

**INQUIRY INTO THE CENTENARY HOUSE LEASE**

Before the Hon David Hunt AO QC

Held at Level 5, 55 Market Street, Sydney

On Wednesday, 1 September 2004 at 10am  
(Day 13)

1 MR ROBERTSON: I call Mr Turner, Commissioner.

2

3 <JOHN WAYNE TURNER, sworn: [10.02am]

4

5 <EXAMINATION BY MR ROBERTSON:

6

7 MR ROBERTSON: Q. Can you tell the court your full  
8 name?

9 A. John Wayne Turner.

10

11 Q. Your address is 52 Barber Crescent, Flynn in the  
12 Australian Capital Territory?

13 A. Yes.

14

15 Q. You are a public servant?

16 A. Yes.

17

18 Q. You have prepared a statement for the purposes of  
19 this Commission?

20 A. I have.

21

22 Q. Do you have the original with you?

23 A. Yes.

24

25 Q. Would you hand that to the officer, please.

26

27 MR ROBERTSON: I tender that.

28

29 **EXHIBIT #36 STATEMENT OF JOHN WAYNE TURNER, DATED**  
30 **25/8/2004 BARCODED WITS.020.0001 AND DOCUMENTS REFERRED TO**  
31 **IN STATEMENT**

32

33 MR ROBERTSON: Q. Is that statement true and correct?

34 A. Yes.

35

36 Q. Mr Turner, did you produce to the Commission this  
37 morning a bundle of handwritten notebooks?

38 A. Yes. There are four books of notes ranging from  
39 about early 1991 through to the end of 1993.

40

41 Q. Would you speak up, please?

42 A. The notes were four books of notes, ranging from the  
43 period early 1991 to the end of 1993.

44

45 Q. Mr Turner, I think you have been through them and  
46 placed some white tags on the book?

47 A. I marked some relevant pages that were dealing with

1 Centenary House, Audit Office meetings with Finance. The  
2 book does contain a lot of other material of Finance  
3 dealings with other agencies as well.  
4

5 Q. Could I perhaps deal with things in some sort of  
6 chronological order. In paragraph 6 of your statement you  
7 have referred to a letter of 2 May 1991, which you  
8 drafted. Do you have a copy of that with you?

9 A. I have that, yes.

10  
11 Q. It is CH94.001.0322.

12 A. Yes.

13  
14 Q. It goes to 0324. That's a letter from Mr McPhee to  
15 Mr Jacobs, which I understand bears your name as the  
16 contact officer, and that indicates to you that you  
17 drafted that letter; is that correct?

18 A. Yes, I would have had involvement in the early  
19 drafting of that letter.  
20

21 Q. In particular, in the second paragraph of that letter  
22 the letter says:

23  
24 *At the outset I should make the point that*  
25 *the government only noted the*  
26 *recommendation of the JCPA Report No. 296*  
27 *that ANAO should plan for a new building*  
28 *within the Parliamentary triangle and it*  
29 *decided that consideration of the ANAO*  
30 *requirements should proceed through the*  
31 *normal processes.*  
32

33 Pausing there, the proposition that the government only  
34 noted the recommendation and decided that consideration  
35 should proceed through the normal processes, that was a  
36 reference to the government's formal response to the JCPA  
37 report number 296 as tabled in Parliament?

38 A. I understand it was.

39  
40 Q. I have a bundle of documents that has been prepared  
41 which I will hand to you. I will hand one to you and I  
42 will hand one up for the benefit of the Commission. Would  
43 you turn to tab 5 in that bundle. That is the government  
44 response to JCPA report 296, "Reform of the Australian  
45 Audit Office"?

46 A. Yes.  
47

1 Q. That's document COMM.010.0001 to 0023. Would you  
2 turn to page 21 of that document, which is 0022. I will  
3 just ask you to confirm that that is the response that is  
4 referred to in that letter of 2 May.

5 A. I believe that's the response.

6  
7 THE COMMISSIONER: Mr Robertson, this has been referred  
8 to quite often. All these documents about the --

9  
10 MR ROBERTSON: Yes.

11  
12 THE COMMISSIONER: -- various reports. Should we make  
13 that an exhibit now?

14  
15 MR ROBERTSON: If there is no trouble with that, I am  
16 just not sure that it hasn't already been made an exhibit.

17  
18 THE COMMISSIONER: It is not part of the original --

19  
20 MR ROBERTSON: It is not part of the original.

21  
22 MR SACKAR: I was going to furiously agree with you. The  
23 file should be an exhibit so it is self-contained.

24  
25 THE COMMISSIONER: It is much easier if we have it as a  
26 separate exhibit. Would you identify the documents for  
27 the transcript? It will be exhibit 37.

28  
29 MR ROBERTSON: Document barcoded COMM.006.0001-0034,  
30 being Australian National Audit Office report of an  
31 independent review dated 20/3/1990 or 30/3/1990. That is  
32 colloquially referred to as the "Sheridan Review". I will  
33 take Mr Turner to that in due course.

34  
35 Document 2 is an extract from the journals of the  
36 Senate noting the tabling of the supplementary government  
37 response and that report, an independent review, dated  
38 30/3/1990; the extract from the journals of the Senate of  
39 6/12/1990, barcoded COMM.007.0001.

40  
41 Tab 3 is the supplementary government response to  
42 the report of the Joint Committee of Public Accounts on  
43 the reform of the Australian Audit Office, which is the  
44 response to the Sheridan review, which is COMM.008.0001 to  
45 0007.

46  
47 Tab 4 is the ministerial statement on the reform of

1 the Australian Audit Office, COMM.009.0001 to 0007.  
2 The fifth tab is the government response to JCPA report  
3 296, to which I have just taken Mr Turner, COMM.010.0001  
4 to 0023. The final document is an extract from the Senate  
5 Hansard. It is tendered to establish indirectly the dates  
6 on which the government response and JCPA and the  
7 Ministerial statement were made.

8  
9 THE COMMISSIONER: There is one minor correction there.  
10 I am sorry. The supplementary response is also to the  
11 joint committee, not to the Sheridan report. But that's  
12 all right.

13  
14 MR ROBERTSON: It was perhaps a matter of interpretation.  
15 It is described as a response to the joint report of the  
16 committee.

17  
18 THE COMMISSIONER: It deals with the Sheridan review.

19  
20 MR ROBERTSON: Yes, as well as issues outstanding. You  
21 are quite correct.

22  
23 **EXHIBIT #37 FOLDER OF DOCUMENTS COMPRISING ANAO REPORT OF**  
24 **AN INDEPENDENT REVIEW, BARCODED COMM.006.0001; EXTRACT**  
25 **JOURNALS OF SENATE NUMBER 50 DATED 6/12/1990, BARCODED**  
26 **COMM.007.0001; SUPPLEMENTARY GOVERNMENT RESPONSE TO REPORT**  
27 **OF JCPA ON REFORM OF AAO, BARCODED COMM.008.0001; THE**  
28 **REFORM OF THE AAO MINISTERIAL STATEMENT, BARCODED**  
29 **COMM.009.0001; GOVERNMENT RESPONSE TO JCPA REPORT 296,**  
30 **REFORM OF AAO, BARCODED COMM.010.0001; ANAO EFFICIENCY**  
31 **REPORT, BARCODED COMM.011.0001**

32  
33 MR ROBERTSON: Q. Perhaps I can take you back to the  
34 document of 2 May, Mr Turner, CH94.001.0322. I have read  
35 out the first sentence of that second paragraph. The  
36 second sentence is as follows:

37  
38 *The submission (in response to the JCPA*  
39 *report) commented that the JCPA*  
40 *recommendation was not supported by any*  
41 *detailed justification of the necessity for*  
42 *all parts of the ANAO to be located in the*  
43 *one building or for a new building to be*  
44 *constructed.*

45  
46 That refers to a submission in response to the JCPA  
47 report.

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In your statement, Mr Turner, you have said that you are unable to say what submission that is referring to; it may have been a submission from the Department of Finance in response to JCPA report number 296. What I would like to show you is - and I have some extra copies to hand down - an interoffice minute. It is the third page of that bundle I have just handed to you. I can show you the original file that that is taken from, Mr Turner, if that would assist you. Would you read that?

A. Yes, I have read that.

Q. Does that assist you in identifying the submission that might have been referred to?

A. No, I still think it would be the Department of Finance submission in that report.

Q. I should identify the pages. The page that Mr Turner has just looked at is DOFA.081.0003. Would you look at the first two pages, DOFA.081.0001 to 0002. May I say for the record that that numbering does not reflect the position in the file, because the whole file has not been able to be copied in time.

A. In relation to the file, I wouldn't - I would not have seen that - those notes, as they were from a different area in the Department of Finance. But the pages you want me to read were 0002 and 0003; is that right?

Q. 0001 and 0002. You have already read 0003?

A. Yes, I have read those two pages.

Q. Does that assist you in identifying the submission which you believe was referred to in the letter of 2 May 1991?

A. I don't think - it doesn't change my view that I think the submission is the Finance report.

Q. It was a Finance submission and not a Cabinet submission?

A. Yes.

Q. What I would like to do is show you the file that those documents come from and ask you whether you would have had access to that file in 1991. The file, for the record, is identified as "Department of Finance Confidential File RMS89/00768-01". Perhaps, Mr Turner, I

1 just wish to ask you, do you believe you would have been  
2 able to access that file in 1991?

3 A. I don't believe I have seen the file, but may have,  
4 and I would have been able to access it, if it existed, by  
5 talking to the area that had responsibility for the  
6 file - the area of the Department of Finance that was  
7 responsible for the file.

8

9 Q. On the assumption, as you so suggest, that it may  
10 have been a Department of Finance submission as well as a  
11 Cabinet submission, would you have had copies of those in  
12 files available to you, or accessible to you in early May  
13 1991 at the time that you drafted the letter of 2 May?

14 A. I may have. I don't know.

15

16 Q. You can return that file, Mr Turner. Taking you back  
17 to the letter of 2 May, that is, CH94.001.0322:

18

19 *The submission (in response to the JCPA*  
20 *report) ...*

21

22 et cetera, "commented": Mr Turner, do you believe you  
23 included that passage within the letter, or was that  
24 perhaps placed there by someone else?

25 A. I don't recall placing that in the letter, but I may  
26 have. Someone may have given me advice to include it.

27

28 Q. If you had included it, would you have had in front  
29 of you the document that you were referring to at the time  
30 that you drafted it?

31 A. I think I would have had a copy of the document.

32

33 THE COMMISSIONER: Q. If you did have the document - I  
34 realise this is hypothetical - would you have used the  
35 words of the document, or would you have put your own  
36 interpretation upon it?

37 A. I would more than likely have used words similar to  
38 the document - the same or similar to the document.

39

40 Q. I am sorry?

41 A. Sorry, the same words or similar words to what were  
42 used in the document.

43

44 MR ROBERTSON: Q. Returning to the page 3 of the  
45 bundle, DOFA.081.0003, that's the handwritten minute from  
46 Mr Knapp to Mr Mann. That minute appears to have been  
47 passed to Mr Sweeney and then to Ms Pearse for the

1 response, and then the letter, which is 0001 and 0002 of  
2 that bundle, appears to have been drafted by Ms Pearse.  
3 Did you know Ms Pearse?  
4 A. I knew Ms Pearse was in the department, in - I think  
5 I recall it as Defence And Government Division - in that  
6 division somewhere.  
7  
8 Q. Mr Knapp - financial management and accounting  
9 policy - was that your division?  
10 A. Yes, that was my division.  
11  
12 Q. Did you report to Mr Knapp?  
13 A. No.  
14  
15 Q. I would like to move on, if I could, to your  
16 handwritten books. I will show you one dated 18 February  
17 1991 to 6 February 1992. Unfortunately, this is not on  
18 the system because it was only provided by Mr Turner this  
19 morning, but I have a copy for the Commission.  
20  
21 THE COMMISSIONER: This is not in the system, by the look  
22 of it.  
23  
24 MR ROBERTSON: No, it is not. As I say, it was only  
25 produced this morning. I can produce a copy to the court  
26 operator for adding to the system.  
27  
28 THE COMMISSIONER: But it would be best to have it made  
29 an exhibit, would it not?  
30  
31 MR ROBERTSON: Yes, I think so. The bundle is four pages  
32 from Mr Turner's handwritten notebook.  
33  
34 Q. Perhaps you could just remind me, Mr Turner, of the  
35 dates on the front of that notebook?  
36 A. The dates are 18 February 1991 to 6 February 1992.  
37  
38 THE COMMISSIONER: Do these pages relate to a particular  
39 date?  
40  
41 MR ROBERTSON: The first page doesn't bear a date. The  
42 subsequent pages do contain dates. They are separate  
43 entries.  
44  
45 THE COMMISSIONER: Those extracts from Mr Turner's  
46 notebook will be exhibit 38.  
47

1 EXHIBIT #38 EXTRACTS FROM MR TURNER'S NOTEBOOK,  
2 BARCODED EX.038.0001  
3

4 MR ROBERTSON: Q. It might be easier, Mr Turner, if I  
5 give you a copy as well. I will just ask you to confirm  
6 that the copies I have given you are copies of pages from  
7 the book. I think you have seen them this morning and you  
8 recognise the pages that I have handed you?

9 A. Yes.

10  
11 Q. That's headed "Section Meeting". Can you tell the  
12 Commissioner what was involved in a section meeting and  
13 who would have been present?

14 A. This meeting, section meeting, would have involved  
15 the members of the financial and administrative estimates  
16 section - half a dozen or seven officers involved in that  
17 section - dealing with budget oversight matters of the six  
18 or seven agencies that we handled in that section,  
19 including the Audit Office, Treasury, Tax, Bureau of  
20 Statistics and a couple of others.

21  
22 Q. I may have to ask you to find that particular page in  
23 your notebook, because I would like to ask you if you can  
24 identify the range of dates, given that it is undated,  
25 which you believe that meeting would have fallen within?

26 A. Yes, the range of dates either side, or close to that  
27 note, are 2 April 1991 and 17 April 1991.

28  
29 Q. So the fact that it appears between those dates would  
30 indicate that that was the time that the meeting was held?

31 A. Yes. Yes.

32  
33 Q. Within that range. I just wanted to draw your  
34 attention to I think the sixth bullet point which says:

35  
36 *Resource Agreements on POE's ...*

37  
38 "POE" is property operating expenses?

39 A. Yes, that's right.

40  
41 Q. Or expenditure, sorry?

42 A. Property operating expenses.

43  
44 Q. It says:

45  
46 *... expect a circ from D&G.*  
47

1 A. Yes, Defence and Government Division, who were  
2 running the policy on property matters.

3

4 Q. There are then three lines with double question marks  
5 at the end of each line. They read:

6

7 *WTNP out except for very small agencies??*

8 *- index rent annually??*

9 *- look at lease agreements individually??*

10

11 Do the question marks indicate that they were options  
12 being canvassed, or do they have some other significance?

13 A. I think the question marks meant that they  
14 were - they were our understanding of what would be coming  
15 out in that circular from the Defence and Government  
16 Division, but we weren't certain at that stage that that  
17 would be the case - that the WTNP would be taken out from  
18 the normal processes and how the indexing would operate.

19

20 Q. First of all, the fact is that at this stage - this  
21 is April 1991 - the resource agreements on property  
22 operating expenses related to the proposal to incorporate  
23 property operating expenses into running costs?

24 A. Yes, I believe that was part of that.

25

26 Q. And that was a proposal that was at that stage only a  
27 proposal?

28 A. I'm not certain. I would think that because the  
29 budget circular was just about to come out, from what I am  
30 reading there, that would be, you know, already set. The  
31 policy would have been already set and we would have been  
32 just waiting for the advice to come out to us.

33

34 Q. That's your best recollection now?

35 A. Yes.

36

37 Q. Perhaps, looking at the third set of question marks,  
38 "Look at lease agreements individually", what is your best  
39 recollection now of what that was signifying?

40 A. That in setting up resource agreements we would need  
41 to take particular account of what agencies had - what  
42 agreements agencies had at the moment in relation to their  
43 leases.

44

45 Q. So you understood that to relate to existing leases,  
46 not future leases?

47 A. Yes, existing leases.

1  
2 Q. I will just note for the record a little further down  
3 that that handwritten note says:  
4  
5 *Urgent work.*  
6 *ANAO - accomm.*  
7  
8 Is that right?  
9 A. Yes.  
10  
11 Q. And "Charging"?  
12 A. Yes, that's right.  
13  
14 Q. And "Charging" related to their fee structure?  
15 A. Yes.  
16  
17 Q. The proposal that they charge for work?  
18 A. Yes; that's correct.  
19  
20 Q. And those were hot issues with the ANAO at that time,  
21 as you understood it?  
22 A. Well, they - yes, they were issues that we had to  
23 deal with around that time.  
24  
25 Q. Can I take you to the next page of that bundle.  
26 That's headed "Meeting - ANAO - 5-6-1991".  
27 A. Yes, I have got that.  
28  
29 Q. That reflects a meeting with officers of the ANAO on  
30 5 June 1991, as far as you can recall it?  
31 A. I understand it is, correct.  
32  
33 Q. You have noted:  
34  
35 *Accommodation*  
36 *\* draft request*  
37 *\* proposal: [Set] --*  
38  
39 is that "net", or "set out" costs?  
40 A. That's "net out costs".  
41  
42 Q. What does "net out costs" mean?  
43 A. I think it means comparing - well, I think it means  
44 comparing proposals and netting out the cost of each  
45 proposal.  
46  
47 Q. And :

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\* Show overall cost of new accomm

A. Yes.

Q. Does this indicate that you were giving advice to officers of the ANAO in relation to what they should do in relation to their proposed new accommodation?

A. I believe that's correct.

Q. Do you have any recollection now of which officers of the ANAO were present at this meeting?

A. No, I don't. I don't recall who was at that meeting. I could guess that my normal contact, Frank Campbell, may have been there; possibly Bob Morison.

Q. Those are the officers that you would have expected that you would have been having a meeting with at that time, given the matters discussed?

A. I would expect that it would have been those two officers. I had my main dealings with Frank Campbell. Sometimes Bob Morison would attend a meeting as well.

Q. Just going down a little further, there is then some lines and I will read them to you and tell me if I am translating incorrectly:

*When refurbishment planned by owners ??  
But not an option - A-G won't accept it!  
Free leases & fitout eg in 1st 2 yrs. Need  
to cost it.  
Costing of each proposal over no. of yrs  
with savings in each then net overall cost  
or saving!*

Is that correct?

A. Yes, that's how that reads.

Q. Could you explain what that proposition, "When refurbishment planned by owners??" was relating to?

A. I think that related to the Medibank House being - appearing reasonably poor accommodation, and that the proposal to move to better accommodation would have would have been looked at in the light of current accommodation and when that current accommodation was due to be upgraded to have better fitout, or --

1 Q. The next line, "But not an option - A-G won't accept  
2 it!", is that something you were told by the ANAO officers  
3 on that occasion?

4 A. I believe that's what we were told.

5  
6 Q. What did you understand that comment to mean?

7 A. To mean that the Audit Office did not want to stay in  
8 Medibank House, even if it was to be refurbished some  
9 time - some years down the track.

10  
11 Q. By "AG" you understood them to be referring to the  
12 Audit Office or the Auditor-General himself?

13 A. I think it was to the Auditor-General.

14  
15 Q. You then canvass two issues of costing:

16  
17 *Free leases & fitout EG in 1st 2 yrs. Need to cost*  
18 *it. Costing of each proposal over no. of*  
19 *yrs with savings in each the net overall*  
20 *cost or saving!*

21  
22 Does that reflect advice you were giving to the ANAO  
23 officers in relation to preparation of submissions for new  
24 accommodation?

25 A. I believe so. Setting out the - setting out how the  
26 numbers needed to be set out so we could examine them -  
27 examine them correctly, I suppose, to get the true picture  
28 of costs.

29  
30 Q. When you said "number of years", how many years did  
31 you anticipate that would extend over?

32 A. Well, I think we have - we would be expecting that to  
33 extend over the period of the lease, so we could examine  
34 the full cost across the period. If costs were changing  
35 from year to year, that would have an impact on our  
36 analysis or on our views.

37  
38 Q. Do you believe, to the best of your recollection,  
39 that that issue had been canvassed - in other words, the  
40 number of years they needed to extend their costing over?

41 A. Yes.

42  
43 Q. Could I take you back to the documentation referred  
44 to in your statement. There was a meeting on 25 June 1991  
45 which is referred to in a file note prepared by you, which  
46 is referred to in your statement, CH94.010.0033 to 0037.  
47 Mr Turner, you have this morning checked your handwritten

1 notebook and have not been able to identify any reference  
2 to that meeting; is that correct?

3 A. That's correct.

4

5 Q. You have said in your statement that you did prepare  
6 this note of that meeting of 25 June from handwritten  
7 notes?

8 A. Yes, I believe I did.

9

10 Q. Is there any reason why you would have prepared  
11 handwritten notes other than in that notebook?

12 A. I may have used another book at the time if I was  
13 rushing off to a meeting and did not have my usual book at  
14 hand; I may have taken another book. Also, as there were  
15 other subordinate finance officers at that meeting, I may  
16 have asked them to take details of the meeting.

17

18 Q. And in either event you say you used the notes which  
19 had been taken at the meeting to prepare this file note?

20 A. Yes. I used the notes and advice from Finance  
21 attendees.

22

23 Q. And whichever notes were used, you no longer have  
24 access to them?

25 A. That's correct. I haven't got that access.

26

27 Q. In paragraph 18 of your statement you have referred  
28 to a practice of Mr Wojcik that he:

29

30 *... would usually open the Finance*  
31 *Department's comments with information of*  
32 *the existing policy and rules that*  
33 *departments and agencies were operating*  
34 *under at the time as well as any other*  
35 *information that he thought relevant to*  
36 *assist in both parties' consideration of a*  
37 *matter.*

38

39 A. Yes.

40

41 Q. Turning to the note of that meeting, on folio 0033,  
42 that's the barcoded number at the bottom of the page,  
43 there are a number of bullet points set out as "some  
44 comments were provided on the current markets", et cetera.  
45 Did Mr Wojcik's practice cover - in other words, did the  
46 opening comments that Mr Wojcik was in the practice of  
47 giving - cover all of those issues?

1 A. I believe they would have. It may have been  
2 supplemented by Mr Joyce's comments, as he was from the  
3 property area, although we would have consulted with  
4 Property before the actual meeting took place.

5  
6 Q. Underneath the bullet points, you have indicated  
7 that:

8  
9 *Mr Wojcik also mentioned that under POE*  
10 *into Running Costs the Lease amounts would*  
11 *be subject to a deflator and the ANAO would*  
12 *be expected to live within the estimates.*

13  
14 Do you recall Mr Wojcik saying that, or are you --

15 A. I don't specifically recall him saying that.

16  
17 Q. Do you believe that Mr Wojcik mentioned the size, or  
18 anything about the size of the deflator?

19 A. He may have, but I can't recall the meeting, but it  
20 could have been mentioned.

21  
22 THE COMMISSIONER: Q. Can I just ask a few questions  
23 about this deflator? This deflator, was that part of a  
24 new proposal for devolution, as it was erroneously called,  
25 or was it something which you had always had in the  
26 estimates?

27 A. I understand there were always deflators dealing with  
28 running costs, running cost matters such as, you know,  
29 salaries and administrative costs.

30  
31 Q. Yes. That deflator, was it a constant one or was it  
32 fixed every year?

33 A. I believe it was revised each year for other indexes  
34 that - for example, the Australian Bureau of Statistics  
35 would have recorded the CPI and other indexes.

36  
37 Q. Well, of course, under this new policy of  
38 devolution - I won't keep repeating it, it is an  
39 inappropriate word, it was the word that was used - the  
40 deflator would for the first time become available to all  
41 of the property operating expenses, including rent, so  
42 that it was a new version of the previous concept.

43 A. Yes.

44  
45 Q. Is that right?

46 A. A wider application, I guess.

47

1 Q. Do you know when the deflator for that particular  
2 financial year - well, this first one involving rentals  
3 and other property operating expenses - for the first  
4 time was announced?  
5 A. No, I don't recall when that was announced, or what  
6 year it was applied - the first application.  
7  
8 Q. Who would be aware of that?  
9 A. Well, we would have been made aware of that in our  
10 dealings internally in finance and budget circulars and  
11 estimates memorandums, I think, that went out, but I don't  
12 recall when that --  
13  
14 Q. It is something which Finance was responsible for,  
15 was it not?  
16 A. Yes; that's correct.  
17  
18 Q. Whereabouts within the Finance department would it  
19 have been originated? I know it would have been discussed  
20 and approved somewhere, but who was responsible for doing  
21 that? What section?  
22 A. I think the deflator would have been finalised by the  
23 General Expenditure Division, because it involved Property  
24 as well. There would have had to have been liaison with  
25 the property areas before the index was finalised - before  
26 the deflator was finalised.  
27  
28 Q. General Expenditure Division?  
29 A. General Expenditure Division. In the normal course,  
30 they would advise areas of what the latest index was,  
31 before the estimates for the budget were finalised.  
32  
33 THE COMMISSIONER: I am sorry to have interrupted,  
34 Mr Robertson, but it is something which I am grappling  
35 with in my own mind.  
36  
37 MR ROBERTSON: I am grateful, Commissioner. Hopefully we  
38 will get some further assistance from some other Finance  
39 witnesses in due course.  
40  
41 Q. Mr Turner, did you, in the middle of 1991, have any  
42 expectation of how the deflator would be calculated, when  
43 it came into full effect?  
44 A. No, I don't think I was aware. I can't recall.  
45  
46 Q. Do you believe that you had any understanding of  
47 whether there would be one deflator for the whole of

1 Australia or there would be regional deflators?  
2 A. I understood it would be one deflator used across all  
3 agencies.  
4  
5 Q. I suppose, given your recollection of this meeting,  
6 it would be speculation to ask for you to comment on  
7 whether Mr Wojcik indicated to the ANAO officers at this  
8 meeting on 25 June 1991 that there would be only one  
9 deflator across Australia for all property operating  
10 costs?  
11 A. I think he would have mentioned that there would be  
12 one deflator covering all of running costs and that  
13 property was eventually being moved into the running costs  
14 bucket - into a running costs bucket.  
15  
16 Q. So you say one deflator covering all running costs,  
17 including property operating expenses?  
18 A. Yes.  
19  
20 Q. Am I correct in understanding that there was an  
21 interim regime where there was a separate deflator for  
22 property running costs, or is that an incorrect  
23 assumption?  
24 A. I'm not aware of a separate one.  
25  
26 Q. Just turning to your note, one of the things the note  
27 says in the first paragraph under the "Names of  
28 Attendees":  
29  
30 *Mr Wojcik opened the meeting by suggesting*  
31 *that we consider the Sydney and Brisbane*  
32 *proposals before looking at the Canberra*  
33 *matter.*  
34  
35 Do you see that?  
36 A. Yes.  
37  
38 Q. Was it, as far as you can recall, clear, or should it  
39 have been clear to those attending that meeting, that when  
40 Mr Wojcik - or you say it may have been Mr Joyce -  
41 provided comments on the current markets and tactics of  
42 real estate agents, he or they were talking about the real  
43 estate market in Australia generally, rather than Sydney  
44 and Brisbane?  
45 A. I believe it was more general.  
46  
47 Q. I suppose the question is are you able to say for

1 certain that it was clearly general?

2 A. No, I'm not. I can't say for certain.

3

4 Q. Can you turn to the next page, 0034, under the  
5 heading "Canberra":

6

7 *The ANAO officers were advised that the*  
8 *issue of the proposed move from Medibank*  
9 *House to another building would be one that*  
10 *would need to proceed through the New*  
11 *Policy process.*

12

13 What you and the other Finance officers were saying was  
14 the Canberra move is not a works technical new policy  
15 proposal, or does not qualify as a works technical new  
16 policy proposal; is that correct?

17 A. I think that's correct, yes.

18

19 Q. And the proposition is said:

20

21 *This was based on the presumption that the*  
22 *building would be built with the intention*  
23 *of the owner recovering the building costs,*  
24 *by way of the rentals, in the first few*  
25 *years eg 7-10 years.*

26

27 Is that presumption something that was mentioned to the  
28 ANAO officers?

29 A. I believe it was.

30

31 Q. What did that presumption mean? What I'm asking you  
32 is what did that mean for your understanding of the rents  
33 that were likely to be charged in that accommodation?

34 A. I think it meant that there was an indication that  
35 the early year rents could have been high.

36

37 Q. The early year rents?

38 A. Well, the rents across the period. I think the - in  
39 the early years, I think there were incentives suggested,  
40 but over the 7 to 10 years, the full costs would be  
41 recovered by the owner.

42

43 Q. You are familiar with the concept of the yield on  
44 property, aren't you?

45 A. Sorry?

46

47 Q. You are familiar with the concept of yield in

1 relation to property investments?  
2 A. No, I wouldn't be expert, no.  
3  
4 Q. Perhaps I can put it this way: to recover the full  
5 value, or the full cost of a building over seven to  
6 10 years would require rents that would cover not only  
7 interest but also the building costs, 100 per cent of the  
8 building costs, in that short time frame; would you agree  
9 with that?  
10 A. I believe that's correct, yes.  
11  
12 Q. So what that would effectively require would be the  
13 recovery of something like 10 per cent per annum of the  
14 principal, in addition to interest costs, over that  
15 period?  
16 A. Mmm-hmm.  
17  
18 Q. Doesn't that imply a very high rate of return or  
19 yield on that, in that lease?  
20 A. I think it would.  
21  
22 Q. I mean, that's a sort of logical process that I have  
23 taken you through. Do you believe that that logical  
24 process was thought through by yourself or other Finance  
25 officers at the time, in 1991?  
26 A. May have been by other officers, but I think  
27 generally I - I would have thought that, yes, it is going  
28 to mean some, you know, big payments to get that money  
29 back, but I don't recall having any detailed analysis of  
30 the yields and returns.  
31  
32 Q. Do you believe at this time that you had any  
33 knowledge of what was being done in relation to the  
34 Scrivener Building or the AUSLIG building at Fernhill Park  
35 in relation to the lease of that building?  
36 A. I don't recall the details of that lease.  
37  
38 Q. Before I move on, what I wanted to put to you, I  
39 suppose, is that given that understanding, or that  
40 presumption that the Department of Finance officers were  
41 making in June 1991, should not the Department of Finance  
42 officers have understood that the rentals likely to be  
43 charged or sought in relation to this building would be  
44 quite high in relation to the cost of the building,  
45 compared to other potential buildings?  
46 A. Should we have?  
47

1 Q. Should you have - should you not have recognised that  
2 at the time?

3 A. Probably, yes.  
4

5 Q. I just move on. At the bottom of the page, I draw to  
6 your attention that you then note that:  
7

8 *The ANAO would enter into a precommitment*  
9 *lease. Also it was thought that any*  
10 *proposed move by Commonwealth agencies into*  
11 *new buildings and/or buildings in the area*  
12 *of the Parliament would be preferred to be*  
13 *considered by the Government.*  
14

15 You then refer to the ANAO's situation as discussed in the  
16 Sheridan review. Mr Turner, in your statement, you at  
17 this stage haven't referred to that part of the note. I  
18 would just like to ask you some questions about it. If  
19 you could turn back to the bundle of submissions,  
20 et cetera, that I gave you earlier, the first of those  
21 documents, that is COMM.006.0001, is, I suggest to you,  
22 the Sheridan review. I can demonstrate that to you by  
23 taking you to page 16, folio 0017, where Mr Sheridan has  
24 signed it.

25 A. Yes, I can see that.  
26

27 Q. I won't ask you to read it, but perhaps you could  
28 take it from me that it doesn't relate to accommodation;  
29 it relates to statutory authority status. That appears on  
30 pages 14 and 15, 0015 to 0016. I invite you to read the  
31 following page, which is the conclusion. What I wish to  
32 suggest to you is that your reference there to the  
33 Sheridan review is probably an error, unintentionally,  
34 probably. You were probably referring to JCPA report  
35 number 296.

36 A. You are probably correct.  
37

38 Q. So the issue then is that the government's response  
39 to JCPA 296, which is at tab 5 of that bundle,  
40 COMM.010.0001 to 0023 - and again I will take you back to  
41 page 0022, where recommendation 78 was dealt with - is not  
42 expressed in the terms that you have set out at the bottom  
43 of page 0034 of your note.

44 A. Yes, I agree that they are different words.  
45

46 THE COMMISSIONER: To be fair to the witness, I have  
47 found something on page 26 of the Sheridan report; it is a

1 fairly cursory reference to the forced relocation from  
2 Silverton Centre to Medibank House in the third paragraph  
3 of that page. I think that is, from my own careful  
4 reading of it some time ago, the only reference to  
5 accommodation in the whole of the Sheridan report.  
6

7 MR ROBERTSON: Q. Mr Turner, have you looked at the  
8 page that the Commissioner has referred to?

9 A. I'm just looking at it now. That was page 26?  
10

11 THE COMMISSIONER: Q. Page 26 of the document, 0027 in  
12 the barcode. In the third paragraph on the page, there is  
13 a reference - under the heading "Information and  
14 Technology" - to them being thrown out of Silverton House  
15 when that building became uninhabitable?

16 A. Yes.  
17

18 Q. There is that reference to accommodation, but I think  
19 I can say safely it is the only reference you will find to  
20 accommodation anywhere?

21 A. Okay.  
22

23 MR ROBERTSON: Q. That doesn't cause you to change your  
24 previous answer in relation to whether you were mistaken  
25 in referring to the Sheridan review?

26 A. No.  
27

28 Q. So the question, Mr Turner, is are you able to give  
29 any explanation as to where the proposition that the  
30 government's response that there were no compelling  
31 reasons why the ANAO should be located in the  
32 parliamentary area came from?

33 A. No, I - I still think there must have been a  
34 Department of Finance response to the JCPA report.  
35

36 Q. So one possibility is that it is referring to the  
37 submission by the Department of Finance or other  
38 submission in response to the JCPA report, rather than the  
39 formal government response tabled in Parliament; is that  
40 one possibility?

41 A. It is a possibility, yes.  
42

43 Q. And another possibility, I suggest to you, is that  
44 perhaps that's really a paraphrase, or an interpretation  
45 of what the government's response really said, which was  
46 that it can go through the normal channels?

47 A. Yes, it could be.

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Q. That's a possibility as well?

A. Yes.

Q. Do you think that that latter explanation is a likely one?

A. No, I can only say it is a possibility.

Q. It is possible, isn't it, that you, when drafting this note, did not return to the government's response to look at it, but relied upon your recollection of what that response had been, probably filtered through discussions with other Department of Finance officers in relation to that response over time?

A. Yes.

Q. Can I take you over the page. In the first paragraph you refer to the ANAO officers clarifying the position and giving you further details of the proposal at Section 22 Barton. You then, in the next paragraph, say:

*The assumed rentals which ANAO used (\$320 sqm) were provided by APG but seemed on the low side for this location and ANAO were asked to examine the matter to see if a revised estimate should be used and also to determine the basis of increases on rent reviews.*

Was that, to your recollection, followed up?

A. I think we followed up Audit to ask them to check that out to see whether there were other numbers they should have been using.

Q. You have noted at the bottom of that page, in referring to subsequent correspondence, the last sentence:

*The costings of the leases for Section 22, however, were maintained at the assumed rental of \$320 per square metre per annum; no indication was provided that they had taken the issue any further with APG.*

I can show you the 28 June documents, if you --

A. No, I have those here.

Q. You have that there. Do you have the attachments to

1 that document, or only the first page of it?  
2 A. I appear to have four pages of attachments.  
3  
4 Q. I think you have indicated in your statement that you  
5 and Mr Wojcik made detailed notes on that and conducted  
6 analyses of the figures?  
7 A. Yes. There was some analysis done. I don't know  
8 whether I did any or my supervisor.  
9  
10 Q. Can I take you to a document that I don't think does  
11 appear in your bundle. It can be brought up on the  
12 screen. It is DOFA.029.0100. Can you see that document?  
13 A. Yes.  
14  
15 Q. Does that bear your signature and handwriting in the  
16 top right-hand corner?  
17 A. Yes, that's mine.  
18  
19 Q. "Any comments would be appreciated"; is that correct?  
20 A. Yes. That's my signature, my handwriting on the top  
21 right.  
22  
23 Q. The comment "not reliable source" is not your  
24 handwriting, is it?  
25 A. No.  
26  
27 Q. Do you recognise it?  
28 A. It appears to be Eddy Wojcik.  
29  
30 Q. You think it is Eddy Wojcik's?  
31 A. Yes.  
32  
33 Q. Would that have been written on that document before  
34 it was sent to Mr Cooney and Mr Joyce? Perhaps I should  
35 start that again. First of all, that document appears to  
36 have been sent by you to Mr Cooney and Mr Joyce?  
37 A. Yes.  
38  
39 Q. And it is found on a file from that section of the  
40 Department of Finance?  
41 A. I think the document, or a copy of the document,  
42 would have been sent to Mr Cooney and Mr Joyce, and we  
43 probably would have kept the original with our papers.  
44  
45 Q. The fact that Mr Wojcik's handwriting appears on it,  
46 on a copy found in Mr Cooney's section, would indicate  
47 that it was written before it was sent to them?

1 A. Yes.  
2  
3 Q. What I wish to ask you about that letter is, first of  
4 all, obviously you received that from the ANAO?  
5 A. Yes, I believe so.  
6  
7 Q. Or possibly directly from the APG?  
8 A. I would think that the Audit Office would have  
9 provided us a copy.  
10  
11 Q. That letter does indicate, doesn't it, that in July  
12 1991 there was some investigation on the part of the  
13 Auditor-General's office of the rent differentials between  
14 Barton and Woden?  
15 A. Yes, it appears so.  
16  
17 Q. That document was in fact incorporated within one of  
18 the spreadsheets that you and Mr Wojcik prepared, which  
19 you have referred to in your statement?  
20 A. I think I recall seeing that \$315 per square metre in  
21 the calculations.  
22  
23 Q. I just wanted to identify those spreadsheets for you.  
24 They are ANAO.019.0089 to 0093. I will have that document  
25 brought up. Could we go to page 0092. I don't know  
26 whether you can see that clearly, but it is headed "Audit  
27 Works TNP Canberra APG Assumptions Attachment B". It has  
28 that \$315 a square metre on the right-hand column?  
29 A. Yes, I can see that.  
30  
31 Q. That's the document that you have referred to in  
32 paragraph 23 of your statement?  
33 A. Yes. My statement refers to the three attachments.  
34  
35 Q. So, to your knowledge, the ANAO did follow up on your  
36 request that it confirm rent levels to that extent?  
37 A. Yes.  
38  
39 Q. Did you do anything to ensure that the ANAO followed  
40 up your suggestion that it confirm rent reviews or details  
41 of rent reviews, or the basis of increases on rent  
42 reviews?  
43 A. I don't recall the details of that.  
44  
45 Q. It is the case, is it not, that the  
46 spreadsheets - that spreadsheet that is on the screen now,  
47 along with the other two in that document - were attached

1 to a minute to the secretary of the Department of Finance,  
2 weren't they?

3 A. I believe so.

4

5 Q. The assumption in those spreadsheets is that the rent  
6 would not increase over the 10-year period?

7 A. I thought the rent was increasing at the same rate as  
8 the other location, or something like that.

9

10 Q. That's the rent increase from '92/'93 to '93/'94,  
11 isn't it? That's one increase, and then remains constant  
12 for the balance of the lease term.

13 A. It may be correct. I probably need to do some  
14 calculations to assure myself of that.

15

16 Q. Well, would you take it from me that the figures do  
17 reflect a consistent flat rate of rent throughout that  
18 10-year period after that initial increase. Do you agree  
19 with me that the spreadsheets reflect an assumption that  
20 rents would not increase?

21 A. I think so.

22

23 Q. Can I take you to the minute to the secretary of  
24 7 August 1991, CH94.010.0068 to 0070. Can I take you to  
25 the next page, 0069. Could I draw your attention to the  
26 paragraph in the middle of the page commencing "In  
27 summary", and the second bullet point at the top of the  
28 page. Do you want to go back to the previous page? If  
29 so, you can do so. We will go back to 0068.

30 A. Yes, I would like to go back to the previous page.

31

32 Q. We will go back to 0068. That says:

33

34 *ANAO have included several assumptions in*  
35 *their costing of this proposal. These are:*  
36 *\* rental costs for a refurbished Medibank*  
37 *House (in Woden) would be the same as*  
38 *rental at Section 22. (Our advice on this*  
39 *matter is that there would be a substantial*  
40 *differential between the two locations with*  
41 *Woden costs likely to be in the order of 10*  
42 *to 25% below Barton.)*

43

44 And the next page:

45

46 *\* no suitable alternative consolidated*  
47 *accommodation would become available.*

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And then:

*\* rent in Barton will increase at the same rate as Woden over the next 10 years (we consider this is unlikely, with Barton likely to increase at a higher rate.)*

To be fair to you, Mr Turner, the assumption would be, from that, that the reason rents have not been escalated in the spreadsheets is that you have adopted the assumption that you have indicated, or you and other Department of Finance officers have indicated was unlikely, that rents in Barton would increase at the same rate as Woden?

A. Sorry, could you repeat that?

Q. Sorry. The reason that the spreadsheets don't include rent escalations is because the spreadsheets are intended to compare the costs of remaining at Medibank House with the cost of moving to Barton, and the assumption that you have drawn is that the rents would increase at the same rate?

A. Yes.

Q. So that the calculation over 10 years --

A. Yes, I think that's correct.

Q. I am sorry, I should finish that proposition. The calculation over 10 years would give the same result on whatever assumption as to rent increases was incorporated; would that be a correct way of putting it?

A. Yes. Yes.

Q. Provided the rent increase is the same in Barton as at Medibank House. Was that proposition that you considered it unlikely that rents in Barton would increase at the same rate as Woden conveyed to the ANAO?

A. I'm fairly certain it was.

Q. You did send the last page of that minute, together with the spreadsheets, to Mr Morison, or Mr Pearson sent it to Mr Morison?

A. Yes, the fax was addressed by Mr Pearson. He or Eddy or myself may have sent the fax - I'm not certain.

Q. But that fax only included the last page of the

1 minute, not the whole of the minute?  
2 A. Yes, that appears, yes.  
3  
4 Q. So, when you say you believed that the proposition  
5 referred to at the top of page 0069 in the bullet point  
6 was conveyed to the ANAO, you believe that was done  
7 orally, do you?  
8 A. I believe it would have been either a phone call or  
9 at previous meetings.  
10  
11 Q. Just returning to this file note of 25 June 1991, the  
12 matters that are recorded as having been passed on to the  
13 Audit Office were fairly important matters, weren't they?  
14 A. The advice given at that meeting - yes, they were.  
15  
16 Q. The important advice given at that meeting extended  
17 to the bullet points on the first page - that's  
18 CH94.010.0033?  
19 A. Yes.  
20  
21 Q. And to the proposition that  
22  
23 *... Under POE into Running Costs the Lease*  
24 *amounts would be subject to a deflator --*  
25  
26 that's on the first page also, and that the ANAO would be  
27 expected to live within the estimates?  
28 A. Yes.  
29  
30 Q. And that:  
31  
32 *If ANAO wanted property that was more*  
33 *costly it would be expected to meet the*  
34 *costs from its existing Running Costs*  
35 *borrowing from future years where*  
36 *necessary, and would not be encouraged to*  
37 *come to the Budget for supplementation.*  
38  
39 A. That's correct, a normal part of our role in  
40 protecting the budget.  
41  
42 Q. Given that those were very important matters that  
43 were conveyed to the ANAO on that occasion, did it not  
44 occur to you that it might be appropriate to confirm those  
45 discussions to the ANAO in writing in any way?  
46 A. Not at that stage.  
47

1 Q. Not at that stage?  
2 A. Well, I'm sorry, no.  
3  
4 Q. Was it customary to confirm important discussions  
5 which had taken place at meetings of this nature in  
6 writing to the other - do you call them client departments  
7 or agencies?  
8 A. I think it would be wise. My - I guess in my  
9 workings in that section, which probably had only been for  
10 half - six months or a year at that stage, I wasn't aware  
11 of, you know, documenting the advice that we provided to  
12 agencies, and actual agreements between the agencies and  
13 what the advice was.  
14  
15 Q. This file note was actually addressed to Mr Pearson  
16 and Mr McPhee, wasn't it?  
17 A. Yes.  
18  
19 Q. And contained a recommendation at the end from you  
20 that Mr McPhee brief the secretary in terms of the  
21 attached draft which favours the Sydney and Brisbane  
22 proposals, but does not support the Canberra proposal?  
23 A. I beg your pardon?  
24  
25 Q. This is the last page, 0037 - your recommendation?  
26 A. Yes.  
27  
28 Q. That attached draft, as far as you are aware, was the  
29 7 August minute, or was a precursor of the 7 August minute  
30 to the secretary?  
31 A. Yes, it is most likely it was. I can't recollect.  
32  
33 Q. Was there a reason why only the last page of that  
34 minute was forwarded to the ANAO along with the schedule,  
35 as far as you are aware?  
36 A. No, I could only guess that it was to point out the  
37 matters of the calculations in the spreadsheets and the  
38 bottom line impact, I suppose.  
39  
40 Q. But would you not agree that in doing that, it would  
41 have been important to indicate what assumptions you had  
42 accepted and what assumptions you had made contrary to  
43 those of the ANAO?  
44 A. Yes, I agree.  
45  
46 Q. And those assumptions are set out on the first two  
47 pages of the minute?

1 A. I can't recall what's in the first two.  
2  
3 Q. Do you want to see them again? Do you not have a  
4 copy with you?  
5 A. No, I only have the third page.  
6  
7 Q. I see. Do you want to see them again, or are you  
8 happy to accept the proposition that the assumptions that  
9 we have been discussing earlier --  
10 A. I will accept that proposition.  
11  
12 Q. You accept that. So you do agree that it might have  
13 been wise to send a copy of the whole minute to the ANAO?  
14 A. It may have been, yes.  
15  
16 Q. Just a couple more things. In paragraph 31 to your  
17 statement you have referred to a draft resource agreement,  
18 and you have identified the likely date from your own word  
19 processing reference?  
20 A. Yes.  
21  
22 Q. To be fair to you, when you visited the Commission  
23 previously you were not shown a document that I would like  
24 to show you now, CH94.002.0105 to 0107. Page 0105 is a  
25 letter from Mr Pearson to the Auditor-General, attention  
26 Mr Meert, dated 2 December 1991, and it says:  
27  
28 *I have attached a draft agreement for your*  
29 *consideration.*  
30  
31 If you would like to look at pages 0106 and 0107 when you  
32 are ready, just tell the operator. That bears the same  
33 word processing reference? Without asking you to compare  
34 the two documents, is that likely to be the same document?  
35 The job of comparing them can be done by someone else, if  
36 it was necessary?  
37 A. I mean, that job number could be updated - sorry, the  
38 job number could be remain the same but the text could be  
39 updated.  
40  
41 Q. So what you are saying is that FDWT1102 could appear  
42 on more than one version of this draft?  
43 A. Yes.  
44  
45 Q. And it would be necessary to compare the text in  
46 order to follow the various drafts?  
47 A. Yes.

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Q. Can I ask you to look at paragraph 5 of the resource agreement - and I don't mind which version you look at. There is one attached to your statement, which is ANAO.012.0290 to 0291.

A. Yes, I have got that page.

THE COMMISSIONER: That's attachment 10, is it?

MR ROBERTSON: I'm not working from the same bundle.

THE COMMISSIONER: This is CH94.002.0052.

MR ROBERTSON: I think it is actually tab 13 in the bundle.

THE COMMISSIONER: 13 was a draft. This one is not a draft. That's why I was curious.

MR ROBERTSON: Which one is not a draft?

THE COMMISSIONER: Attachment 13 has a heading "Draft only", whereas attachment 10 is a signed document, dated 18 October 1991.

MR ROBERTSON: That's not the draft resource agreement; that's a minute dated 18 October from Mr Pearson to Mr Meert. That's not the resource agreement. That's a letter.

THE COMMISSIONER: I am sorry. This document, dated 18 October, and which is attachment 10, is from the Department of Finance addressed to the Executive Director of the Executive Support Branch of the Audit Office.

MR ROBERTSON: Yes, that's Mr Meert.

THE COMMISSIONER: All right. And it is signed by Mr Pearson, assistant secretary of the relevant section of the Finance department. Which are we talking about? That seems to me to be the resource agreement - at least that's what I thought it was. It is called, "Accommodation Resource Agreement".

MR ROBERTSON: Perhaps we can ask Mr Turner to clear that up. I don't think you are correct, Commissioner.

1 THE COMMISSIONER: We will leave it to the witness to  
2 tell us when we resume, which is the correct one we should  
3 be looking at. I will adjourn now until 11.45.

4  
5 **SHORT ADJOURNMENT**

6  
7 THE COMMISSIONER: Which document is it?

8  
9 MR ROBERTSON: CH94.003.0343 to 0344.

10  
11 THE COMMISSIONER: Q. It is not in your bundle, I'm  
12 afraid. Do you have that document yourself?

13 A. I have got it on the screen.

14  
15 Q. Can you read it there okay?

16 A. Yes, that's fine.

17  
18 MR ROBERTSON: And the next page.

19  
20 Q. You might just wish to read paragraph 10 carefully.

21 A. I have read that.

22  
23 Q. That is the final version of the resource agreement  
24 as executed on 27 March 1992, and I take it you are aware  
25 of that occurring?

26 A. I'm sure I would have seen it.

27  
28 Q. The reason I drew your attention to paragraph 10 is  
29 because it does differ from your first draft, which was  
30 the one that I wanted to ask you about. That was  
31 ANAO.012.0290 do you have that?

32 A. Yes, I have a hard copy.

33  
34 Q. Can you look at paragraph 5 of that, on page 0291?

35 A. Yes.

36  
37 Q.

38 *It is further agreed that should the lease*  
39 *costs escalate at a rate greater than*  
40 *market rates, in the context of the mandate*  
41 *where the auditees are obliged to use ANAO*  
42 *services, it would not be reasonable to*  
43 *pass on the full increases in costs,*  
44 *particularly as the ANAO and DoF*  
45 *acknowledge that the relocation appears*  
46 *justified on economic grounds. The ANAO*  
47 *agrees that to the extent that lease costs*

1                   *increase at a rate greater than market*  
2                   *rates it will absorb the difference.*

3  
4                   First of all, the proposition that the ANAO and DoF  
5                   acknowledge that the relocation appears justified on  
6                   economic grounds, did that reflect the genuinely held  
7                   belief of the Department of Finance, or of you, and as far  
8                   as you were aware other officers of the Department of  
9                   Finance at that time, or was it a recognition that the  
10                  Department of Finance had agreed that it would simply  
11                  accept the ANAO assumptions?

12                 A.    I think it reflected that Finance agreed with the  
13                  ANAO assumptions, or accepted the ANAO assumptions.

14  
15                 Q.    Accepted them, in the sense that it believed they  
16                  were accurate, or accepted them in the sense that it was  
17                  not going to dispute them further?

18                 A.    Probably the latter, I think.

19  
20                 Q.    Then the next sentence is:

21  
22                   *The ANAO agrees that to the extent that*  
23                   *lease costs increase at a rate greater than*  
24                   *market rates it will absorb the difference.*

25  
26                 Did you, at that time, late 1991, have reason to believe  
27                  that the lease costs would increase at a rate greater than  
28                  market rates?

29                 A.    I think the - my belief would have been that compared  
30                  to average market rates across Canberra, Barton was likely  
31                  to be a bit higher and may increase by more.

32  
33                 Q.    By "increase at a rate greater than market rates",  
34                  you were intending to refer to market rates across  
35                  Canberra? I think you said that in your statement --

36                 A.    Yes.

37  
38                 Q.    -- and you apprehended that there was a risk that  
39                  lease costs in Barton would increase faster than  
40                  elsewhere?

41                 A.    Well, that was our thinking.

42  
43                 Q.    That was the reason for including that sentence, was  
44                  it?

45                 A.    I don't recall whether that was the reason why it was  
46                  included, but --

47

1 Q. It is logically --  
2 A. Yes, it is logical, yes.  
3  
4 Q. -- the reason. Did you raise that particular issue  
5 with the ANAO, other than by incorporating it within this  
6 draft agreement?  
7 A. I don't recall specifically raising it with them. I  
8 think our section would have, either myself or my  
9 supervisor, talked to someone in ANAO about it - probably  
10 on the telephone.  
11  
12 Q. In referring to market rates you, at this stage,  
13 looking back, admittedly a long time, say that you were,  
14 when drafting this, considering market rates across  
15 Canberra, rather than the one Australia-wide deflator that  
16 was being predicted or discussed at that time and earlier?  
17 A. I think so, yes.  
18  
19 Q. There is one matter that I think I overlooked  
20 earlier. I was asking questions about the meeting of  
21 25 June. You indicated that Mr Wojcik had spoken  
22 generally at the commencement of that meeting about a  
23 number of matters. I just wanted to ask you whether you  
24 recall Mr Wojcik's introductory remarks being something  
25 that appeared to be of interest or making an impression on  
26 the ANAO officers?  
27 A. I actually don't recall the meeting, details of the  
28 meeting.  
29  
30 Q. You have mentioned or indicated that in fact  
31 Mr Wojcik had a practice of giving an introductory  
32 preamble at this sort of meeting. To your observation,  
33 did Mr Wojcik's preamble generally generate interest on  
34 the part of those to whom it was addressed?  
35 A. Not necessarily. I think the opening address was  
36 really to save time at meetings, because, you know,  
37 handling a few agencies and having many meetings around  
38 budget time to finalise estimates and other matters, it  
39 was useful to really set the scene by advising the agency  
40 of what the current rules are in place at the moment on  
41 the particular matters - what the policy is and the  
42 government rules.  
43  
44 Q. I just wanted to ask you whether you consider it  
45 would be fair to describe Mr Wojcik's preamble as lengthy  
46 and dismal?  
47 A. It may have been in the context of, I guess, people

1 looking to do something and if it is - if it is saying,  
2 "Well, the rules may provide a few obstacles," well --  
3  
4 THE COMMISSIONER: Q. You mean dismal from the Audit  
5 Office's point of view?  
6 A. Possibly.  
7  
8 MR ROBERTSON: Q. What you are suggesting is that it  
9 may be that those to whom it was addressed didn't really  
10 want to hear it?  
11 A. It may have been seen as bad news, yes.  
12  
13 MR ROBERTSON: I think those are all the questions I have  
14 for Mr Turner.  
15  
16 MR SACKAR: I'm not sure whether my learned friend has  
17 tendered the minute of 7 June 1989 that he showed the  
18 witness at the outset, with the handwritten note attached.  
19  
20 THE COMMISSIONER: Is it one of the annexures or  
21 attachments?  
22  
23 MR SACKAR: No, I don't believe it is. I thought he  
24 handed it to the witness. It is a four-page document. On  
25 the first two pages of it there is a typescript dated  
26 7 June 1989 by I think Ms Pearse.  
27  
28 MR ROBERTSON: I should tender all of the documents which  
29 are not referred to in Mr Turner's statement --  
30  
31 THE COMMISSIONER: First of all, let us make it clear  
32 that all of the attachments to the statement are part of  
33 the exhibit.  
34  
35 MR SACKAR: We certainly understood that.  
36  
37 THE COMMISSIONER: That is understood. Can you identify  
38 the ones that should now become additional exhibits?  
39  
40 MR ROBERTSON: We have already dealt with the Sheridan  
41 report and other documents in that bundle.  
42  
43 THE COMMISSIONER: That's a separate exhibit.  
44  
45 MR ROBERTSON: That leaves, I think, two bundles of  
46 documents. One is the four-page bundle of documents that  
47 I showed Mr Turner, which was a minute paper from

1 Ms Pearse to Mr Knapp dated 7 June 1989, together with two  
2 copies of a handwritten interoffice minute from Mr Knapp  
3 to Mr Mann, dated 30 May 1989.  
4

5 THE COMMISSIONER: That will be exhibit 39.  
6

7 **EXHIBIT #39 MINUTE PAPER DATED 7/6/1989, FROM V PEARSE TO**  
8 **D KNAPP, BARCODED DOFA.081.0001; INTEROFFICE MINUTE DATED**  
9 **30/5/1989 FROM D KNAPP TO MR EVAN, BARCODED DOFA.081.0003;**  
10 **INTEROFFICE MINUTE DATED 30/5/1989 FROM D KNAPP TO**  
11 **MR EVAN, BARCODED DOFA.081.0004**  
12

13 MR ROBERTSON: There were four pages of handwritten  
14 notes, which I have taken --  
15

16 THE COMMISSIONER: Do you mean headed "Section" - that's  
17 already exhibit 38.  
18

19 MR ROBERTSON: Yes. I am reminded now that I did mean to  
20 take Mr Turner to the third page of those.  
21

22 Q. Do you still have that, the handwritten notes from  
23 your book?

24 A. From my book, yes, I have got those here.  
25

26 Q. That is dated 13 June 1991 - the third page?

27 A. Yes.  
28

29 Q. That refers to a telephone conversation between  
30 yourself and Mr Barwood on that day?

31 A. Yes.  
32

33 Q. That post-dates the minute from Mr Meert of 11 June -  
34 the WTNP submission that you have referred to in your  
35 statement. It indicates that you had a conversation with  
36 Mr Barwood relating to increased rent reviews at Medibank  
37 House at that time?

38 A. Yes. It indicates that I may have been - may have  
39 sought clarification or updates of the numbers for that  
40 WTNP proposal.  
41

42 Q. Can you give the Commission any assistance as to what  
43 "Will fax me advice as well as a copy of APG" might mean?

44 A. "A copy of APG", I think is asking for ANAO to send  
45 me a copy of the advice that I got from APG. I am not  
46 sure about "will fax me advice", just meaning an update of  
47 the relevant page of their submission. I think it would

1 mean for the ANAO to provide their updated paper in light  
2 of the advice from APG.

3  
4 MR ROBERTSON: Those are the questions.

5  
6 THE COMMISSIONER: Mr Sackar, the document you were  
7 concerned about is now exhibit 39.

8  
9 MR SACKAR: Yes. Thank you.

10  
11 THE COMMISSIONER: Do you wanted to ask any questions?

12  
13 MR SACKAR: If I may, yes.

14  
15 **<EXAMINATION BY MR SACKAR:**

16  
17 MR SACKAR: Q. Mr Turner, do you have in front of you a  
18 copy of exhibit 39 - and just to refresh your  
19 recollection, it is four pages, the first two pages are a  
20 typescript headed "Minute Paper", and then there is a  
21 two-page handwritten note which follows by Mr or  
22 Mrs Knapp, whichever it is. Do you have a hard copy of  
23 that document in front of you?

24 A. Yes, I do.

25  
26 Q. Would you be kind enough - I appreciate it is not  
27 your document - to look at the last paragraph on the first  
28 page which says:

29  
30 *The office accommodation strategy for*  
31 *Canberra...allows location in the*  
32 *parliamentary area of key policy*  
33 *functions...*

34  
35 et cetera. Do you see that?

36 A. Yes, I have got that.

37  
38 Q. Over the page:

39  
40 *The need for the AAO ...*

41  
42 Which, in this context, is the acronym which is being used  
43 to refer to the Audit Office, as you understand it, is it?

44 A. Yes.

45  
46 Q.  
47 *The need for the AAO to have locational*

1            *linkages with the Parliament seems*  
2            *questionable.*

3  
4            Do you see that?

5            A.    Yes.

6  
7            Q.    In 1991, if you can remember it, was it the view  
8            within the Department of Finance that the Audit Office was  
9            not a department which was performing key policy  
10           functions?

11           A.    I'm not aware of that view. I'm not aware of that  
12           being Finance's view.

13  
14           Q.    Would you be aware of the reverse view, or the  
15           opposite view, I should say? Did you, for example, in  
16           1991, regard the Audit Office as a department which was  
17           performing key policy functions?

18           A.    My view is that it was performing important functions  
19           - I guess it is a matter of, I guess, definitions of  
20           whether it was policy functions, but certainly  
21           accountability for the government, certainly very  
22           important.

23  
24           Q.    All right. The Auditor-General in fact audited, did  
25           he, the Department of Finance?

26           A.    Yes - well, I believe he did, yes - all agencies.

27  
28           THE COMMISSIONER:    Just before you go on, that expression  
29           "performing key policy functions" comes from some  
30           document, I assume?

31  
32           MR SACKAR:    I am so sorry. I was reading from  
33           exhibit 39. You will see, Mr Commissioner, from the last  
34           paragraph - I take it you don't have a copy?

35  
36           THE COMMISSIONER:    I don't, no.

37  
38           MR SACKAR:    Let me just hand it up --

39  
40           THE COMMISSIONER:    I am the last to get these exhibits.  
41           I have the exhibit itself now.

42  
43           MR SACKAR:    What I invited the witness to comment on was,  
44           you will see, if I may just allow you perhaps to look at  
45           it, in last paragraph on the first page and then over the  
46           page.

47

1 THE COMMISSIONER: Oh, I see, yes. I was wondering  
2 whether that was what it was, but I am glad to see it in  
3 the document.  
4

5 MR SACKAR: Q. Mr Turner, at any stage in 1991, and, in  
6 particular, the latter half of 1991, did you, yourself,  
7 or, in your presence, anyone from Finance, ask anyone from  
8 Audit to be given some detail as to the terms and  
9 conditions of whatever might have been proposed by way of  
10 the lease at Section 22 Barton?

11 A. I'm not aware of any specific request. I mean, there  
12 could have been. There could have been memorandums sent  
13 to them but I'm not - I can't recall. I'm sure there was  
14 either a telephone call or meetings trying to find out  
15 what was to be included, in respect of the, you know,  
16 financial impacts, certainly from our side of  
17 things - what the financial impacts were. There may have  
18 been other - our property area may have been involved in  
19 other things - details of other things that might have  
20 been included in the lease.  
21

22 Q. But I take it - I know it is a very long time ago -  
23 that you presently can't recall, and in whatever documents  
24 you have looked at recently, do I understand you to say  
25 that you have not come across a document in which it  
26 appears as if Finance did in fact ask Audit at any point  
27 for terms and conditions of the lease proposed in Barton?

28 A. I can't recall specifically and I don't think I found  
29 anything specific, but I mean, I haven't searched far and  
30 wide and I haven't got back to DoFA or Finance to find  
31 materials.  
32

33 Q. No, I accept that. Would there have been any  
34 difficulty, assuming Audit was providing or was not  
35 providing cooperation on that, by way of protocol or  
36 otherwise in Department of Finance approaching the APG to  
37 get an update of what the terms and conditions of the  
38 proposed lease might be?

39 A. I think we may have, or we could have asked our  
40 property people to talk to APG.  
41

42 Q. Your people could have talked to their people, so to  
43 speak, in the property sections; is that fair?

44 A. I believe so, yes.  
45

46 Q. And there wouldn't have been any protocol or any  
47 difficulty if you wanted to know the details and didn't

1 have them? I take it you would agree that there would be  
2 no difficulty in asking, for example, Mr Joyce to make an  
3 inquiry of somebody in APG to find out?  
4 A. Well, I think we would have asked Mr Joyce if we  
5 wanted to find out some information, but whether APG would  
6 give him the information, I'm not certain what their  
7 protocols were.  
8  
9 Q. I see. So you are not sure whether APG might have an  
10 ability to simply say, "No, we are not telling you"?  
11 A. Yeah, I --  
12  
13 Q. Is that fair?  
14 A. I think - well, I think that's a fair comment. I'm  
15 not sure whether they would be able to release the  
16 information to --  
17  
18 Q. Well, in any event, do I take it that whatever  
19 position Department of Finance held within government  
20 generally, do I take it that you didn't feel that you  
21 would have had any right to compel either the Audit Office  
22 or, for that matter, the APG to disclose material to you  
23 if they didn't want to - provided they understood what  
24 your protocol was in relation to financial impact?  
25 A. I mean, I can only speak for myself. I'm not sure  
26 what our rights would have been.  
27  
28 Q. In 1991 where were the Department of Finance offices?  
29 A. Sorry?  
30  
31 Q. In 1991, where was the Department of Finance  
32 positioned, as it were?  
33 A. In ACT it was situated in the Treasury building.  
34  
35 Q. Which was where?  
36 A. In Parkes, ACT.  
37  
38 Q. Would that be regarded as part of the Parliamentary  
39 Triangle?  
40 A. In the Parliamentary region - well, yeah, I think  
41 generally it was called the Parliamentary Triangle.  
42  
43 Q. Just one matter which is not germane to any of your  
44 documents, but I just wonder if you know about it. Are  
45 you aware of a court case which was brought by the  
46 Commonwealth against the owners of the Silverton buildings  
47 claiming damages?

1 A. I'm not aware of the case. I'm aware that the Audit  
2 Office did mention that there would be compensation coming  
3 to the Commonwealth because of that particular matter.  
4  
5 Q. Apart from the Audit Office asserting that there  
6 would be some compensation coming, there was some  
7 discussion, was there not, as to whether the Audit Office  
8 would in fact, in a budgetary sense, receive the benefit  
9 of that compensation?  
10 A. Yes.  
11  
12 Q. But I take it you were not familiar with either the  
13 case itself or what had occurred in the case?  
14 A. Yes, that's true.  
15  
16 Q. May I ask you, please, in exhibit 36 - that's the  
17 folder which has your statement at the front and a number  
18 of annexure - to go to that folder. Perhaps I should ask  
19 you this in advance: have you been given a copy of the  
20 folder with the annexures?  
21 A. I'm not sure. It is the one with attachments 1 to 6?  
22  
23 MR SACKAR: No, it isn't.  
24  
25 THE WITNESS: I do have my statement, but --  
26  
27 MR SACKAR: Q. I think to make life simpler, I will ask  
28 Mr Robertson to have given to you what is exhibit 36, to  
29 make it easy for you to follow what I want to ask you.  
30  
31 MR SACKAR: Do I take it, Mr Commissioner, you have that?  
32  
33 THE COMMISSIONER: I do have that, yes, thank you.  
34  
35 MR SACKAR: Q. Would you be kind enough, please, to  
36 turn to the document at tab 4, and just so that you can,  
37 if you wish, refresh your recollection, you may wish to  
38 have a look in conjunction with that at paragraphs 15, 16  
39 and perhaps 17 of your statement. They are the paragraphs  
40 which seem to link up to what is the document behind  
41 tab 4, which is a note that you have been asked some  
42 questions about.  
43 A. Can I just confirm that document - was that tab 4?  
44  
45 Q. By all means, yes. Turn to tab 4, and if you would  
46 like to re-read paragraphs 15, 16 and 17?  
47 A. They are not numbered, are they, those ones?

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THE COMMISSIONER: Tab 4 is the "no compelling reasons" document.

MR SACKAR: Yes.

Q. What I am doing at the moment, clumsily, and I apologise, Mr Turner, is I am inviting you to look at some paragraphs in your statement, your typed statement which has been tendered before the inquiry. I am suggesting to you that paragraphs 15, 16 and possibly 17, you might just like to look at. You will see in paragraph 16, for example, there is a reference to a document which is your note, in part, of a meeting of 25 June, and that's behind tab 4?

A. Yes.

Q. So the lead-in is if you would like to look at those paragraphs, please do. Then, when you are ready, would you turn to tab 4, please.

A. Yes, I have looked at paragraphs 15, 16 and 17.

Q. Would you turn to tab 4. By all means, if I am asking you questions and you would like a moment just to refresh your recollection from any aspect of the note, please say so. This note, in part, would you agree, covers what occurred on 25 June, but it seems also, does it not, to cover events after 25 June, if you look, for example, at the third page, which is - and I don't ask to call it up - CH94.010.0035. The bottom of that page seems to deal with events, does it not, after the 25th?

A. That's right, yes.

Q. Let me take you back to the first page, then, please. Mr Ian Joyce, who attended the meeting, was from what is described as D&G, and that's an acronym for "Defence and Government Division of the Department of Finance", is it?

A. That's correct.

Q. He was the person within the Department of Finance who was effectively, if I may put it this way, your property person?

A. He - yes, he was the person I think at about my level, in the section handling Commonwealth properties matters, not specifically property for the Department of Finance, but, you know, matters involving all agencies or other agencies, and the property policy.

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Q. You say in paragraph 17 of your statement:

*One branch of D&G had responsibility for property matters including leases, construction ...*

Et cetera. Mr Joyce was from that section. Do you see that?

A. Yes.

Q. When it says "APG fees", what does that mean? Does that mean that Mr Joyce in some way or other had some responsibility into or in relation to the fees or the level of fees which APG may or may not charge in particular transactions?

A. No, I put that reference there, I think, because at times we would get spreadsheets from the property area showing the WTNP proposals, which were the works technical new policy proposals. That would have the breakdowns of lease costs, fitout, ACS fees and APG fees. So that's really all that reference was relating to. I can't comment on the specific matters that Ian might have been involved in in relation to those fees.

Q. Thank you. Mr Joyce I think you said was at your level, but was he one of the senior people in the property division, or in the division of what is described as D&G?

A. Well, I guess it would be middle - middle management. He would have a director above him who would have been the supervisor of the section involving seven - five, seven, maybe 10 staff.

Q. Again, may I take you back to tab 4, the document behind tab 4.

A. Can I just clarify that?

Q. Yes, of course.

A. The director would have been the person supervising the staff for the section. And Ian was a member of the section.

Q. What was the name of the person, if you can recall, who was the director or the most senior person in the property division or D&G as it is called, at that stage?

A. Yeah, look, I'm not sure who that --

1 Q. That's all right.  
2 A. The first assistant secretary is the top position in  
3 that division, but I don't know who that would have been  
4 at that stage.  
5  
6 Q. Then go back to tab 4, please, the part of the note  
7 commencing, "First, some comments were provided on the  
8 current markets and tactics that real estate agents are  
9 taking to gain business"?  
10 A. Yes.  
11  
12 Q. I think you answered a question of my learned friend,  
13 and I think you said that these remarks were understood by  
14 you as remarks that were in connection with the  
15 Australia-wide real estate market?  
16 A. Yeah, I think I make those comments in the letter,  
17 yes.  
18  
19 Q. You did understand, though, did you not, that  
20 although that might have been the case, Mr Wojcik was not  
21 suggesting that some of these commercial arrangements may  
22 not be offered to persons in the ACT?  
23 A. No, I don't - he wouldn't have been suggesting that  
24 they weren't available, or weren't being offered in the  
25 ACT as well.  
26  
27 Q. And whilst the conversation was at a general level,  
28 what you understood him to be doing was alluding to, or  
29 adverting to, different kinds of commercial arrangements  
30 that may well be offered, and highlighting in some cases  
31 some matters to be scrutinised carefully in the event that  
32 something like that might have been offered?  
33 A. Yes, well, I think he was setting the scene and  
34 asking, or advising the Audit Office to be careful to  
35 watch what these deals are because they might look - they  
36 might look rosy, but you need to consider them or look  
37 underneath to see what the real impacts are.  
38  
39 Q. Sure. I understand that's what you say, but what I'm  
40 getting at - and I think we are perhaps agreeing with each  
41 other, but you tell me - is that what he was doing was  
42 giving examples of arrangements which might be offered to  
43 the Audit Office in relation to Barton and giving his  
44 views as to some of the advantages or disadvantages of  
45 certain arrangements of the kind he was alluding to?  
46 A. I think, from memory, before the meeting - some time  
47 before the meeting, we were advised that there was an

1 arrangement or some arrangements around offering free  
2 rent.

3

4 Q. I am so sorry, I am just having a little bit of  
5 trouble hearing you.

6 A. Yes, I think prior to the meeting, some time before  
7 the meeting, there were - there must have been deals  
8 offered for free fitout, for example, to try to tie people  
9 into a lease, or a department into a lease. So I think  
10 that's one of the reasons that was being highlighted, that  
11 a deal might involve free fitout or free rent for a year  
12 or more, before the lease payments kicked in - the rent  
13 payments kicked in.

14

15 Q. Yes. But that wasn't the only example he gave,  
16 because he went on to give others, did he not - or, went  
17 on to advert to other factors that may need scrutiny in  
18 relation to leases?

19

20 A. Yes.

21

22 Q. And he talked about the fact that "lease contracts  
23 needed close scrutiny as some involve escalating rent in  
24 later years", et cetera?

25

26 A. Yes.

27

28 Q. And he also talked about some agreements having  
29 secret clauses. Did he say what the secret clauses were?

30

31 A. No, I don't recollect what the secret clauses were.  
32 Q. All right. Well, he also talked about arrangements  
33 which might have fixed rates of increases and that they  
34 may be dangerous?

35

36 A. Yes.

37

38 Q. And you understood him to be alerting the Audit  
39 Office to terms and conditions which he was telling them  
40 as a matter of commerce may well be offered to them, and,  
41 if they were, they needed to be carefully scrutinised?

42

43 A. Yes.

44

45 Q. Is that fair? Over the page - that is, on page  
46 CH94.010.0034 - under the heading "Canberra", it was  
47 Mr Wojcik, was it, exclusively, or did Mr Joyce join in,  
as far as you can recall, any of the comments about the  
markets? Because what you have said on the first page is  
he "opened the meeting by suggesting that we consider the  
Sydney and Brisbane proposals", et cetera, and then there

1 were some comments made. But is your recollection that it  
2 was Mr Wojcik who led the discussion at the meeting?

3 A. Well, I don't really recall, but Eddy Wojcik was the  
4 senior Finance person at that meeting, so he would have  
5 basically set the scene from a Finance perspective and led  
6 the Finance argument. He may have asked Mr Joyce to  
7 comment about particular property matters in Canberra or  
8 in general.

9  
10 Q. You said "the Finance argument". This was really, if  
11 I may suggest to you, the opportunity taken by the  
12 Department of Finance to try to persuade Audit, was it,  
13 that they should seriously consider not moving to  
14 Section 22 Barton, but, rather, stay in Woden in a  
15 refurbished building?

16 A. No, I'd say it wasn't a Finance argument, it was  
17 really a Finance statement existing of the existing policy  
18 and advice - it would have been advice of what had been  
19 sort of around in the market at the time from property  
20 people's experience. It wouldn't have been to dissuade  
21 the Audit Office.

22  
23 It would have been to really ask them, if they are  
24 doing a comparison of staying in Medibank compared to  
25 going to another office building, to make sure that they  
26 considered things as well as what things might be included  
27 in leases that may not be - might need to be looked at  
28 more closely.

29  
30 THE COMMISSIONER: Mr Sackar, may I suggest that you  
31 explore that particular paragraph, as to what was being  
32 put by Finance and what was being put by the Audit Office,  
33 because it starts off by saying they were advised, but it  
34 is not clear, for example, when you pick up "The ANAO  
35 would enter into a precommitment lease".

36  
37 MR SACKAR: Yes, I am coming to that.

38  
39 THE COMMISSIONER: Thank you. I find that paragraph very  
40 difficult to understand, unless I know who said what.

41  
42 MR SACKAR: I perfectly understand that, and I was  
43 interested along similar lines.

44  
45 THE COMMISSIONER: Yes.

46  
47 MR SACKAR: Q. The paragraph that the Commissioner just

1 referred to, which I've referred to in a general sense  
2 under the heading "Canberra", may I just take you to that  
3 and ask you to focus on that. Perhaps, in fairness to  
4 you, if you wish to refamiliarise yourself with that - and  
5 by all means, if you want to, read what is on that page  
6 and what continues over the page up to the heading "ANAO  
7 Memo of 27 June 1991", unless you feel reasonably  
8 comfortable about the content, and I can ask you and you  
9 can answer questions about it, unless you would like to  
10 have a read?

11 A. I will have a read, thank you.

12  
13 Q. You read that and tell me when you are done?

14 A. Thank you. Yes, I have read that.

15  
16 Q. All right. The first part of the note - I should be  
17 more precise - says:

18  
19 *The ANAO officers were advised that the*  
20 *issue of the proposed move ...*

21  
22 Et cetera:

23  
24 *... would need to proceed through New*  
25 *Policy process.*

26  
27 That seems, does it not, to have come from Finance? I  
28 don't limit it to Mr Wojcik, but it would seem it would  
29 come from, as it were, your side of the table?

30 A. Yes.

31  
32 Q. It goes on:

33  
34 *This was based on the presumption that the*  
35 *building would be built with the*  
36 *intention...*

37  
38 Et cetera. Again, would you think that that might have  
39 come from your side of the table?

40 A. Yes, I think that would be correct.

41  
42 Q. The purpose of those first two statements was to  
43 first of all say that new policy processes were to apply,  
44 and there would be an intention on the part of the owner  
45 to recover building costs, et cetera, in the first seven  
46 to 10 years. That was placed on the table, as it were,  
47 for what purpose? Do you recall? What was the message

1 that Finance was trying to say - that the rentals would be  
2 high in that period or they should be alert to the  
3 commercial motivation of the owner? What was the message?  
4 A. I don't recall it, but I think it would be that the  
5 rates were expected to be high, if it was being recovered  
6 over 10 years.

7

8 Q.

9 *The ANAO would enter into a precommitment*  
10 *lease.*

11

12 That's most likely from the Audit Office's side of the  
13 table, isn't it?

14 A. Yes, we would have got advice from them on that,  
15 yeah. They would have advised us that that's what would  
16 be involved.

17

18 Q. And you understood, did you not, that discussions  
19 that were taking place at the time between the Audit  
20 Office, APG and the owners of Section 22 were in the  
21 context of a long-term lease and a precommitment?

22 A. Yeah, I don't recall whether we were aware at that  
23 time, but --

24

25 Q. Well, it seems, at least, as at the 25th that you  
26 were aware of that?

27 A. Yes.

28

29 Q. In this meeting - or made aware of it in the meeting,  
30 at least?

31 A. Yeah, I think so. We would have been aware that  
32 whoever the landlord was was after a long-term commitment.

33

34 Q. It goes on:

35

36 *Also it was thought that any proposed move*  
37 *by Commonwealth agencies into new buildings*  
38 *and/or buildings in the area of the*  
39 *Parliament would be preferred to be*  
40 *considered by the government.*

41

42 Do you think that was a Finance assertion?

43 A. I believe so, yes.

44

45 Q.

46 *The ANAO situation was discussed in the*  
47 *Sheridan review - The government's response*

1           *was that there were no compelling reasons*  
2           *why the ANAO should be located in the*  
3           *Parliamentary area.*

4  
5           That would hardly come from ANAO. Again, it would seem,  
6           would it not, to have been a proposition or an assertion,  
7           whatever it was, coming from your side of the table?

8           A. Yes. That's correct.

9  
10          THE COMMISSIONER: I think the witness had earlier agreed  
11          that it may have been an interpretation of the  
12          government's response.

13  
14          MR SACKAR: Yes, quite.

15  
16          Q. Over the page:

17  
18                 *ANAO clarified the position with the*  
19                 *Section 22 proposal.*

20  
21          And that's fairly obviously said on this occasion by the  
22          ANAO - this information or much of this information  
23          perhaps comes from them, in this paragraph; would you  
24          agree?

25          A. Yes, I agree.

26  
27          Q. And you were being told there that at least the owner  
28          was proposing a long period for the lease?

29          A. Yes.

30  
31          Q. The next paragraph says:

32  
33                 *The assumed rentals which ANAO used*  
34                 *(\$320 sqm) were provided by APG...*

35  
36          Now, that part of it may have been an assumption on your  
37          part or it might have been something that Audit said.

38          A. Yes, we - I mean, we may have asked Audit what figure  
39          they used and where they got it from.

40  
41          Q. It would be likely that that would be something you  
42          would like to know?

43          A. Yes.

44  
45          Q. Would you agree?

46          A. Yes.

47

1 Q. Now, the comment, "but seemed on the low side for  
2 this location", would seem to be a comment made by someone  
3 from the Department of Finance side of the table, wouldn't  
4 it?

5 A. Yes. Yes, maybe our property people, who would have  
6 had a bit of knowledge of rates around Canberra.

7

8 Q. If it was somebody from your side of the table it is  
9 likely, is it not, that a comment of that kind would  
10 probably come from Mr Joyce, or might have it come,  
11 equally, from Mr Wojcik?

12 A. Well, I guess we would - we would have been treating  
13 our property people as the experts. Mr Wojcik might have  
14 suggested that it might look a bit low and probably asked  
15 Property for confirmation of that.

16

17 Q. If I may ask you to agree, if you are able, at the  
18 meeting between yourself, Mr Wojcik and Mr Joyce - I  
19 realise there were other people there; Libby Kalis was  
20 also there from Finance - between all of you there,  
21 Mr Joyce was the person that you would regard as the  
22 property expert at the meeting, at least from the Finance  
23 side of the table?

24 A. Yes.

25

26 Q. It goes on:

27

28 *...seemed on the low side for this location*  
29 *and ANAO were asked to examine the matter*  
30 *to see if a revised estimate should be used*  
31 *and also to determine the basis of*  
32 *increases on rent reviews.*

33

34 Now, again, that would seem to be a request from the  
35 Finance side of the table?

36 A. Yes.

37

38 Q.

39 *If the rent reviews were to be based on the*  
40 *existing market rates then the rental could*  
41 *skyrocket as property rental rates around*  
42 *the area are high compared to Medibank*  
43 *House and would be expected to remain*  
44 *higher than the Woden area.*

45

46 Now, again, the likely source of that opinion, or that  
47 assertion, whatever it is, would be Mr Joyce, probably,

1 would it?

2 A. Yes:

3

4 *ANAO were asked whether DEET were likely to*  
5 *leave Medibank House.*

6

7 Et cetera. Again, that would be a suggestion which  
8 clearly came from the Finance side of the table?

9 A. Yes, we would have been asking Audit to consider all  
10 options.

11

12 Q.

13 *...they said --*

14

15 meaning Audit --

16

17 *DEET would not be leaving as they had their*  
18 *computer installation in the building.*

19

20 A. Yes.

21

22 Q. Do you see that?

23

24 A. Yes.

25

26 Q. Then:

27

28 *Mr Joyce thought it strange that the owner*  
29 *would not have offered DEET an arrangement*  
30 *to vacate so that he could be assured that*  
31 *the ANAO would stay.*

32

33 Do you remember any more about that other than what is  
34 recorded? I'm not suggesting you should after this period  
35 of time.

36

37 A. No, I don't. I don't recall any.

38

39 Q. He went on, apparently, perhaps, to say:

40

41 *Also, there is other available office space*  
42 *in the area that might be suitable for*  
43 *DEET.*

44

45 And then:

46

47 *Mr Joyce undertook to provide details, for*  
*FAES...*

1 What is that? That's an acronym referring to?  
2 A. To the section that I worked in.  
3  
4 Q. So he was going to provide your section with market  
5 rents for other buildings around the Section 22 area?  
6 A. Yes.  
7  
8 Q. Do you recall whether Mr Joyce ever did that?  
9 A. I think according to a note on a fax, or something  
10 that I have got here.  
11  
12 Q. Perhaps if I can help you, would you just go ahead  
13 for a minute to tab 6. Does that assist you?  
14 A. Yes, that assists me.  
15  
16 Q. Have a look at that document. That's your  
17 handwriting, is it, in the lower right-hand corner?  
18 A. Yes; that's correct.  
19  
20 Q. And that reads:  
21  
22 *Ian Joyce advised that NCPA --*  
23  
24 meaning?  
25 A. National Capital Planning Authority.  
26  
27 Q.  
28 *-- in Barton was paying \$340 sqm since*  
29 *1 March '91 rent review.*  
30  
31 A. Yes.  
32  
33 Q. Apart from that piece of information, do you recall  
34 whether Mr Joyce gave you any other information about  
35 market rents for buildings around Section 22?  
36 A. No, I don't recall any others.  
37  
38 Q. Going back to that paragraph that I referred you to a  
39 moment ago - and just to be clear where I am, the document  
40 in tab 4 - if you would go back to the third page and the  
41 paragraph commencing, "The assumed rentals"; do you see  
42 that?  
43 A. Yes.  
44  
45 Q. Whoever it was, whether it was Mr Joyce or Mr Wojcik,  
46 they were saying, as you understood it, to Audit, that the  
47 figures, which Audit seemed to have got from APG, were a

1 little unreliable in their opinion, or in his opinion,  
2 because they appeared to be on the low side?

3 A. Yes, they commented to say that they appeared low,  
4 and I guess wanted to get confirmation that they were the  
5 correct numbers they were using.  
6

7 Q. Quite so. But it seemed to Mr Joyce, at least, in  
8 the course of this meeting, that what he was doing was  
9 saying that what APG had told Audit seemed, in his view,  
10 to be unreliable, in the sense that 320, which ANAO had  
11 been using for the purposes of their calculations,  
12 appeared to be on the low side?

13 A. Yes. Appears.  
14

15 Q. Namely, contrary to Mr Joyce's view about what was  
16 likely to happen in Barton; is that fair?

17 A. Yes, that sounds fair.  
18

19 THE COMMISSIONER: I wondered, though, whether that is  
20 so. What they were dealing with were starting rents.  
21 Clearly the \$320, as at June 1991, would look a little low  
22 because of this rent review of \$340, back in March.  
23

24 MR SACKAR: Well, that's part of it. What seems to have  
25 been said by Mr Joyce is - perhaps if I can do it through  
26 the witness --  
27

28 THE COMMISSIONER: No, I just thought I should raise with  
29 you the problem I am having with it.  
30

31 MR SACKAR: I understand what you are saying.  
32

33 Q. Mr Turner, a little later on in this same paragraph  
34 you will see:  
35

36 *If the rent reviews were to be based on the*  
37 *existing market rates then the rental could*  
38 *skyrocket as property rental rates around*  
39 *the area are high...*  
40

41 Mr Joyce, when looking at the 320 and in discussing this,  
42 was not only saying that the 320 was on the low side, but  
43 that he thought generally, at least, rents in the Barton  
44 area could skyrocket, as you understood him?

45 A. Yes, that could be - the rents could be much higher  
46 than what's in Medibank House, I think, is what was being  
47 said.

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47

Q. Well, in terms of market rates and rental skyrocketing, Mr Joyce, as you understood it, if it was Mr Joyce or Mr Wojcik, at the meeting, was adverting to the future - without saying how far into the future they were talking about for the moment - and he seemed to be saying that not only was what APG had given the Audit Office a bit on the low side, but it may be that rentals could skyrocket?

A. Yes.

Q. Can I take you to the next page, please. I am reading now from the second paragraph:

*The simulation on the attached spreadsheets assumes a higher rental for the Barton area compared to the Woden area; the information that we have is that the rental for Medibank House is expected to be \$270sqm for the upper floors and in the Barton area rentals are around \$340sqm.*

Then it goes on to talk about 400 starting in '93/'94. It is likely, isn't it, that the predictions of where rents might end up in '93 and '94 is again Mr Joyce?

A. No, not necessarily. It could have been Mr Wojcik, based on his and my, I guess, simulations and spreadsheets.

Q. All right. But, wherever it came from, it is clear that that particular prediction, or prognosis, undoubtedly would have come from the Finance side of the table?

A. Yes.

Q. The handwriting on this note - do you know whose it is? I take it that it is not yours?

A. No, it is not mine. It is - it all appears to be - I think it is all the one, except for the word "viability" on page 2. I think it is all Eddy Wojcik's.

Q. I am so sorry. You do suggest that the writing on the page that we are looking at, which is CH94.010.0036, is Mr Wojcik's?

A. Yes.

Q. We will ask him when we see him about that. May I take you, please, forward in your bundle of documents to

1 what is a document behind tab 7. May I ask you to turn to  
2 the third page. Perhaps on the first page, are they your  
3 initials at the bottom of the handwriting - on the first  
4 page, the fax?  
5 A. No, they belong to Allan Pearson.  
6  
7 Q. Allan Pearson. All right. Now, the documents that  
8 one sees, and which are the last three pages of this  
9 document, behind tab 7, are they the spreadsheets to which  
10 you previously referred, or is it some other document that  
11 fits that description?  
12 A. I think they are the spreadsheets, or an earlier  
13 draft - would be the spreadsheets referred to in the  
14 latter part of that note for file.  
15  
16 Q. All right. Thank you. May I ask you, first, if you  
17 would turn to the very last page in that tab, which was  
18 attachment C. Do you see that?  
19 A. Yes.  
20  
21 Q. That's the document that I think my learned friend  
22 Mr Robertson took you to, and that shows Audit was making  
23 an assumption of \$320?  
24  
25 MR ROBERTSON: I am sorry, I should correct that. I took  
26 Mr Turner to attachment B.  
27  
28 MR SACKAR: All right. Thank you. I will take you to  
29 annexure C first.  
30  
31 Q. This is what Finance believed was the Audit  
32 assumptions, namely, that the rent would remain at \$320  
33 per square metre?  
34 A. Yes.  
35  
36 Q. The next document, which is annexure B, sets out,  
37 does it, what the APG assumptions were as Finance  
38 understood them?  
39 A. Yes; that's correct.  
40  
41 Q. Is that fair?  
42 A. Yes, it is our representation of what we understood  
43 their assumptions to be.  
44  
45 Q. Do we take it that your understanding of the APG  
46 assumptions essentially came from Audit, or do you recall  
47 discussing with APG their assumptions and the basis for

1 them?  
2 A. No, I don't recall where they came from.  
3  
4 Q. The note which one sees in the column to the far  
5 right dealing with Section 22 - do you see that? First of  
6 all, the first box, if you like, is a reference, is it, to  
7 Medibank House?  
8 A. Are we still on attachment B?  
9  
10 Q. Yes.  
11 A. The first box would relate to the ACT - Audit  
12 Office's ACT accommodation. So they were located in a  
13 number of buildings.  
14  
15 Q. Okay. One of them was Medibank, and is that the  
16 reason why we see the letter "M" in brackets after the  
17 word "leases" under the word "Canberra"?  
18 A. I believe that would be the right interpretation -  
19 Medibank House, Tasman House.  
20  
21 Q. "T" for Tasman; is that right?  
22 A. Yes, I believe so.  
23  
24 Q. And the last is Treasury, is it, "Tsy"?  
25 A. There may have been a small contingent in the  
26 Treasury building, I think.  
27  
28 Q. Coming down to the box which is headed "Section 22 ,  
29 you will see to the right-hand side there:  
30  
31 *Rent @ \$315m2.*  
32  
33 And then:  
34  
35 *\$365/m2 from 93-94.*  
36  
37 That was your understanding, was it, of what APG was  
38 predicting would be the increases applicable to Section 22  
39 in the years '93 to '94?  
40 A. I'm not certain that we had any details of what APG  
41 expected the increases to be.  
42  
43 Q. Are they yours?  
44 A. They are not mine.  
45  
46 Q. I don't mean yours personally?  
47 A. May have been Finance's, yes.

1  
2 THE COMMISSIONER: I am sorry, when you say "increases",  
3 there are no increases, it is the same figure throughout.  
4  
5 MR SACKAR: I am looking at the figure on the right-hand  
6 side.  
7  
8 THE COMMISSIONER: Section 22, then leases, you will see  
9 that for each of the first three years it is the same and  
10 then for the next period it is the same throughout.  
11  
12 MR SACKAR: I am looking at the note to the far right of  
13 the box.  
14  
15 THE COMMISSIONER: "Rent of \$320".  
16  
17 MR SACKAR: No, I'm at attachment B.  
18  
19 THE COMMISSIONER: I am sorry.  
20  
21 MR SACKAR: What you have just put to me is absolutely  
22 correct in relation to the Audit assumptions. What I have  
23 directed the witness to now is a notation to the far right  
24 of that Section 22 box.  
25  
26 THE COMMISSIONER: Thank you very much.  
27  
28 MR SACKAR: Q. You said it might have come from  
29 Finance, Mr Turner, and you may wish to continue to say  
30 that, but if you would be kind enough to go to  
31 attachment A, a document headed "Finance Assumptions",  
32 and, if one goes to the same note to the right-hand side  
33 of the box, which deals with Barton, those figures are  
34 higher for the predicted '93/'94 period than those which  
35 appear in attachment B, aren't they?  
36 A. That's right, yes.  
37  
38 Q. Does that mean, consistently with what Mr Joyce had  
39 said at the meeting on 25 June, or Mr Wojcik, whoever it  
40 was, that your figures, as to the future - at least in the  
41 short term future, '93/'94 - looking forward from 1991,  
42 your assumptions and, therefore, your calculations  
43 in-house at Finance, were higher than those which were  
44 being predicted, as you understood it, by APG for the same  
45 period?  
46 A. Yes, they were higher. Our predicted numbers were  
47 higher, but I am still not certain that the \$365 under the

1 A PG model was their figure, or our increase on their \$315  
2 per square metre.

3  
4 Q. What you are saying is that applying whatever rate of  
5 increase - and I will come to that in a minute - you might  
6 have been contemplating - that is, Finance might have been  
7 contemplating - it was likely that was the figure which  
8 was to be extrapolated by applying the rate of increase to  
9 \$315; is that fair?

10 A. Yes.

11  
12 Q. However, when you came to your figures - and I don't  
13 mean yours personally, but Finance's figures, whoever they  
14 belonged to - you started from a higher base anyway at  
15 \$340 and then you thought from '93/'94 it could go as high  
16 as \$395 per square metre?

17 A. Yes.

18  
19 Q. That is, without asking you to do it on the  
20 calculator, at the time Finance thought, presumably, that  
21 by the 1993/1994 period, as contrasted with the earlier  
22 period immediately, there could be a rate well in excess  
23 of 10 per cent increase in the rents for Barton and in  
24 particular this building at Section 22?

25 A. If that's what the calculation is, yes.

26  
27 Q. I mean, the difference between 340 and 395 - I said  
28 10 per cent, something in excess of 10 per cent - I think  
29 it is more - but at least of that order on these figures?

30 A. Yes, I mean, that was a rate that was put into the  
31 simulation. I don't know how much information we would  
32 have had to tell us whether it would be 10 per cent or  
33 less, but --

34  
35 Q. Well --

36 A. That was used in the calculation.

37  
38 Q. There was no 10 per cent or less; it was going to be  
39 10 per cent or more, wasn't it, on those figures?

40 A. Yes.

41  
42 Q. Well, did you think the simulation was reliable for  
43 the purposes of discussion with Audit? You weren't just  
44 flipping a coin - and I don't mean to put that in any  
45 sense disrespectfully to you - this was a considered  
46 effort by Finance to do two things, wasn't it: first of  
47 all, to address the issue of where you thought the rentals

1 would be in Barton as compared to where they currently  
2 resided; and, secondly, to try to tell Audit that that was  
3 your view and to warn them about the types of commercial  
4 arrangements they might be offered in the context of a  
5 view that at least into the '93/'94 period, you expected  
6 rents to rise?  
7 A. It appears that that's what it is trying to say.  
8  
9 Q. All right.  
10 A. I don't recall, you know, working out a percentage  
11 or --  
12  
13 Q. Perhaps I should ask you this question: when you say  
14 "a simulation", what was it that was being done? Do you  
15 recall the methodology that was used?  
16 A. Well, I guess --  
17  
18 Q. I am sorry, when you say "I guess", now, if Mr Joyce  
19 was the person who did the number crunching, that's fine.  
20 If it was you, that's another thing. Are you able to --  
21 A. Well, I think I did some initial number crunching and  
22 then Eddy Wojcik would have looked at that, I think. I  
23 think this is probably his final spreadsheet. So he would  
24 have crunched the final numbers and the basis of the  
25 calculation is to work out a net present value comparison  
26 of those three sets of assumptions.  
27  
28 THE COMMISSIONER: Hopefully, Mr Wojcik can help us,  
29 then.  
30  
31 MR SACKAR: I won't spend any more time with you on this.  
32  
33 Q. Do you recall any meeting - I am not suggesting it  
34 happened, I am simply asking - between yourself,  
35 Mr Wojcik, Mr Joyce, prior to the meeting of 25 June with  
36 Audit, in order to discuss the structure of the meeting  
37 and the kind of information that you would provide to  
38 audit?  
39 A. I don't recall a meeting, but I am sure that we would  
40 have touched base with - we would have contacted Ian Joyce  
41 to find out what the property rules - the experience in  
42 the property market around that time was so that we were  
43 all on top of what the latest conditions were.  
44  
45 Q. And so that whatever was said by Mr Wojcik in  
46 relation to the property market at the meeting with Audit,  
47 it accorded with what your experts agreed or disagreed

1 with?  
2 A. Yes.  
3  
4 MR SACKAR: Yes, thank you.  
5  
6 MR BEECH-JONES: I have no questions.  
7  
8 THE COMMISSIONER: Mr Robertson?  
9  
10 MR ROBERTSON: Nothing further.  
11  
12 THE COMMISSIONER: Thank you very much, sir. If we need  
13 you, we will have to get in touch with you. I understand  
14 you are going overseas for a period?  
15  
16 THE WITNESS: Yes, I am due to go overseas on Friday  
17 morning for three weeks.  
18  
19 THE COMMISSIONER: By all means, go. It may be that you  
20 may have to be called up again when you come back. I hope  
21 not. You are not exactly released, but you are certainly  
22 free to leave at this stage. Thank you for coming.  
23  
24 THE WITNESS: Thank you.  
25  
26 **<THE WITNESS WITHDREW**  
27  
28 MR ROBERTSON: The next witness to is to be Mr McFadden.  
29 There have been some documents produced late last night  
30 that Mr Foster is still working on. We would ask the  
31 Commission to adjourn until 2 o'clock.  
32  
33 THE COMMISSIONER: Very well. Will Mr Foster be ready at  
34 2 o'clock?  
35  
36 MR ROBERTSON: My latest information is that he expects  
37 to be. If there is a difficulty, he can communicate with  
38 the other parties.  
39  
40 THE COMMISSIONER: He will tell us, yes. Very well, I  
41 will adjourn until 2 o'clock.  
42  
43 **LUNCHEON ADJOURNMENT**  
44  
45 **WITHOUT RESUMING THE COMMISSION WAS ADJOURNED TO THURSDAY,**  
46 **2 SEPTEMBER 2004 AT 10AM**  
47