the funding agreement and our requirement to be able to use it in a recurrent form.

MR PEARCE: Had something happened to cause that matter to become an issue?

10 THE WITNESS: Um --

MR PEARCE: Had there been an audit conducted?

THE WITNESS: We had done an audit. Yep, we had done an audit. I guess also the potential impending change of -- potentially, the state government.

MR PEARCE: All right. I'm looking at minutes from a QRU meeting on 5 March this year which indicates that your audit had identified that the state government grant monies needed to be held in a separate bank account.

20

THE WITNESS: That's right.

MR PEARCE: Was that the catalyst for you seeking to meet --

THE WITNESS: Yes, it was.

MR PEARCE: Did you endeavour to meet with Mr MATHESON or with somebody else?

30

THE WITNESS: I tried to meet both with Mr TUTT and Mr MATHESON. I ended up getting a meeting with Mr TUTT somewhere around week commencing the -- I think it was 8 March but he ended up subsequently cancelling that meeting and I was not successful in getting a meeting with Mr MATHESON because it was too close to the impending election. He said no point meeting before then, we'll talk after the election.

40 MR PEARCE: As I suggested to you, you met with him on 30 April?

THE WITNESS: And I subsequently met with him on 30 April.

MR PEARCE: What took place at that meeting?

THE WITNESS: I took him through what the, what my understanding was when we received the grant as, as discussed with Mr TUTT, and he said he was horrified. He said you can't, you won't be able to use -- we

won't be able to change the grant for that. And then he started to inquire into how I had acquitted the money so far and so I took him through how I had acquitted the money.

MR PEARCE: Was the issue of the \$200,000 raised?

THE WITNESS: Yes, I raised that as part of how we had utilised the funds, as I had been directed to.

10 MR PEARCE: And then subsequent to that meeting did you receive from the Director-General of the department of communities a letter requiring you or requiring the QRU to give a full explanation as to what occurred with the money?

THE WITNESS: That's right.

MR PEARCE: That's all I have for Mr FREER at this point, thank you, Mr Chairman.

20 THE PRESIDING OFFICER: Just before any counsel ask questions, the \$200,000 grant that was made by the Queensland Rugby Union to the University of Queensland Rugby Academy, if you hadn't received that extra \$200,000 in the grant from the state would the QRU have made such a grant to the rugby academy at that time?

THE WITNESS: No, no, they wouldn't.

THE PRESIDING OFFICER: So we can take it that that was only made because you received this extra \$200,000 in the grant?

30 THE WITNESS: That's right.

THE PRESIDING OFFICER: Okay. Yes, did you want to ask any questions?

MR CARMODY: I do have some.

THE PRESIDING OFFICER: Thank you, you can go first.

40 MR CARMODY: You were asked about Exhibit 10, which is an email from you to Craig MATHESON about the redevelopment, on 3 July 2008. And you were asked whether -- and in that -- do you have a copy of that there?

THE WITNESS: I recall that.

MR CARMODY: That's where the total estimated cost was \$45.2 million. That's on page 2.

THE WITNESS: That's right.

MR CARMODY: The new field, the pool and the western stand, which is the Mclean Stand, those first three items totalling about \$4 million --

THE WITNESS: Yes.

10 MR CARMODY: -- are simply the first three of a number of development costings totalling \$45.2. They are not specifically identified there, are they, as \$4 million separately?

THE WITNESS: No, that's right.

MR CARMODY: That was the point that was made in the question. But could you just have a look down at -- under the heading "Current status", the third paragraph, there's reference there to how the development will progress by stages, isn't there?

20 THE WITNESS: That's right.

MR CARMODY: What was the intended first stage at that point in time, which was 3 July 2008, from that document?

THE WITNESS: First stage to include the new rugby field, swimming pool, sports medicine building and new corporate facilities and the players' village accommodation.

30 MR CARMODY: Are the -- so the corporate facilities they were in the western stand, weren't they?

THE WITNESS: Yes, they were.

MR CARMODY: And was that the .9 million referred to above?

THE WITNESS: That's right.

40 MR CARMODY: All right. So, if you look at that -- the village accommodation would have been \$14.6 million?

THE WITNESS: That's right.

MR CARMODY: So what the intended first stage was \$18.6 million as at 3 July; is that right?

THE WITNESS: That's right.

MR CARMODY: And by the time of the announcement on 11 July that

had been refined down from 4 to 3 elements and again to 2 elements; is that right?

THE WITNESS: That's right.

MR CARMODY: Did anyone from the department ever have any contact with you about the reliability of your costings?

THE WITNESS: No.

10

MR CARMODY: Did anyone, for instance, say to you, look, we think you've undervalued the pool here, it's going to cost you a lot more, you should have some contingency budget?

THE WITNESS: Not at all.

20

MR CARMODY: Did anyone say to you, look, we know you only want 4 million, we know you think you think you can get three elements, the pool, the western stand and the new field for that, but we don't think you can, so we're actually going to give you \$4.2 million instead and encourage you to target the first two items because we think it will cost you 4.2 to do two of those three items?

THE WITNESS: No-one raised that with me.

30

MR CARMODY: Similarly, when you have a look at your -- the final agreement, the grant agreement that you signed off on on 11 August, did you have any input -- after you initially provided your bricks and mortar list with the three aspirational elements, the field, the pool and the western stand, did anyone get back to you and say that you should be targeting only two of the first two of those?

THE WITNESS: No.

MR CARMODY: You were asked some questions about the payment -- or the payment schedule. And I think, if I followed it correctly, you were shown a standard or a pro forma, as you put it, funding agreement?

40

THE WITNESS: Yes.

MR CARMODY: Did that have any details on it or was it just a form that didn't have any particulars?

THE WITNESS: So, the August 1 meeting to my recollection didn't have any particulars in it. It was just a pro forma that showed the schedules, showed the blank schedules.

MR CARMODY: Schedule A is the one that I'm interested in, it's the approved project particulars.

THE WITNESS: Yes.

MR CARMODY: Can the witness just see that, please. 17 or 16, I suppose. I will show you 17 first. Now, 17 is what you actually signed.

THE WITNESS: Yes.

10

MR CARMODY: Page 16 of 24, it is.

THE WITNESS: Yes.

MR CARMODY: Just forget about the details on the right-hand side for the moment. What you saw on 1 August was the details on left-hand side under the item headings?

THE WITNESS: Sorry, which page?

20

MR CARMODY: On page 16.

THE WITNESS: Page 16.

MR CARMODY: It's roughly split into two, right and left-hand column.

THE WITNESS: Yes, that's right. That's what I recall seeing.

30 MR CARMODY: And you see no details on what is roughly the right-hand side of that page?

THE WITNESS: Not that I recollect, no.

MR CARMODY: So did you see, for instance, halfway -- about a third of the way down the page under item 3, the fourth clause is "Submission of claims for funding"; do you see that there?

THE WITNESS: Yes.

40

MR CARMODY: In the one you signed it says, "The organisation must forward to the state a completed recipient created tax invoice agreement." Do you remember whether you saw that particular on 1 August?

THE WITNESS: No.

MR CARMODY: You don't remember or?

THE WITNESS: I don't remember.

MR CARMODY: All right. Now, I'm just going to show you another one just to confuse you a little. Exhibit 16 is a similar document. In fact, it's an identical document, I think. Just check page 16, if you wouldn't mind. It's blank, it's not signed but otherwise appears in all respects to be the same as the one you actually signed; do you agree with that?

10 THE WITNESS: Yes.

MR CARMODY: Now, you were asked some questions that, I think your answer to was that you'd seen something -- or something between 6 August and 8 August made you think you had contacted Mr TUTT about the terms of the -- either the payment schedule or the reimbursement and acquittal requirement; do you remember saying that?

20 THE WITNESS: Yes.

MR CARMODY: Now, having had a look at those two documents, Exhibit 16 and 17, can you tell us what it was that made you or makes you think you contacted Mr TUTT between the 6th and the 8th?

THE PRESIDING OFFICER: I don't know that he had said it was between the 6th and the 8th or between the meeting when he was shown the pro forma and the later meetings.

30 THE WITNESS: My concern was just that my understanding and the way that we had always spoken about the grant was that it was for the QRU to use -- and if you go back to the original discussions, it was, it was almost like it was recurrent funding to negate the impact of depreciation.

40 MR CARMODY: And this is only marginally relevant to the inquiry, actually, because the focus of the inquiry is how you got the grant and then what you did with \$200,000 of it. So I don't want to spend too much time on this. I want you if you can, in fairness to Mr TUTT, dig deep and tell us what it was that you saw on 1 August or 6 August or any time in between, that makes you think you contacted him. Because you've just told me that the details that are on the agreement that you signed on the 11th weren't on the document that you previously saw on the 8th, right?

THE WITNESS: I -- I think it's --

MR CARMODY: What did you see or hear that triggered something that said, "Oh, I must contact somebody about that because I've go to

sort that out or clarify that.”?

THE WITNESS: Just reassurance that, that, that it could be -- that it could be used and not specifically targeted against --

MR CARMODY: What made you think it couldn't be, I suppose is my question?

10 THE WITNESS: I think I was just seeking reassurance. I don't know. Perhaps acquitting back against it.

MR CARMODY: Perhaps acquitting back against it? All right, well, I'm going to ask you this question: You told my learned friend that the \$1.4, the first instalment, was electronically transferred to your line of credit?

THE WITNESS: That's right.

20 MR CARMODY: Who supplied the information to the department about which account to put it into?

THE WITNESS: That would have been my finance manager, Mr EISENTRAGER.

MR CARMODY: Did it occur to you that the payment schedule in Exhibit 17 -- we'll go back to the one you signed, Exhibit 17 --

THE WITNESS: Yep.

30 MR CARMODY: Do you see the payment schedule, it says payment 1 on execution?

THE WITNESS: Yes.

MR CARMODY: Payment 2 on a date, payment 3 on a date, payment 4 on a date?

THE WITNESS: Yes.

40 MR CARMODY: You see payment 1 is 1.4, that's what you got that?

THE WITNESS: That's right.

MR CARMODY: You got that in September? 3 September? Oh, no --

THE WITNESS: No, 15 August.

MR CARMODY: 15 August?

THE WITNESS: Mm.

MR CARMODY: Okay. Do you see the payment of \$200,000 right at the bottom, payment 4?

THE WITNESS: Yes.

10 MR CARMODY: That is linked to on receipt of project compliance material; what does that mean? That was due and payable on receipt of project compliance material under the agreement; what does that mean?

THE WITNESS: That would be the final completion of the project, was my understanding.

MR CARMODY: Did you see any inconsistency between the payment schedule which had dates and the preceding item, submission of claim for funding, being tax invoice required; do you see any inconsistency between those two things? That is one is saying you are going to get it on a particular date and the other is saying you're only going to get it once you've got a tax invoice; doesn't it?

20

THE WITNESS: Yes.

MR CARMODY: Did you notice that --

THE WITNESS: No.

MR CARMODY: -- before? Did you have any discussions with anyone from the University of Queensland about the need for that body to submit tax invoices to the QRU before they could get their \$200,000?

30

THE WITNESS: I didn't, no.

MR CARMODY: You understood the \$200,000, they were to get, was in the first tranche of 1.4?

THE WITNESS: It wasn't specified. We agreed to do it that way.

40 MR CARMODY: You obviously did it in two separate -- against two separate invoices?

THE WITNESS: Yes.

MR CARMODY: Of \$100,000 each?

THE WITNESS: That's right.

MR CARMODY: So, why was it done that way given that you've got

the \$1.4 million into your account? You could have paid them the \$200,000 on the date of receipt into your account if you had wanted to.

THE WITNESS: Yeah, I didn't get involved in that discussion with Rugby Academy.

MR CARMODY: You were told in your audit or after your audit in April that you should have had a separate bank account for the grant monies?

10

THE WITNESS: That's right.

MR CARMODY: But do you remember whose idea it was to actually put the \$1.4 million electronically into your nominated bank account? Was it the department's idea or your idea?

THE WITNESS: I'm not aware.

20

MR CARMODY: Let me ask you this: Did the department say: No, we're not going to give you any money into your bank account until, first, there is a tax receipt and you have either paid it, or have an obligation to pay it?

THE WITNESS: No, I didn't have a conversation with them in regard to that.

MR CARMODY: Did anyone from the department tell you that you are required to acquit how you spent the \$1.4 million after you got it into that bank account?

30

THE WITNESS: No, I was only told we, we would start to acquit it -- we need to acquit it once we've started construction.

MR CARMODY: Was there anything to stop you, after you got the \$1.4 million from spending all of this in any way you pleased?

THE WITNESS: Not really.

40

MR CARMODY: You could have, for instance, paid the \$200,000 to UQ either straight away or not the all during that first period?

THE WITNESS: Correct.

MR CARMODY: Do you remember when the money, the 1.4 went into your bank account, I think Mr PEARCE tried to get this out of you before, do you remember whether you had a negative balance and that 1.4 just reduced the deficit or actually increased your credit?

THE WITNESS: Well, I think that it -- the line of credit is a separate account. We, we may have used those funds to --

MR CARMODY: If it's a line of credit it's in deficit, isn't it?

THE WITNESS: Yes, it is.

MR CARMODY: You always owe money on those sort of accounts.

10 THE WITNESS: That's right. And it would be reasonably fully drawn at that time of the year.

MR CARMODY: So it was fully drawn. When you put \$1.4 million into a fully drawn debt account it simply reduces the level of your indebtedness, doesn't it?

THE WITNESS: That's right.

20 MR CARMODY: But you have spent the \$1.4 million on that already, haven't you?

THE WITNESS: That's right.

MR CARMODY: Boom, gone. And after that you're spending your own money?

THE WITNESS: Yep.

30 MR CARMODY: All right. So, after the payment into the account the notion of grant monies really disappears, doesn't it? It's no longer -- that's how you got it, that's the source of it but it's not really grants money, is it? You didn't have a separate account that said "grants money from state government"?

THE WITNESS: No, that's right.

40 MR CARMODY: And being able to do that, the money being put electronically into that account and reducing your indebtedness was fully consistent with your conversations with Mr TUTT about how you could use that \$1.4 million, wasn't it?

THE WITNESS: That's right.

MR CARMODY: And totally inconsistent with idea any of having to acquit against those two or three elements in the bricks and mortar list?

THE WITNESS: Yes.

MR CARMODY: Going back to the questions you were asked about

seeing Mr TUTT between 6 and 8 August, could the witness see Exhibit 15, please, Mr Chairman? That's your bundle of diary notes.

THE WITNESS: Yes.

MR CARMODY: Is there anything in Exhibit 15 that suggests you had met with Mr TUTT to discuss anything relevant to this inquiry between 6 and 8 August?

10 THE WITNESS: No, my, my diary notes -- I checked my diary notes and the only things that were relevant were up until that 5 August, although I had the page that's opposite, 6 August, but there's nothing on it in relation to that.

MR CARMODY: That's all I have, thank you, Mr Chairman.

MR DEVLIN: Sir, could I have five minutes again. I'm sorry to be the cause of disruption.

20 THE PRESIDING OFFICER: That's all right.

THE HEARING ADJOURNED AT 3.25 PM

THE HEARING RESUMED AT 3.31 PM

MR DEVLIN: Mr Chairman, Mr SHIELDS for Mr KLAASSEN was going to seek leave to ask some questions and it may touch upon my client, so I was wondering if I might follow Mr SHIELDS, if you give him leave?

30 MR SHIELDS: In relation to Exhibit No. 17, which is the signed agreement that you've just been taken through, that was executed by yourself; is that correct?

THE WITNESS: That's right.

MR SHIELDS: And it was also executed by my client Mr KLAASSEN on behalf of the state; would that be correct?

40 THE WITNESS: Yes.

MR SHIELDS: Would you speak up, please?

THE WITNESS: Yes, that's right.

MR SHIELDS: You first met Mr KLAASSEN, was it on 1 August?

THE WITNESS: I certainly did meet him on 1 August. I'm not sure that I haven't met him before that.

MR SHIELDS: That was a meeting that took place with Di FARMER?

THE WITNESS: That's right.

MR SHIELDS: She was the acting Executive Director of Sport and Recreation at the time?

10

THE WITNESS: That's right.

MR SHIELDS: Yourself and Simon Taylor?

THE WITNESS: That's right.

MR SHIELDS: And there was discussion had in relation to the application?

20

THE WITNESS: That's right.

MR SHIELDS: And during the meeting you were taken through what you referred to as a pro forma agreement?

THE WITNESS: That's right.

MR SHIELDS: Was that an agreement that was explained to you by my client, Mr KLAASSEN?

30

THE WITNESS: My recollection is that he said little during the meeting and Di FARMER took me through it. But ...

MR SHIELDS: Well, whether it was my client Mr KLAASSEN, or Ms FARMER, do you agree that you were taken through what you refer to as a pro forma agreement?

THE WITNESS: Yes.

40

MR SHIELDS: Was it referred to as a pro forma agreement or was it referred to as, "Look, this is a standard agreement for this type of application".

THE WITNESS: Yeah, a standard agreement for this type of application.

MR SHIELDS: They gave you the impression that this was the type of agreement that you may asked to execute?

THE WITNESS: Yes.

MR SHIELDS: Did they take you through the obligations upon your organisation?

THE WITNESS: I assume they did.

MR SHIELDS: Do you have Exhibit No. 17 before you?

10 THE WITNESS: No.

MR SHIELDS: If you look at page 6, just have page 6 facing up for a second, please. The purpose of having this type of example, or pro forma as you've referred to it, was to take you through the important clauses, correct?

THE WITNESS: Yes.

20 MR SHIELDS: And one of those clauses, I'd suggest, was clause number 4, "Obligations of the Organisation"; do you recall being taken through that?

THE WITNESS: I assume that I was.

MR SHIELDS: Do you recall clause 6, "Accountability"? That's on page 8.

30 THE WITNESS: I assume that I read it at the time. I don't have a strong recollection of it. But I assume that she took me through that.

MR SHIELDS: And that's what happened at that meeting, in the presence of my client, you were taken through the clauses of the standard agreement, correct?

THE WITNESS: Yes.

40 MR SHIELDS: You indicated during that meeting that you had been having discussions with Simon TUTT about these matters; is that correct?

THE WITNESS: No, I don't believe so.

MR SHIELDS: Never said anything along those lines?

THE WITNESS: Along which lines?

MR SHIELDS: That you'd been having meetings with Simon TUTT or discussions with Simon TUTT about your application?

THE WITNESS: I don't, I don't recall.

MR SHIELDS: Because you gave evidence a short time ago when asked by Mr PEARCE -- my notes are, "I said this is different to what was raised with the minister's office", when you were first shown --

10 THE WITNESS: I did that in the meeting out at Ballymore when Ben came out. I had that conversation with him then. That was on, I think a week later, on 6 August.

MR SHIELDS: Are you sure that was on 6 August?

THE WITNESS: Yes.

MR SHIELDS: Why are you so certain about that?

20 THE WITNESS: Because I can picture myself in my office having that conversation with him.

MR SHIELDS: Was anybody else present during that conversation?

THE WITNESS: I don't believe so.

MR SHIELDS: You stated in your evidence that he did not look surprised when you said that.

THE WITNESS: Well, he just looked at me.

30 MR SHIELDS: So he just looked at you?

THE WITNESS: Yes.

MR SHIELDS: And you said he didn't give a response?

THE WITNESS: No, I think he just shrugged.

MR SHIELDS: If you go back to page 6 of Exhibit No. 17.

40 THE WITNESS: Um, he -- yeah, sorry, go on.

MR SHIELDS: You had something you wanted to add?

THE WITNESS: No, it's okay.

MR SHIELDS: Go back to page 6 under clause 4, "Obligations of the Organisation", I took you to this a short time ago.

THE WITNESS: Yeah.

MR SHIELDS: You agreed that this was one of the clauses that you were taken through at that meeting with Di FARMER and my client, Mr KLAASSEN?

THE WITNESS: Yes.

10 MR SHIELDS: Subparagraph A, and reading it properly, "The organisation acknowledges that retainment of the approved funds is conditional upon the organisation expending the approved funds on the approved project only." Do you recall that being said to you?

THE WITNESS: I don't recall it, but I assume that it was. He may have, he may have restated that to me in that meeting on the 6th. I don't recall.

20 MR SHIELDS: That meeting on the 6th was where you showed my client where the new pool and field would be built; is that right?

THE WITNESS: That's right.

MR SHIELDS: There was a discussion with my client about signage acknowledging the assistance of the Queensland Government?

THE WITNESS: That's right.

30 MR SHIELDS: And there was a discussion in relation to the development application?

THE WITNESS: That's right.

MR SHIELDS: And the draft funding agreement was left with you?

THE WITNESS: I'm not sure. I, my recollection was he sent, he sent the draft, sent the funding agreement for me to sign in an email on 8 August, some two days later.

40 MR SHIELDS: I just want to be sure, it's the meeting on or about 6 August --

THE WITNESS: Yes.

MR SHIELDS: -- that is what you stated earlier, where you weren't happy with the content of the agreement?

THE WITNESS: Well, I just -- I just -- I queried it.

MR SHIELDS: And in relation to Mr KLAASSEN, the conversation you were having with him, what was your particular query with Mr KLAASSEN?

THE WITNESS: Just in relation to my, my understanding the whole way along was that we had the ability to use these funds with flexibility versus being targeted against the pool and the field which was now being presented in the funding agreement.

10 MR SHIELDS: But that was an agreement that you did not receive, or that was an understanding you did not receive from my client, Mr KLAASSEN, correct?

THE WITNESS: No, that's right, I didn't.

MR SHIELDS: Mr KLAASSEN, I would suggest, was one of the persons that you refer to in your evidence as an assistant to expedite the process?

20 THE WITNESS: Um --

MR SHIELDS: That is an assistant to the minister's office to expedite the process?

THE WITNESS: Yeah, sorry, I'm not sure of the context in which I've said that. Can you just restate that again?

MR SHIELDS: With reference to Simon TUTT and that you saw his assistance to expedite the process.

30 THE WITNESS: Yes.

MR SHIELDS: I just want to make sure that we are clear in relation to my client, Mr KLAASSEN, who executed that agreement on behalf of the state.

THE WITNESS: Yes.

40 MR SHIELDS: He was not the person who you'd had these discussions with in relation to --

THE WITNESS: No, that's right, no, that's right, he wasn't.

MR SHIELDS: And the discussions you had with Mr KLAASSEN were in relation to the clauses of the agreement?

THE WITNESS: That's right.

MR SHIELDS: And pointing out the legal terms, if you will, of the agreement?

THE WITNESS: Yes.

MR SHIELDS: And that it was after, if I can use the word, you were disappointed about the 6 August with the agreement, that there was a subsequent agreement emailed to you by my client?

10 THE WITNESS: No, no, I don't believe there was any change. I don't believe it changed.

MR SHIELDS: Are you sure of that?

THE WITNESS: I don't know. I, I, I didn't -- I waited for the funding agreement to come on the 8th and that's what I went through. I don't recall him drawing any change that he'd made between the 8th and the 6th.

20 MR SHIELDS: Was there anything different between the agreements discussed on the 6th and the agreement that was emailed to you on the 8th?

THE WITNESS: I'm not aware of any, no.

MR SHIELDS: Are you sure of that?

THE WITNESS: No, I'm not sure but I'm not aware of any.

30 MR SHIELDS: Excuse me. Thank you.

THE PRESIDING OFFICER: Yes?

MR DEVLIN: Thank you. Mr FREER, it seems that in the meeting with the minister in February 2008, the concentration of the discussion was on the actual asset and what was to be done to sustain it; would you agree?

40 THE WITNESS: Yes, I -- but also the history of, I guess, the proposal to the --

MR DEVLIN: Federal government.

THE WITNESS: -- to the federal government and how we had lost it.

MR DEVLIN: Yes. And you mention that it was feasible that Mr Lewis would have suggested a total figure that was necessary. Do you remember the figure that he did suggest, Mr Lewis, that he was looking

for from the government or that your organisation was looking for from the government?

THE WITNESS: Um, I think at that, at that point estimates on the projects would have varied a bit. I think, at that point, he might have been talking around \$50 to \$60 million for the total redevelopment. At some point it went up to \$100 million -- it's just, I don't recall specifically the amount that he was talking about at that time.

10 MR DEVLIN: And was there any figure suggested during that meeting that the organisation was looking for from the state government in the meantime?

THE WITNESS: No, no, I don't think, I don't think -- I don't recall him specifically asking for a state government -- an amount from the state government. It was more looking for their support in terms of A, perhaps trying to get the funding back from a federal point of view and then what funding might be available from a state point of view.

20 MR DEVLIN: Anyway, it certainly wasn't a discussion about assisting the Queensland Rugby Union with cash flow or that sort of thing. It was a discussion about the asset; would you agree with that?

THE WITNESS: Yes, it was. But I, but I -- we certainly had a conversation about the financial difficulty that we, that we suffered as an organisation.

MR DEVLIN: But I put to you a moment ago the discussions were about maintaining the assets, weren't they, in terms of any grant the  
30 Queensland Government could offer?

THE WITNESS: Well, it was about, it was about helping us make the asset income producing, so that included sustaining it but making it a revenue generator as opposed to a revenue consumer.

MR DEVLIN: Okay. You're not suggesting that the conversation with the minister involved helping QRU with cash flow with this major facilities grant, are you?

40 THE WITNESS: Not at that point, no.

MR DEVLIN: Now, moving to the early May discussion you had at the Caxton Hotel, you say.

THE WITNESS: Mhmm.

MR DEVLIN: You certainly have never made any notes of that conversation; is that right?

THE WITNESS: No.

MR DEVLIN: And you said you'd prepare some documents and you did that; is that right? As a result of that conversation?

THE WITNESS: Yes.

10 MR DEVLIN: And what we understand is that Exhibit 9 was what you prepared?

THE WITNESS: If Exhibit 9 had the strategic plan and the financials.

MR DEVLIN: If you have a look at Exhibit 9, please, if the orderly can take care of that.

THE WITNESS: Yes.

20 MR DEVLIN: That appears to be a bundle of documents given to Simon TUTT at the meeting of 3 June; is that right?

THE WITNESS: That's right.

MR DEVLIN: If I suggest to you that the meeting note for Tuesday, 3 June, the second or fourth document in, was even sent to Mr TUTT ahead of time, can you remember doing that, whether that's so or not?

THE WITNESS: No, I don't recall that.

30 MR DEVLIN: But go back to the first page --

THE WITNESS: Yes.

MR DEVLIN: -- of the actual substantive documents, forget about the email for the moment.

THE WITNESS: Yeah.

40 MR DEVLIN: They are entitled "Background Papers for Simon TUTT, Chief of Staff", et cetera.

THE WITNESS: Yes.

MR DEVLIN: And then the next note says, "Meeting with Simon TUTT and Ken FREER".

THE WITNESS: That's right.

MR DEVLIN: It doesn't say, "Meeting with the minister, Simon TUTT and Ken FREER", does it?

THE WITNESS: No, that's right.

MR DEVLIN: So your expectation never was that it would be a meeting with the minister; would you agree with that?

10 THE WITNESS: No, I think, originally, when I had sought to have the meeting I was seeking to have the meeting with the minister and Mr TUTT. I think I obviously, I obviously knew subsequently that I was just going to be meeting with him, that's right.

MR DEVLIN: So by the time you went.

THE WITNESS: By the time I went I knew, yeah.

MR DEVLIN: And then Exhibit 8, the one before that, if the witness could have both of those in his hands, is just the one sheet of paper.  
20 And it's identical to what's in the bundle of documents, Exhibit 9, at the fourth page of Exhibit 9; do you accept that? It seems to be identical; you haven't changed it in any way?

THE WITNESS: Yes.

MR DEVLIN: Thank you. I want to take you to part 2 of that. Dot point 4, more funding would allow increased/improved facilities to facilitate growth in participation and B, set up a QRU club ground maintenance program; do you see that?  
30

THE WITNESS: Yes.

MR DEVLIN: Can you see anywhere in those meeting notes where there was to be a discussion of: More funding would allow QRU to deal with its cash flow problems and the QRU to deal with its depreciation issues in its accounts? It's not there, is it?

THE WITNESS: No.

40 MR DEVLIN: Thank you. Those exhibits 8 and 9 can be handed back. Now, you speak of a meeting on 24 June in which you say that there was a discussion about there being 4.2 million of which 0.2 million was to go to the UQ Rugby Academy.

THE WITNESS: Yes.

MR DEVLIN: Could you have back Exhibit 9, please. I want you to think about this. What about if there wasn't an actual meeting but there

was a phone call on 24 June, do you think that might be the case?

THE WITNESS: It's possible. I, I seem to, I seem to remember when he, when Mr TUTT said to me, "I'm going to give you \$4 million for the QRU and I'm actually going to give you 4.2 and I want you to transfer 200,000 to the UQ Rugby Academy", that we were doing that face to face; that's my recollection.

10 MR DEVLIN: Yeah. Well, go to your diary for 24 June. Keep Exhibit 9, please, but go -- if the orderly can hand the witness Exhibit 15. See if your diary helps you because as you helpfully pointed out earlier to Counsel Assisting and to the Chairman, the diary is split up into various activities. Over on the left-hand side is "Schedule".

THE WITNESS: Yes.

MR DEVLIN: Is there anything there? There's a mention of Simon but there's no bracket showing time allocated.

20 THE WITNESS: No, you're right.

MR DEVLIN: And then over in the week ahead column you've got number 14, catch up Simon TUTT.

THE WITNESS: That's right.

MR DEVLIN: List of bricks and mortar for Simon, you've got that. Over on the right, in terms of "Contacts" on 24 June you've got Simon TUTT/Souths without a tick; do you agree?

30 THE WITNESS: Yes.

MR DEVLIN: So you get really no assistance from your diary in fixing 24 June as a meeting; would you accept that?

THE WITNESS: Yeah, I accept that.

MR DEVLIN: Now, what about this conversation, that you have rung him and you've said, "What's happened since our 3 June meeting?" and he's replied something like, "I've been busy, I'll send the documents you gave me to the appropriate person in the department to consider and will meet with him in a week's time." Does that ring any bells at all?

40 THE WITNESS: No, I don't recall that.

MR DEVLIN: So let's go to Exhibit 9. Back to Exhibit 9. That's in your hand there.

THE WITNESS: Yes.

MR DEVLIN: See, what we know from Exhibit 9 is that somebody called Naomi Enchong sent your bundle of documents to Mr MATHESON.

THE WITNESS: That's right.

10 MR DEVLIN: And you later met Mr MATHESON, didn't you?

THE WITNESS: Which, which occasion are you referring to?

MR DEVLIN: You met him on 2 July 2008, I'm suggesting. Let's have a look at your diary again and see if you get any assistance.

THE WITNESS: No, 2 July shows that I met with Simon, Mr TUTT.

20 MR DEVLIN: Yes. So, you don't know whether or not that was with MATHESON?

THE WITNESS: I don't recall that it was.

MR DEVLIN: You certainly do not have a present memory that you met with Mr TUTT and Mr MATHESON at Ballymore? You have no such recollection, correct? No such independent recollection.

THE WITNESS: When, when was that?

30 MR DEVLIN: I'm suggesting 2 July. Please, if you just don't have any recollection, say so.

THE WITNESS: No, I don't have any recollection of that.

MR DEVLIN: But do you recall having a discussion with Mr MATHESON in an office somewhere at some time?

THE WITNESS: No, I don't.

40 MR DEVLIN: Could this have happened: That TUTT and MATHESON attended at Ballymore to discuss the redevelopment of Ballymore? You'd say no independent recollection?

THE WITNESS: Yeah, I don't recall that.

MR DEVLIN: It was outlined to you that the department wanted to provide funding assistance for the Ballymore redevelopment? You don't get any assistance from this?

THE WITNESS: No, I don't.

MR DEVLIN: Mr MATHESON outlined what material would need to be provided to support a request for funding.

THE WITNESS: Right.

MR DEVLIN: No recollection so far?

10

THE WITNESS: Sorry, no.

MR DEVLIN: Mr MATHESON outlined what the department ordinarily looked for in terms of an application including an indication of the cost estimates of what was proposed to be developed; no recollection?

THE WITNESS: No.

20

MR DEVLIN: He outlined that they wanted to know what the facilities were that were to be developed. Page 174 of the transcript. Don't remember that?

THE WITNESS: Keep going.

MR DEVLIN: Some plans, quantity surveyor reports and so forth, a range of things which the department ordinarily looked for in terms of a grant request. Just doesn't jog your memory at all? You're only as good as your own independent recollection.

30

THE PRESIDING OFFICER: If the witness is thinking --

MR DEVLIN: Thinking?

THE PRESIDING OFFICER: -- give him a bit of time.

MR DEVLIN: I shall.

THE WITNESS: No it's ...

40

MR DEVLIN: Anyway, you can't help us?

THE WITNESS: No.

MR DEVLIN: All right. I'll ask you to go to Exhibit 10 in the proceedings.

THE WITNESS: Which is?

MR DEVLIN: If the witness can see that. I think Exhibit 9 can be handed back. Because you don't know who --

THE PRESIDING OFFICER: Before you hand back Exhibit 9, excuse me, Mr Devlin, the attachment to Exhibit 9 is noted as "img-625" et cetera. Do you know whether that would be a QRU reference ? That description of the document that's attached --

10 THE WITNESS: No, I don't think so.

THE PRESIDING OFFICER: -- doesn't mean anything to you?

THE WITNESS: No, it doesn't.

THE PRESIDING OFFICER: Thank you. I am sorry, Mr Devlin.

MR DEVLIN: Exhibit 10 tells us that on Thursday, 3 July at 12.55 pm you sent to Craig MATHESON an email, subject "Ballymore Redevelopment", attachments: "Ballymore redevelopment preliminary costing July 08.doc".

20

THE WITNESS: Yep.

30

MR DEVLIN: Drawings: "Ballymore redevelopment.zip". "Craig, attached is a covering page with the preliminary costings for the entire project. We would apply the proposed funding to the first three items listed. Also attached is a zipped file which contains a number of drawings as outlined on the cover page detailing the master plan and various elements within it. The new corporate facilities in the western stand will enable us to convert our existing offices into a share office environment for other sporting organisations. I will call you later today to discuss any further information requirements you have."

THE WITNESS: Yep.

MR DEVLIN: That would appear to be a follow-up to some other contact with MATHESON; would you not agree? Just in the tone of it.

40 THE WITNESS: Yes. Yep, that's what it seems.

MR DEVLIN: It reads as if you've met the gentleman or at least had some significant dealings with him.

THE WITNESS: Yeah, that could be an explanation, sure.

MR DEVLIN: So that you would actually -- having seen that and the tone of it and the content of it, you actually couldn't discount that you

met with MATHESON on 2 July with TUTT whilst MATHESON outlined the department's requirements of the QRU.

THE WITNESS: Yeah, no, I couldn't -- yeah, I couldn't rule that out.

MR DEVLIN: I know it's a relatively long time ago. So, it would appear, then, that the only thing you gave to the department by email to Mr MATHESON indeed, on 3 July, if you turn over the page, was a list of specific bricks and mortar projects; would you agree?

10

THE WITNESS: Yes.

MR DEVLIN: And nowhere in this bundle of documents is there a discussion of the department helping with the QRU's cash flow or covering its depreciation responsibilities in any given year; you accept that?

THE WITNESS: Yep, that's -- I do.

20 MR DEVLIN: Thank you. I want you to now go to Exhibit 11. Attached is our letter to the minister and that's addressed to Craig.

THE WITNESS: Yes.

MR DEVLIN: The letter is dated 8 July. And you say to the minister, "Your assistance would allow us to proceed pending approval of our development application on three key elements of the total plan"; do you see that?

30 THE WITNESS: Yes.

MR DEVLIN: And then you enumerate the development of a new full sized football field, number 2, a new indoor heated swimming pool and number 3, the badly needed upgrade to the western stand facilities.

THE WITNESS: Yes.

40 MR DEVLIN: Have a look at the last sentence of your letter written on behalf of the QRU, Mr FREER, "By assisting us with the financial burden the Queensland government will help leverage the longer term development into an even more valuable state sport and health infrastructure asset."

THE WITNESS: Yes.

MR DEVLIN: Nowhere have you mentioned anything about the government assisting QRU with cash flow or with its depreciation accounting responsibilities for any particular financial year, you'd

agree?

THE WITNESS: Not, not in that sentence, no.

MR DEVLIN: It is squarely in the area of infrastructure development and that's what you're seeking a major grant for; is that correct?

THE WITNESS: Well, that's what I've said there, yes.

10 MR DEVLIN: How many organisations have you served as CEO for, Mr FREER?

THE WITNESS: Two.

MR DEVLIN: Which were they?

THE WITNESS: The Gold Coast Motor Events Corporation.

MR DEVLIN: And how long were you in that position?  
20

THE WITNESS: About eight months.

MR DEVLIN: And then how long with QRU up to this point in time?

THE WITNESS: Three years and three months.

MR DEVLIN: You would understand the significance of writing correspondence on behalf of an organisation as its CEO, that that correspondence should mean what it says and say what it means; you'd  
30 accept that?

THE WITNESS: Yes. Yes.

MR DEVLIN: Because then you are presented with a letter from the minister on 11 July, which is Exhibit 3. If the witness could have that, please, the old document 15 in the old money. Do you have Exhibit 3?

THE WITNESS: Yes, I do.

40 MR DEVLIN: The minister writes, "Following consideration of your proposals, I am pleased to offer the QRU a grant of \$4.2 million payable over three years to initiate the first stage of the Ballymore redevelopment with the funding targeted at supporting the development of the new rugby field and heating swimming pool", and then a discussion about those additions providing greater opportunities to attract elite level teams; do you see that?

THE WITNESS: Yes.

MR DEVLIN: Then she says, “The offer of this grant is conditional on the QRU executing an appropriate funding agreement with the Department of Sport and Recreation and final approval of funding being provided by the Governor in Council”; do you see that there?

THE WITNESS: Yep.

10 MR DEVLIN: So that, by the time you get the minister’s confirmation that the QRU has allocated or made funds available there is clearly and unequivocally a commitment on the government to assist you with an infrastructure project; you accept that?

THE WITNESS: That’s right.

MR DEVLIN: So if we look for any indicator of you as an organisation and you as its CEO looking for cash flow assistance or assistance covering your depreciation in any document produced by you or received by you we won’t find it?

20

THE WITNESS: That’s right.

MR DEVLIN: You say that -- excuse me a minute, Mr Chairman -- you say that in the meantime Mr ANNING contacted you, correct?

THE WITNESS: That’s my recollection.

MR DEVLIN: But, of course, you’ve said that in a conversation with Mr TUTT, which you said was in a meeting with Mr TUTT on 24 June, he said these things, “Nothing’s been approved yet. There’s a grant of \$4 million, the UQ Rugby Academy are in a similar financial predicament and 4.2 million would be advanced.” This is what you said earlier, correct?

30

THE WITNESS: Yes.

MR DEVLIN: And you were to give .2 of a million to the UQ Rugby Academy, correct? That’s what you say happened?

40

THE WITNESS: Yes.

MR DEVLIN: If there was a meeting on 24 June, where did it occur? Do you know?

THE WITNESS: Don’t recall.

MR DEVLIN: And you gave evidence that Mr TUTT, apparently, in this meeting on 24 June said, “Get in touch with ANNING.” Correct?

That's what you said.

THE WITNESS: Well, I'm not sure whether he used the words, "You get in touch with ANNING" or "ANNING will be in contact with you". But there was a, there was definitely a, "I want you to work with ANNING to develop a program to utilise the \$200,000."

MR DEVLIN: Perhaps you might --

10 THE WITNESS: That very clear.

MR DEVLIN: Sorry, what was that last bit?

THE WITNESS: Of that I'm very clear.

MR DEVLIN: But you see you said in your evidence earlier that he told you, directed you, to get in touch with ANNING to discuss the proper use of the funds. That's what you said earlier.

20 THE WITNESS: Mhmm.

MR DEVLIN: But you didn't.

THE WITNESS: Sorry?

MR DEVLIN: You didn't. ANNING got in touch with you.

THE WITNESS: Yep.

30 MR DEVLIN: And you said something else during your evidence-in-chief. You said that TUTT said, "Don't tell the board of the QRU."

THE WITNESS: Well, he, he wanted -- he didn't want it to be leaked out before the minister had the opportunity to announce it.

MR DEVLIN: You were interviewed by the CMC, Mr WHITELAW, on Tuesday, 11 August 2009; do you accept that?

40 THE WITNESS: Yes.

MR DEVLIN: My instructing solicitors have produced a transcript of that conversation which I've supplied to Counsel Assisting.

THE WITNESS: Yes.

MR DEVLIN: He can check me through on this but I would suggest to you that nowhere in this document in your interview have you

mentioned that TUTT said to you, "Don't tell the board of the QRU".

THE WITNESS: Well, he said something like, "We want -- I need -- we want to keep this confidential because I don't want it to get out before the minister gets to make the announcement", and I said -- my recollection is I said: Well, I'll have to tell my chairman, because, you know, he would like to know.

10 MR DEVLIN: Well, you see, I'm suggesting to you that this morning you said that he said to you, "Don't tell the board of the QRU", do you accept that's what you did say this morning?

THE WITNESS: Yep.

MR DEVLIN: And I'm suggesting to you -- and it can be checked, I don't want to trick you. You've never seen the transcript but Counsel Assisting has, and he can if I've missed it. I don't want to put you at a disadvantage. I may stand corrected. All I can put to you is that in your interview with Mr WHITELAW you didn't mention it. Do you know  
20 one way or another? Can you remember one way or the other?

THE WITNESS: No, I can't recall.

MR DEVLIN: Well, now, I'll ask you now to look at document 30, which is now an Exhibit. We have looked at it a few times now, Exhibit 17. By the time you signed this document you were familiar with it, correct?

THE WITNESS: Yes.

30 MR DEVLIN: And in affixing your signature to it you were committing your organisation, as Mr SHIELDS took you through, so I won't be too repetitive, you were committing your organisation to the obligation set out at 4.1 and 4.2 of the document, if you turn to page 6. To perhaps cut this process short, you've got 4.1, "The organisation acknowledges that retainment of the approved funds is conditional upon the organisation expending the approved funds on the approved project only". You'd have no doubt what that meant?

40 THE WITNESS: Yes.

MR DEVLIN: And 4.2, "The organisation must provide a monthly project report form detailing the nature and amount of each payment made for eligible items."

THE WITNESS: Yes.

MR DEVLIN: Did you ever do that?

THE WITNESS: I was advised by the department that I would only do that once the project started.

MR DEVLIN: And then -- who advised you about that?

THE WITNESS: I'd say that was Mr KLAASSEN.

10 MR DEVLIN: I see. And did anybody advise you that old pre-grant expenditure, even on the development approval if there was any, was also eligible for acquittal under the grant? Did anyone give you that specific advice?

THE WITNESS: Not that I recall.

MR DEVLIN: So that you'd have no doubt and you have claimed privilege on the topic so I'm not putting you at a disadvantage by asking you this question, but you had no doubt that the money going to diminish the debit balance in a line of credit, you had no doubt that that  
20 money was not going to a place in accordance with the funding agreement?

THE WITNESS: That's right.

MR DEVLIN: Just going to the meeting with Di FARMER and Ben KLAASSEN, at FARMER's office, far from the journey through the elements of the pro forma funding agreement revealing nothing, it must surely, as the CEO of the organisation, have revealed that Queensland  
30 Rugby Union was committing to a specific course of action?

THE WITNESS: Yes.

MR DEVLIN: And do you say that you at some point contacted Mr TUTT in response to that realisation?

THE WITNESS: I sought reassurance from him about the way we originally discussed the grant.

MR DEVLIN: If you had a conversation with KLAASSEN, you believe  
40 on 6 August 2008, do you believe you contacted TUTT straight after that?

THE WITNESS: No, I don't recall that.

MR DEVLIN: You just can't put it in any time frame at all?

THE WITNESS: No, I'm sure that we had the conversation leading up to that time, though, on several occasions.

MR DEVLIN: And if you are asked to recall the circumstances of those conversations, whether they were by telephone or in person you simply could not do so?

THE WITNESS: I don't recall exactly, no.

10 MR DEVLIN: If you were asked to recall as best you could a sequence of events you could not put any conversation you allege with Mr TUTT into any sequence of events at around this time?

THE WITNESS: Over -- I'm not quite sure what time you are talking about.

MR DEVLIN: For example, you say that you said to Mr KLAASSEN, "This is different from what was discussed with the minister's office", and then something like, "I'll have to take it up with the minister's office" was said; was that right?

20 THE WITNESS: Yes.

MR DEVLIN: With Mr KLAASSEN.

THE WITNESS: Yes.

MR DEVLIN: You say in your evidence on 6 August.

THE WITNESS: Yes.

30 MR DEVLIN: Is it likely then that you took it up with the minister's office, namely Mr TUTT, soon after that conversation?

THE WITNESS: I mean, I'd had the conversation with him before that, in effect.

MR DEVLIN: Then why did you say, "I'll have to take it up with the minister's office", if you had already had the conversation; do you know?

40 THE WITNESS: Because I hadn't, I hadn't seen the -- that was -- I didn't see it on 1 August because I don't believe the details were, were there. So it was subsequent to that. I guess I was just reassuring myself.

MR DEVLIN: But you gave this evidence about having this conversation with KLAASSEN on 6 August but you can't help us with whether you took up with TUTT again straight after 6 August to take it up with the minister's office?

THE WITNESS: I don't recall.

MR DEVLIN: It seems likely that you must have tried to just after 6 August if you said, "I'll have to take it up with the minister's office"; do you see the logic of that?

THE WITNESS: Yes.

10 MR DEVLIN: So do you think it's likely that just after 6 August you took it up with TUTT again?

THE WITNESS: Yeah, it is likely.

MR DEVLIN: I won't be too much longer, Mr FREER. You see, I suggest to you that as at the time of the QRU signing the funding agreement on behalf of the QRU on 11 August 2008, the organisation was desperate for funds to relieve its cash flow crisis because of the cycle that it was in; do you accept that?

20 THE WITNESS: Yes.

MR DEVLIN: And you were prepared to sign that document on behalf of the QRU because it was desperate for those funds.

THE WITNESS: Yes. And in -- and I believe in good faith in the way that we talked about it, that I talked about it with Simon TUTT and that he had the authority.

30 MR DEVLIN: But we don't see a single note of that anywhere kept by you, correct?

THE WITNESS: That's right.

MR DEVLIN: We don't see a single, even oblique, reference to it in any document produced by you in connection with this application, correct?

THE WITNESS: That's right.

40 MR DEVLIN: What did you know about the University of Queensland Rugby Club academy's financial position as at the end of June 2008?

THE WITNESS: Didn't know.

MR DEVLIN: Absolutely nothing. You seem to have referred in the past interchangeably to this sum of money going to the UQ Rugby Club and the UQ Rugby Academy. Which was it and which was the entity that featured in this conversation you allege that Mr TUTT had with

you?

THE WITNESS: Well, that's -- I, I know now that it's the academy. At the time that I had the discussion with Mr TUTT I didn't appreciate the difference and my recollection was that, that he was talking about the rugby club.

MR DEVLIN: Say that again: You know now ...

10 THE WITNESS: I know now that he was referencing the rugby academy.

MR DEVLIN: Well, what do you know about the position of the rugby club, the financial position as of that period of time in 2008?

THE WITNESS: Nothing.

MR DEVLIN: Just bear with me again, please. I won't take you back to the funding agreement but there were other milestones, weren't there, for submitting various planning documents, and so on, for the infrastructure projects? I think they started to roll out for October 2008, and so on. Do you remember that in another schedule, schedule D, I think?

THE WITNESS: There were elements about providing who the project manager was, et cetera, but all of those things relied on the development application to have been approved and at this point we still don't have an approved development application.

30 MR DEVLIN: So you'd say that none of those milestones, even though they provided the dates in 2008, were ever triggered according to the agreement because the development applications has never got to a state of approval?

THE WITNESS: That's right.

MR DEVLIN: You would say that the requirement for monthly reporting was never triggered because, again, the project never got under way?

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THE WITNESS: That's right.

MR DEVLIN: But you never felt the need in accordance with the funding agreement to submit documents back to the department to substantiate what did happen to the funds, until you were queried by the department itself?

THE WITNESS: No, I wasn't required to. I did give them updates from

time to time, however, in terms of where we were with the development and the development application.

MR DEVLIN: When the department did ask you to account for the way in which the funds were acquitted, there was an exchange of correspondence in 2009, wasn't there?

THE WITNESS: That's right.

10 MR DEVLIN: And without belabouring the point because the Commission has the documents, in short, the department was not satisfied with the QRU's explanations when first attempted; you would accept that?

THE WITNESS: They wanted more detail.

MR DEVLIN: They wanted more detail. And then you sent in line items, not invoices and the like, tax invoices and the like; you sent a list of line items, didn't you?  
20

THE WITNESS: The second correspondence provided tax invoices, I believe.

MR DEVLIN: Did it? But in respect of items that had already been expended before the grant was granted?

THE WITNESS: Some of those, some of the items were those things.

MR DEVLIN: Very well. Thank you, Mr Chairman, thank you,  
30 Mr FREER.

THE PRESIDING OFFICER: Yes, Mr CARMODY?

MR CARMODY: Nothing arising, thank you.

THE PRESIDING OFFICER: Mr PEARCE?

MR PEARCE: Just briefly. Mr FREER, you were asked some questions by Mr Devlin about what disclosures might have been made to the department concerning the financial position of the QRU vis-à-vis why  
40 you were chasing money; do you remember those questions?

THE WITNESS: Yes.

MR PEARCE: What I want to take you to briefly is Exhibit No. 9, if the witness could be shown Exhibit No. 9. This is the email that was sent from within the minister's office to Mr Craig MATHESON attaching the background papers that you had prepared for Mr Simon TUTT; do

you remember this?

THE WITNESS: Yes.

MR PEARCE: If you go to your page headed "Meeting Notes".

THE WITNESS: Yes.

10 MR PEARCE: Is it correct to say that the first of the three items on the page concerns the QRU's financial position?

THE WITNESS: That's right.

MR PEARCE: And if you go over the next page, it's headed "QRU Position".

THE WITNESS: That's right.

20 MR PEARCE: And the page after that is, if you like, a spreadsheet of six years' financial results.

THE WITNESS: That's right.

MR PEARCE: The bottom line, if you like, the total net income, towards the bottom.

THE WITNESS: That's right.

30 MR PEARCE: Total is shown for each year. To your knowledge are they the correct figures shown there?

THE WITNESS: Yes, they are.

MR PEARCE: They show, do they not, that since 2005 the QRU has operated at a loss, a substantial loss, in 2005 it was \$1.145 million?

THE WITNESS: That's right.

40 MR PEARCE: In 2006, it was \$1.756 million?

THE WITNESS: That's right.

MR PEARCE: In 2007, it was \$4.187 million?

THE WITNESS: That includes write downs, et cetera.

MR PEARCE: And so on, a significant loss every year?

THE WITNESS: That's right.

MR PEARCE: That's all I have for Mr FREER. He may be excused, I think, Mr Chairman.

THE PRESIDING OFFICER: Yes, thank you, Mr FREER, for your evidence. We will adjourn now until 10 am tomorrow morning.

THE HEARING ADJOURNED AT 4.28 PM

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