

**IN THE COURT OF APPEAL
OF NEW ZEALAND**

CA 269/2009

BETWEEN

STOP THE STADIUM INC

Appellant

AND

DUNEDIN CITY COUNCIL

Respondent

AFFIDAVIT OF ATHOL JAMES STEPHENS IN OPPOSITION TO APPEAL

Sworn 7 August 2009

**ANDERSON LLOYD
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AFFIDAVIT OF ATHOL JAMES STEPHENS IN OPPOSITION TO APPEAL

I **ATHOL JAMES STEPHENS**, of Dunedin, Manager, swear:

Background

1. I am the Finance and Corporate Support General Manager for the Dunedin City Council, a position I have held since 1996.
2. I am providing this supplementary affidavit for two reasons.
3. Firstly, to provide a detailed analysis of the funding models and in particular those relating to the financial impact on the Council as a result of the increased borrowing. This is necessary because it was simply not possible to have this evidence available during the High Court proceedings given the High Court proceeding moved to a substantive hearing within an extremely short timeframe. More importantly, it is necessary because Justice Chisholm in the High Court found it impossible to undertake any analysis of the financial aspects of the stadium given the complexity and given the lack of detailed financial analysis.
4. Secondly it is necessary because of the Appellant's use in the High Court of a spreadsheet which was not made available prior to the High Court proceeding and consequently I have never had the opportunity to comment on it. It was certainly never part of the Appellant's evidence in the High Court proceedings and despite Justice Chisholm's wariness, the Appellant seems to be again relying on it.
5. For ease and convenience and to ensure my additional evidence is considered in context I have set out below the key parts of my original affidavit sworn on 22 April. Where there is new and fresh evidence updating the Court I have highlighted those paragraphs in bold to distinguish between the original affidavit and the new evidence.

Evidence

6. **The evidence I will give describes the evolution of the changes in the costs of construction and of the funding sources. It then focuses on the effect of these changes on the finances of Dunedin City Council and on its ratepayers.**
7. **While the Stadium ownership and operational arrangements have changed, the total cost and therefore total funding needs have** not significantly altered from the project that was first consulted upon and approved and adopted in the Long Term Council Community Plan ("LTCCP").

Examination of Financing Arrangements

8. The financing arrangements for the Stadium have evolved over the three years they have appeared in Dunedin City Council Plans.

2007/08 Draft Annual Plan

9. The Draft 2007/08 Draft Annual Plan ("2007/08 Draft AP") envisaged a Stadium that would not be owned by the Dunedin City Council although it did not rule out ownership changes in the future (page 139, Annexure "A" Harland).
10. As a primary funder, it was envisaged that grants would be made to the Carisbrook Stadium Trust during construction amounting to \$91.359 million. This sum comprised an \$85 million contribution to the construction plus \$6.359 million to set up a fund that would be invested to provide major maintenance funding over the next fifty (50) years.
11. In the same 2007/08 Draft AP the other funding sources listed were (page 137):

Funders	\$
Otago Regional Council	37,470,000

University of Otago	10,000,000
Otago Community Trust	10,000,000
'Other' funding sources (membership, naming rights, founders club)	42,530,000
Sale of Carisbrook	3,000,000
Sub total	103,000,000
DCC - Construction	85,000,000
Total Funding and Construction Cost	188,000,000
DCC - 50 year major maintenance fund	6,359,000
Total Funding, Construction and major maintenance	194,359,000

12. In addition the development costs were recorded (page 137):

	\$
Stadium works, escalation, contingency, consultancy fees, land costs, trusts costs	150,650,000
Fixed Roof	37,350,000
	188,000,000

13. The Funding Sources and Development Costs were subsequently included in the 2007/2008 Annual Plan incorporating amendments to the 2006/07-2015/16 Community Plan (page 134).
14. **For its share of Stadium funding (\$85m for construction plus \$6.359m for the major maintenance fund = \$91.359m) Dunedin City Council proposed raising debt. It proposed servicing and repaying the debt over twenty (20) years by additional rates and an additional \$3 million of additional dividends per year from Council-owned companies. Two rating options were proposed - an addition to the capital value based general rate and a targeted rate which itself had two components (page 141 – Annexure "A" Harland).**

15. Following submission and debate, the Council decided on Option One - General Rate on Capital Value as the appropriate method of rating. This meant that the average value residential property would pay, over the ten years of the Plan, annual amounts rising to a peak of \$90 in 2011/12, falling to \$75 in 2016/17 (page 107, Annexure "A" Harland), as in the table below:

Option One - General Rate on Capital Value

Additional rates payable on the average value residential property in Dunedin

<i>Capital Value</i>	<i>07/08</i>	<i>08/09</i>	<i>09/10</i>	<i>10/11</i>	<i>11/12</i>	<i>12/13</i>	<i>13/14</i>	<i>14/15</i>	<i>15/16</i>	<i>16/17</i>
\$209,000 (average value)	8	32	77	88	90	87	84	81	78	75

16. The effect on the rates on the average value residential property is set out in the table in para 15.

2008/09 Draft Annual Plan

17. While the Draft 2008/09 Annual Plan did not change the financial and rating plan, it did signal clearly that "other options for the funding, ownership and governance of the stadium" were under consideration (page 13, Annexure "F" Harland)
18. The total construction cost of \$188,000,000, as indicated in the 2007/08 Draft Annual Plan, remained intact.
19. Ratepayer funding, as resolved in the 2007/08 Annual Plan, also remained the same. The draft 2008/09 Annual Plan was released on 15 March 2008.

Council meeting of 17 March 2008

20. The 17 March 2008 meeting received further details of the proposals on "funding, ownership and governance" that had been signalled on page 13 of the 2008/09 Draft Annual Plan (Annexure "F" Harland).
21. The Council confirmed the formation of a Council-owned venues management company to own and operate the stadium. **This company was provisionally named Otago Venues Limited but later came to be known as Dunedin City Venues Limited (DCVL). For ease of reference DCVL will be used throughout this affidavit to refer to the council owned company to which the asset would be transferred on completion.**
22. The accounting transactions to reflect Dunedin City Council's direct ownership up to completion, the transfer to the Council-owned Venues company (DCVL), the repayment by and assumption of debt by the Council and DCVL respectively, were all reflected in the 2008/09 Annual Plan (pages 11, 12).
23. **Dunedin City Council had been considering transferring the management and/or ownership of a number of existing facilities into a council controlled organisation to enhance the governance and management to obtain synergies with their operations (e.g. joint ticketing and marketing) and ensure they are operated with a commercial focus. Following the decision to proceed with the stadium, it was appropriate that this facility be managed and owned under a council controlled organisation structure.**
24. **As mentioned in paragraph 17 the Council had signalled to the public that funding, ownership and governance options were under consideration. This resulted in the Council considering at its meeting on 17 March 2008 a change to the ownership, governance and financial arrangements that were beneficial to the local authority, ratepayers and their finances. This involved recording the revenues, expenses, capital expenditure and debt associated with the new stadium on the Council's books until the new stadium was completed. On completion of the stadium, the Council would transfer it, at cost, to DCVL.**

25. In preparation for the 17 March 2008 meeting, modelling was undertaken to achieve the right balance between the amount of debt in DCVL and the ratepayer contribution, in order to get the best outcome for the Council and ratepayers.
26. The stadium debt accrued by the Council at the end of the construction period was forecast at the 17 March 2008 Council meeting to be \$89 million (\$85 million Council contribution plus \$4 million interest, see paragraph 27 below). This, plus further debt of \$6.359 million to establish the maintenance fund, less \$3 million (a scheduled dividend payment in 2010/11 from DCHL towards the stadium), had the combined debt of \$92.3 million in DCVL.
27. During the construction period, a ratepayer contribution towards the interest cost is phased in to a maximum of \$5 million per annum. Interest expense over and above the \$5 million per annum is capitalised into the debt. The forecast of interest expense over and above the \$5 million per annum during the construction period was \$4 million, bringing the combined debt to \$89 million (\$85 million plus \$4 million).
28. The annual debt servicing costs were forecast to be \$10 million per annum based on an interest rate of 9% and a 20 year table loan. The debt servicing costs would be met through payments made to DCVL by Council-owned companies. The effective cost of this debt servicing would be met as follows:
- Ratepayers would contribute \$5 million (through a reduction in dividends received from Council-owned companies);
 - Council-owned companies would contribute \$3 million from their available cashflow; and
 - Tax savings of \$2 million would be available to Council-owned companies.

Annexed and marked "AJS2" is a calculation of the tax savings available.

29. Following the publication of the Draft 2008/09 Annual Plan "The Council Stadium Stance" was published, contemporaneously with the draft Plan, in the Otago Daily Times on 29 March 2008 (Annexure "G" Harland). It invited submissions on its proposal, along with submissions on the draft Plan. Among others was a heading "What will it cost ratepayers?" The tables indicate an average saving to ratepayers over the ten years to 2017/18, of 25%, by using a Council-owned company to own the stadium. The average value residential property would pay, in 2010/11, \$88 per annum towards the Stadium if it was in direct council ownership but only \$66 in a Council Controlled Trading Organisation ownership (DCVL). Financial efficiencies in the group of council-owned companies will permit loss offsets and deductions. These advantages are offset by a reduction in dividends to Dunedin City Council, the shareholder, of \$5 million from its Holding Company, Dunedin City Holdings Limited. This revenue loss from the companies is recovered by an increase in general rates of \$66 per annum for the average value residential property **during the construction period and a further 20 years until the debt is repaid.**
30. "The Council's Stadium Stance" also tabulates the reduction in total rates between 2008/09 and 2017/18 achieved by using a Venues Company instead of direct Council ownership. Again, the savings, on average, are 25%.

Post 17 March 2008 - Private Sector Debt

31. Following the 17 March 2008 meeting, further reports from, and discussions with, the Carisbrook Stadium Trust disclosed a change in the assumption about the timing of the receipt of what is known as Private Sector Funding (PSF). Until 17 March 2008, it had been assumed that all of the PSF (lounge memberships, sponsorships, corporate boxes, open club reserves etc) would be received in full, in advance of stadium completion. The new assumption was that only 53% of PSF would be received in advance of opening.
32. The impact of the change in timing of PSF was to require \$19.2 million of new debt on the Council's books, to be serviced by receipts from further sales of lounge

memberships, sponsorships and corporate suites. This is noted on page 156 of the adopted 2008/09 Annual Plan, a copy is annexed and marked "AJS1".

33. This change had no effect on the cost to ratepayers as the forecast Stadium financial performance contained enough cash to service this debt.

2008/09 Annual Plan

34. The 2008/09 Annual Plan incorporated the recommendations from the 17 March 2008 Council meeting, revised assumptions regarding the timing of capital expenditure payments, the timing of revenues from other sources and provided for an amount of debt to remain on the Council's books after the stadium is transferred into DCVL relating to the delayed PSF (explained in paragraphs 31 – 33).
35. Under the 2008/09 Annual Plan, all revenues, expenses, capital expenditure and debt associated with the construction phase of the new stadium would be recorded on the Council's books. On completion of the stadium, the Council would transfer it, at cost, into DCVL. It assumed around 53% of the PSF would be received prior to this transfer with the remainder to be received after the stadium was transferred into DCVL, between the 2011/12 and 2020/21 years.
36. The total forecast for PSF was \$54.8 million, comprising the \$45.5 million capital contribution towards the stadium and \$6.7 million interest costs incurred over the 10 years that it took to repay the PSF loan.
37. The ownership and operation of the stadium by DCVL reduced the charge on ratepayers. For the average residential ratepayer, the annual contribution towards the stadium was forecast to be \$66 per annum.
38. The stadium debt accrued by the Council at the end of the construction period was forecast to be \$91.7 million including the maintenance fund, \$0.6

million less than that forecast on 17 March 2008 due to revised assumptions discussed in paragraph 34. Debt servicing costs of \$10 million were forecast based on an interest rate assumption of 9% and a 20 year table loan.

Variation in Costs between the 2008/09 Annual Plan (incorporating amendments to the 2006/07–2015/16 Community Plan), the Draft 2009/10-2018/19 Community Plan and the 2009/10-2018/19 Community Plan

39. During the last six months of 2008 and the first weeks of 2009 in the lead up to the preparation of the draft 2009/10-2018/19 Community Plan, more details emerged on Stadium costs.
40. The cost of acquiring unimpeded access to the land rose because the relocation costs of one company increased by \$3 million. An anticipated surplus of \$5.5 million on the sale of Carisbrook, which was to have been credited to the land cost, proved unattainable. Other, smaller, increases of \$1.5 million brought the total increase to \$10 million.
41. There remains the possibility of a surplus on the sale of Carisbrook. Independent valuation of the Otago Rugby Football Union's land and buildings, which are zoned industrial, suggest there could be a surplus of \$1 million to \$2 million even at current prices, provided the Council does not wish to use the assets for non-commercial purposes.

Variation in Funding Sources between the 2008/09 Annual Plan (incorporating amendments to the 2006/07–2015/16 Community Plan), the Draft 2009/10-2018/19 Community Plan and the 2009/10-2018/19 Community Plan

42. The Community Trust of Otago's contribution has dropped from \$10 million (identified in the 2007/08 and 2008/09 Annual Plans) to \$7 million (now included in the 2009/10-2018/19 Community Plan).

43. Private Sector Fundraising (PSF) proved more difficult than expected, so that by the time the Council met on 9 February 2009 to approve its Draft 2009/10-2018/19 Community Plan, all but 3% of PSF was assumed to be received **in annual instalments after opening day**, as opposed to lump sums in advance.
44. Further, it was assumed that by the time the Stadium was completed and opened, 75% of the lounge memberships and 75% of the Open Club Reserve seats would have been sold, in contrast to the previous estimate of 100%.
45. The effect of paragraphs 43 and 44 was to require an increase in private sector debt from the \$19.2 million noted in the final 2008/09 Annual Plan to the \$42.645 million reported to the Council meeting of 9 February 2009. This included an underwrite of \$15 million, assumed not received until 1 July 2009.
46. On an annual basis, a percentage of the income from private sector membership products will be used to repay the debt relating to PSF over ten years starting at \$29.1 million when the stadium is transferred into DCVL. For the first five years of operations this is 75% and for the remainder of the PSF loan period this is 70%.
47. In the final 2009/10 Community Plan the estimate of private sector debt reduces to \$29.1 million at the time the stadium is transferred into DCVL owing to the early receipt of the Crown's \$15 million. It continues to be financed by the instalments receivable from the buyers of seating products over five and ten year terms.
48. Contracts signed to date (as at 5 August 2009 \$26.82 million of PSF is contracted with a further \$5.57 million of seating products under serious consideration, total of \$32.39 million) indicate that the instalment payments after opening will service the debt raised prior to opening.

49. The draft 2009/10-2018/19 Community Plan assumed a contribution in the form of an underwrite of up to \$15 million from the Crown, to be made available on 1 July 2011.
50. A cash grant of \$15 million net by Central Government, payable two years earlier than assumed, on 1 July 2009, is now identified in the 2009/10-2018/19 Community Plan. The confirmation of the receipt of the Crown's \$15 million on 1 July 2009, instead of an underwrite on 1 July 2011, saves \$2 million in interest costs during the construction period. It also means that the 9 February 2009 Council resolution 7e requiring a funding source to meet the \$15 million shortfall in PSF was confirmed.

Variation in Debt between the 2008/09 Annual Plan (incorporating amendments to the 2006/07-2015/16 Community Plan), the Draft 2009/10-2018/19 Community Plan and the 2009/10-2018/19 Community Plan

51. The variation in debt referred to in paragraphs 52 to 59 relates to the amount of debt for the stadium when it is completed, operational and transferred into DCVL. It excludes the debt relating to PSF explained in paragraphs 31-33 and 43-47.
52. The debt on completion of the stadium in the 2008/09 Annual Plan (incorporating amendments to the 2006/07-2015/16 Community Plan) was \$91.7 million.
53. The debt on completion of the stadium in the 2009/10-2018/19 Community Plan is \$109.9 million. The increase of \$18.2 million is made up of the \$10 million increase in land costs (refer to paragraphs 39 and 40), a net reduction in other funding sources of \$3.2 million (refer to paragraphs 41-50), additional interest expense capitalised during construction of \$2 million and a reduction of \$3 million in dividend from DCHL (explained in paragraph 55).

54. The assumptions retained for PSF are conservative. Current sales levels continue to improve. If sales of lounge membership and open club reserve seats exceed 75% by the opening date of the stadium, (see paragraph 44) the bridging loan debt, presently forecast at \$29.1 million, will be paid off faster than the ten years forecast. This will improve the financial performance of DCVL.
55. In the original stadium funding model (2007/08 Annual Plan and draft 2008/09 Annual Plan), the Council received additional dividend income from the Council-owned companies of \$3 million per annum, for 20 years, from the 2010/11 year. The Council used this funding to repay debt relating to the stadium. When the 17 March 2008 decision was made to transfer the ownership of the stadium into DCVL from the 2011/12 financial year, the \$3 million planned dividend for the 2010/11 year was used to reduce the stadium debt. This assumption has been reviewed in detail for the 2009/10 Community Plan and it was felt that by leaving this funding within the Council-owned companies it increases the capacity within the group of companies to manage any unforeseen risk.
56. Interest rates for the 2008/09 Annual Plan were assumed to be 9%. As short term interest rates fell in late 2008 and early 2009, the rate used for the Stadium financing calculation was able to be reduced to 7% on the long term debt to be serviced after the stadium was completed. In the draft 2009/10-2018/19 Community Plan 7% was assumed, and in the final 2009/10-2018/19 Community Plan a combination of interest rates of 6.29% for five years and 7.47% for the remaining 15 years. The effect of a 2% reduction in the rate of interest (9% in 2008/09 less 7% in draft 2009/10 plan) on \$109.9 million is to reduce interest expense in Year 1 by \$2.197 million. Over twenty years the saving is \$32.9 million. The range of interest rates used over the various plans is attached as Annexure "AJS3".
57. The table below compares the debt to be serviced on completion of the stadium in the final 2008/09 Annual Plan with the draft and final 2009/10-2018/19 Community Plans:

	\$ Million	\$ Million	\$ Million
Planning Document	2008/09 Final Annual Plan	2009/10-2018/19 Draft Community Plan	2009/10-2018/19 Final Community Plan
Debt to be serviced post construction	\$91.7	\$108.8	\$109.9
Interest rate post construction	9.0%	7.0%	6.29% until April 2015 7.47% from April 2015
Interest and Principal Repayments per annum for a 20 year table loan	\$9.9	\$10.1	\$9.7 until April 2015 \$10.4 from April 2015

Annexed and marked "AJS4" is a spreadsheet which sets out the changes in funding, debt and borrowings from the start of the process to the current Final LTCCP.

58. In spite of this increase in debt in DCVL, the contribution from ratepayers has remained unchanged because interest rates have reduced by 2%, resulting in annual debt servicing costs of around \$10 million, the same level of annual debt servicing costs that the Council had forecast at the time of the 17 March 2008 decision.
59. Since the draft 2009/10-2018/19 Community Plan was issued, interest rate protection contracts for \$90 million (83% of the DCVL's debt) have been signed for five years from April 2011 to April 2016 at a weighted average interest rate of 6.29%. The interest rate assumed from May 2017 is 7.47% and has been based on advice from Dunedin City Treasury Limited. While the eventual interest rate is almost certain to be different in May 2016, the \$90 million of contracts already in place for the first five years at 6.29% provides a substantial mitigation of interest rate risk.

60. The Council's LTCCP and any amendments are subject to audit by Audit New Zealand. The proposal in the Draft 2008/08 Annual Plan constituted an Amendment under the Local Government Act 2002. The Draft 2009/10 Community Plan was also subject to audit. Both audits examined the calculations of debt servicing costs and the effect on the Council's finances and ratepayers. No errors were noted and an unqualified audit was achieved.
61. Dunedin City Council holds a AA- credit rating issued by Standard & Poor's. Throughout the debate on the Stadium Standard & Poor's have been kept fully informed of the effect on the Council's financial position. They have neither reduced the rating nor altered the "Outlook" which remains "Stable".

Summary of Cost to the Ratepayers

62. The cost to the average value residential property ratepayer over the two years of construction and twenty (20) years of the term debt, in the three Council Plans in which the Stadium has appeared, are:

Year	Plan Title	Average Value Residential Property Rates	
2007/08	Draft Annual Plan	2009/10	\$77
		2011/12	\$90
		2016/17	\$75
2007/08	Adopted Annual Plan	Same as Draft 2007/08 Plan	
2008/09	Draft Annual Plan	Same as Draft and Adopted 2007/08 Plans	
2008/09	"The Council's Stadium Stance"	\$66 per annum for 22 years	
2008/09	Adopted Annual Plan	\$66 per annum for 22 years	
2009/10- 2018/19	Draft Community Plan	\$66 per annum for 22 years	
2009/10-	Adopted Community Plan	\$66 per annum for 22 years	

Year	Plan Title	Average Value Residential Property Rates
2018/19		

Generally Accepted Accounting Practice

63. The affidavit of Nicola Holman, in section 4.7, states "I consider the changes I have identified to be both material and significant in terms of generally accepted accounting practice". Audit New Zealand audits the draft version of each Long Term Council Community Plan or Amendment thereof. Two audits of the Plans featuring the Stadium proposal have received unqualified opinions.
64. It is not within Dunedin City Council's power to change generally accepted accounting practice. Its task is to ensure that the presentation of substantive decisions of the Council on ownership, debt, assets, revenue and expense reflect and comply with generally accepted accounting practice. Two unqualified audits suggests the Council fully complies.

Plaintiff's Statement of Claim

65. Reference 8(a) - "Cost has increased by \$10 million". This is correct and is explained in paragraph 40 above.
66. Reference 8(b) - The Community Trust of Otago's contribution has indeed dropped from \$10 million to \$7 million.
67. Reference 8(c) - The "external contribution" of \$15 million has been confirmed as a cash grant of \$15 million net by Central Government, payable on 1 July 2009. Until confirmation of the 1 July 2009 cash grant, the external contribution was treated as an underwrite of private sector funding, available up to \$15 million and not accessible until 1 July 2011.

68. Reference 8(d) - The original bridging loan required was \$19.2 million (refer paragraph 26), which rose to \$42.645 million by the 9 February 2009 Council meeting. The earlier than expected Crown contribution of \$15 million has been used to reduce debt and interest during construction, leaving the requirement for bridging finance much lower at \$29.1 million. This was not reflected in the draft 2009 LTCCP but has been reflected in the final 2009/10-2018/19 Community Plan.
69. Reference 8(e) - Details of construction and land costs were deliberately kept confidential while commercial negotiation continued.
70. Reference 8(f) - Private Sector Funding. **I have addressed this at paragraphs 31, 32, 33, 43, 44, 45 and 54.** The assumptions retained for PSF are conservative. Current sales levels continue to improve. If sales of lounge membership and open club reserve seats exceed 75% of the available numbers by the opening date of the stadium the bridging loan debt, presently forecast at \$29.1 million, will be lower and the bridging loan will be paid off faster than the ten years forecast. This will improve the financial performance of the Venue.

Appellant's Spreadsheet

71. **An analysis of the Appellant's spreadsheet reveals the following misconceptions and oversights:**
- **'Bridging finance servicing' is included as an expense item in the 'Draft Plan' column. I assume they are referring to the interest cost on the PSF loan. This is mixing capital expenditure and operating expenditure. The interest costs on the PSF loan will be an operating expenditure item, funded by income from private sector membership products when the stadium is operational. This expenditure is not part of the capital cost of the stadium. These costs are incurred after the stadium is completed and operational from August 2011.**
 - **The PSF loan was part of the 2008/09 Annual Plan. The associated interest costs existed at the time the 2008/09 Annual Plan was confirmed. Although the amount of the PSF loan changed by the time the draft 2009/10 Community Plan was approved, it wasn't a new line item. The**

loan relating to PSF was forecast in the 2008/09 Annual Plan to be \$19.2 million at the time the stadium was transferred into DCVL.

- The investment in both capital expenditure and the creation of a maintenance fund of \$194.4 million in the 2008/09 Annual Plan increased to \$204.4 million in the draft 2009/10 Community Plan, an increase of \$10 million as explained in paragraphs 39 and 40.
- The Council contribution in the draft 2009/10 Community Plan increased by the additional land costs and the net reduction in other funding sources. The Council contribution towards the stadium construction was \$99.7 million (up from \$85 million) in the draft 2009/10 Community Plan. With the benefit of hindsight and as part of the review of this spreadsheet I have noticed that the explanation of stadium funding included within the 2009/10 Draft Community Plan was incorrect for these reasons:
 - An external contribution of \$15 million should not have been listed. Although this is separately identified in the final 2009/10 Community Plan, in the draft 2009/10 Community Plan, the \$15 million shortfall in PSF was included as an underwrite within the PSF line.
 - The Dunedin City Council contribution should have been \$99.7 million, reflecting the increase in land costs and net reduction in other funding sources.
 - The Private Sector Funding contribution should have been \$43.8 million. This included the \$15 million shortfall (refer paragraph 47).
 - The total should have been shown as \$198 million, not \$200 million.

I would note that although this information was not recorded correctly in the Draft 2009/10 Community Plan it was made clear to the Council at the time of the 9 February 2009 Council meeting that the Council would be funding the net shortfall in the project. It was also made clear to the 9 February 2009 Council meeting and on page 31 of the 2009/10 draft Community Plan, that due to falling interest rates, the cost to ratepayers, as indicated in the 2008/09 Annual Plan, did not need to be increased. The funding information has been updated correctly in the 2009/10 LTCCP.

72.

In summary, there has been a reduction in PSF which has been offset by a \$15 million grant from Central Government. In addition, the total cost of the

stadium has increased and there is a reduction in other funding sources, both of which are funded by additional borrowings by the Council. When the stadium is completed, operational and transferred into DCVL, the debt servicing costs are not significantly different to those forecast at the time the 2008/09 Annual Plan was approved due to a reduction in interest rates. The cost to the average value residential property ratepayer is also unchanged.

SWORN at Dunedin)

this 7th day of August 2009)

before me:)



A Solicitor of the High Court of New Zealand

Nathan Mackay Laws
Solicitor
Dunedin

AJS2

Calculation of tax savings for first ten years of Stadium Operations

	Year 1	2	3	4	5	6	7	8	9	10
DCVL Taxable Income/(loss) \$'000										
Operating cash flow	5,664	5,137	5,069	3,883	3,778	3,394	3,325	3,378	3,345	4,720
Less:										
Stadium interest	(8,787)	(8,379)	(7,943)	(7,558)	(7,426)	(7,848)	(7,385)	(6,887)	(6,350)	(5,708)
Stadium depreciation	(3,554)	(3,554)	(3,554)	(3,554)	(3,554)	(3,554)	(3,554)	(3,554)	(3,554)	(3,554)
Tax loss before subvention payments and loss offsets	(6,677)	(6,796)	(6,428)	(7,229)	(7,202)	(8,008)	(7,614)	(7,063)	(6,559)	(4,542)
Group taxable income excl DCVL and DCHL (average prev years)	18,000	18,000	18,000	18,000	18,000	18,000	18,000	18,000	18,000	18,000
Less:										
Subvention payments and loss offsets	(6,677)	(6,796)	(6,428)	(7,229)	(7,202)	(8,008)	(7,614)	(7,063)	(6,559)	(4,542)
Taxable income	11,323	11,204	11,572	10,771	10,798	9,992	10,386	10,937	11,441	13,458
Tax @ 30%	3,397	3,361	3,472	3,231	3,239	2,998	3,116	3,281	3,432	4,037
Tax on \$18m, pre Stadium	5,400	5,400	5,400	5,400	5,400	5,400	5,400	5,400	5,400	5,400
Tax saving	2,003	2,039	1,928	2,169	2,161	2,402	2,284	2,119	1,968	1,363
Average annual tax saving	2,044									

EXHIBIT NOTE

This is the annexure marked "AJS2" referred to in the within affidavit of **ATHOL JAMES STEPHENS** and sworn at Dunedin this 7th day of August 2009 before me:

Signature:.....
A Solicitor of The High Court of New Zealand
(Solicitor to sign part on Exhibit)

AJS 3

Interest rates and interest expense

Interest rates have varied widely over the Stadium consultation phase. The assumptions used for public consultation documents are tabled below.

Table of Interest rate changes during Stadium consultation phase

DCC Plan	Status			Interest rate %
2007/08	Draft			7.25
2007/08	Final			8.50
2008/09	Draft			8.50
2008/09	Final			9.00
2009/10	Draft	Construction phase	1 st \$ 40m	9.00
			> \$40m	7.00
		Post construction		7.00
2009/10	Final	Construction phase	1 st \$ 40m	9.62
			Next \$50m	6.82
			Over \$90m	7.47
		Post construction	5 years	6.29
		Post construction	After 5 years	7.47

EXHIBIT NOTE

This is the annexure marked "AJS3" referred to in the within affidavit of **ATHOL JAMES STEPHENS** and sworn at Dunedin this 7th day of August 2009 before me:

Signature: 
A Solicitor of The High Court of New Zealand
(Solicitor to sign part on Exhibit)

'AJS 4'

EXHIBIT NOTE

This is the annexure marked "AJS4" referred to in the within affidavit of **ATHOL JAMES STEPHENS** and sworn at Dunedin this 7th day of August 2009 before me:

Signature:.....
A Solicitor of The High Court of New Zealand
(Solicitor to sign part on Exhibit)

	2007/08	2008/09	2009/19	2009/19
	Draft Annual Plan	Final Annual Plan	Draft LTCCP	Final LTCCP
INVESTMENT				
Cost of Stadium				
Stadium works, escalation, contingency, consultancy fees, trust costs, roof	168,000,000	168,000,000	169,081,000	169,378,000
Land acquisition costs	20,000,000	20,000,000	35,598,000	35,598,000
Less land and rental recoveries			(6,682,000)	(6,719,000)
Total Net Cost	188,000,000	188,000,000	197,997,000	198,257,000
Maintenance Fund Investment				
DCC/CCO (50 year capital maintenance requirement)	6,359,000	6,359,000	6,359,000	6,359,000
Total Including Capital Expenditure and Maintenance	194,359,000	194,359,000	204,356,000	204,616,000
FUNDING				
Funding of Stadium				
Dunedin City Council	85,000,000	85,000,000	99,660,000	98,475,000
Otago Regional Council	37,470,000	37,500,000	37,500,000	37,500,000
University of Otago	10,000,000	10,000,000	10,000,000	10,000,000
Community Trust of Otago	10,000,000	10,000,000	7,000,000	7,000,000
Private sector funding	42,530,000	45,500,000	43,837,000	30,282,000
Sale of Carlsbrook	3,000,000	0	0	0
Government	0	0	0	15,000,000
Subtotal - Funding for Capital	188,000,000	188,000,000	197,997,000	198,257,000
Maintenance Fund				
DCC/CCO (50 year capital maintenance requirement)	6,359,000	6,359,000	6,359,000	6,359,000
Total Funding Requirement	194,359,000	194,359,000	204,356,000	204,616,000
DEBT				
DCC/CCO Stadium Debt on Completion				
Debt relating to construction (including capitalised interest)	85,000,000	88,314,000	105,402,000	103,525,000
Maintenance Fund	6,359,000	6,359,000	6,359,000	6,359,000
Less Dividend from DCHL		(3,000,000)	(3,000,000)	
Total Debt on Completion	91,359,000	91,673,000	108,761,000	109,884,000