

**ECONOMICS AND INDUSTRY
STANDING COMMITTEE**

**INQUIRY INTO IRONBRIDGE HOLDINGS PTY LTD AND OTHER
MATTERS REGARDING RESIDENTIAL LAND AND PROPERTY
DEVELOPMENTS**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
THURSDAY, 8 DECEMBER 2011**

Members

**Dr M.D. Nahan (Chairman)
Mr W.J. Johnston (Deputy Chairman)
Mr I.C. Blayney
Ms A.R. Mitchell
Mr M.P. Murray**

Hearing commenced at 11.25 am

**WALLACE, MR IAN,
Ironbridge Holdings, Developer, examined:**

The CHAIRMAN: Thanks for coming, Mr Wallace. I will go through an opening statement. Thanks for your appearance before the committee today. This committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as contempt of Parliament.

Before we commence, there are a number of procedural questions that I need you to answer. Have you completed the “Details of Witness” form?

Mr Wallace: Yes, I have.

The CHAIRMAN: Do you understand the notes at the bottom of the form?

Mr Wallace: Yes, I do.

The CHAIRMAN: Did you receive and read the “Information for Witnesses” briefing sheet regarding giving evidence before a parliamentary committee?

Mr Wallace: Yes, I did.

The CHAIRMAN: Do you have any questions relating to your appearance before the committee today?

Mr Wallace: No, I do not.

The CHAIRMAN: The reason we are back here again is that evidence has come to light, I guess, in a *Fin Review* article of dividend payments during 2009–10 during a period when Ironbridge was having difficulty meeting their liabilities with unsecured creditors in the form of fencing and gardening and other things. After receiving that information we then asked you to come and answer some questions. Before that we have procured, just for your information, expert accounting advice so we can understand these issues. We have a whole series of questions that I will start going through and we will deal with them one by one. If you cannot answer them for some reason—technical, facts or data—we will ask you to come back and answer them on a different day. Depending on the answers, we may need to revisit this issue.

Starting off, would you like to make any comment in response to the issues raised in *The Australian Financial Review* article of 21 November 2011? This is a question that was sent to you?

Mr Wallace: Yes.

The CHAIRMAN: Is the article an accurate account? If not, in what respect is the article inaccurate?

Mr Wallace: First and foremost, the article is deliberately misleading about the use of funds generated by Ironbridge. It states that \$1.64 million was paid out of Ironbridge and distributed as a dividend to myself, members of my family or entities that I control, implying that these funds were somehow being diverted away from Ironbridge’s creditors—and you named the Dalyellup residences as one in point—and being used by me and my family personally. This implication is completely untrue. The entire sum of the dividend was distributed to me and my associate entities for the specific purpose of paying ATO tax liabilities. We have receipts confirming the payments made in line with the distribution as well as the confirmation by Ironbridge’s accountant that this was the purpose of the distribution and the dividend.

The CHAIRMAN: Just to clarify, which are the liabilities—your personal liabilities or Ironbridge liabilities?

Mr Wallace: Both.

Mr W.J. JOHNSTON: That does not make any sense. If the liability belongs to Ironbridge, why would Ironbridge not have paid the liability?

Mr Wallace: Why would it not? You pay it via the dividends.

Mr W.J. JOHNSTON: Sorry, that did not does not make any sense, because the dividend is a distribution to you as a shareholder and, of course, the whole idea of a limited liability company is that it limits the liability to the assets it owns. Mechanically how did the distribution to you as a shareholder pay for a liability of Ironbridge?

Mr Wallace: Perhaps I will take that question on notice; that is all I can do.

The CHAIRMAN: Just to clarify, the dividend was paid to the shareholders and you say it was used to pay ATO liabilities. Were the ATO liabilities due to Ironbridge? Were the liabilities accrued to Ironbridge Pty Ltd? The ATO liabilities that you claim the dividend payments were used to defray, were they liabilities accruing to Ironbridge?

Mr Wallace: No, they were accruing to myself and my wife and associated family interests.

The CHAIRMAN: For what businesses? Purposes related to Ironbridge?

Mr Wallace: Absolutely.

The CHAIRMAN: How?

Mr Wallace: But they would have related—look, I state that I am not an accountant. Perhaps I should take your question on notice; that is all.

The CHAIRMAN: But to get it clear, the dividends were paid to the ATO. We do not really have any interest in once the dividends are—our focus is Ironbridge, not your other businesses. What you are saying is that the dividends were paid out from Ironbridge to the shareholders and what I need to know is that you say that they were used to defray ATO debt, but once you take the money out of Ironbridge it does not relate to ATO debt accrued to Ironbridge.

[11.30 am]

Mr Wallace: Perhaps if I finish making my statement.

The CHAIRMAN: Okay, go ahead.

Mr Wallace: This is entirely in keeping with the statements made in my supplementary submission to the committee that any funds that were diverted from paying for fencing and landscaping were used to cover essential payments to creditors in order to prevent winding up, or dissolution, of the company or any other proceedings that may be caused by the non-payment of those sums. In this case, the ATO payments were to prevent the ATO taking any action against myself or my wife or the winding up of any other related entities which would have had the knock-on effect on Ironbridge. That is all I want to make in relation to that.

The CHAIRMAN: So the answer is that the dividend repayments made to the shareholders to meet the ATO liabilities that the shareholders incurred often and to some extent for non-related purposes, not purposes non-related to Ironbridge, and given that the covenants that you had to the bank were backed up with the shareholders' assets were backing up the covenants at the banks—right?—and other issues and Ironbridge was really supported by the assets and operations of the shareholders, you are claiming that you took the money on Ironbridge to meet the liabilities, in this case, ATO liabilities of the shareholders, so they would stay solvent so Ironbridge would remain solvent.

Mr Wallace: Absolutely.

The CHAIRMAN: Okay, let us go through some other issues. I just want to clarify the amounts referred to in the article about dividend payments are right.

Mr Wallace: Absolutely.

The CHAIRMAN: Okay. Let me just for the record here quote the timing and size of those—\$1.641 million and that was paid in 2009.

Mr Wallace: Yes.

The CHAIRMAN: And \$180 000 in 2010.

Mr Wallace: I think we are talking about *The Financial Review* article at the moment, are we not?

The CHAIRMAN: Yes. I am just —

Mr Wallace: I think that only referred to the 1.64.

The CHAIRMAN: Did Ironbridge make a dividend payment in 2010?

Mr Wallace: I think we are jumping to one of your future questions.

The CHAIRMAN: I am just going down the list and that was a question provided to you. Has Ironbridge Holdings made dividend payments for financial years 2006–07 through 2010–11?

Mr Wallace: Yes, sure. Yes, we have.

The CHAIRMAN: So you made another dividend payment in 2010?

Mr Wallace: Yes, we have.

The CHAIRMAN: And that was 180 000?

Mr Wallace: That is right.

The CHAIRMAN: Okay. Are you planning to make a dividend payment in 2011–12 or did you make one in 2011? We do not have access to your accounts; that is another issue I will go through later.

Mr Wallace: 2011—there was a dividend payment of 51 000.

The CHAIRMAN: Have you prepared a financial statement financial year ending 30 June 2011; if so, have these been lodged with ASIC and can you provide the committee a copy of these?

Mr Wallace: They have been prepared. They have been lodged with the ATO and accepted by ATO. I think lodging with ASIC is subject to the audit and the audit is being done at the moment.

The CHAIRMAN: How many registered shareholders does Ironbridge Holdings Pty Ltd have?

Mr Wallace: Three.

The CHAIRMAN: Okay. Who are these three registered shareholders?

Mr Wallace: Myself; my wife, Carolyn Margaret Wallace; and, I Wallace and Associates is trustee for the Ian Wallace family trust.

The CHAIRMAN: Have there been any changes to the registered shareholder list since 2007?

Mr Wallace: No.

The CHAIRMAN: Was Ironbridge Holdings subject to a wind-up application from a company called Croker Construction (WA) Pty Ltd in February 2009?

Mr Wallace: Yes.

The CHAIRMAN: With the exception of the recent dismissed ATO case, have there been any other wind-up applications lodged against Ironbridge Holdings since February 2009?

Mr Wallace: Perhaps there have been and I will just go through the list.

The CHAIRMAN: Yes, thanks.

Mr Wallace: First of all, Croker Construction commenced on February 2009. It was withdrawn in April 2009. Tasman Civil commenced in June 2010. That was withdrawn in September 2010. Debt was paid to Tasman Civil and this would have been withdrawn, but an application for substitution was made by Marsh Civil. This commenced in September 2010 and was withdrawn in December 2010. And there was a small application from a firm called Thompson McRobert Edgeloe, which commenced in early 2011 and was withdrawn in April 2011.

Mr W.J. JOHNSTON: Could I just clarify that each of those applications were withdrawn after you settled debts with those organisations?

Mr Wallace: That is right.

The CHAIRMAN: Can I go back to an issue—it was the first question—about what the dividend was used for? You said that the dividend paid, at least from 2009, was paid to meet ATO liabilities of the shareholders.

Mr Wallace: Yes.

The CHAIRMAN: And the reason for that was to avoid the bankruptcy of the shareholders or insolvency in the shareholders—right?

Mr Wallace: That is what would happen if you did not pay the debt.

The CHAIRMAN: Yes, I know. Why is the solvency of the shareholders germane to the operation of Ironbridge?

Mr Wallace: I think I had better take that on notice. I do not know the technical answer to the question you are marking—asking.

The CHAIRMAN: So you will—it is very important—go and get advice from your accountants or other sources as to what that is.

Mr Wallace: Yes.

The CHAIRMAN: In the first instance, written would be—let us see whatever comes up—adequate. It is an undertaking to go talk to the people—the accountants, I suppose—who advised you on that.

Mr Wallace: That is right.

The CHAIRMAN: Okay. Prior to 2009, Ironbridge's financial statements were relayed to ASIC in compliance with all the regulations. However, in 2009 financial year it was not lodged until September 2011. In other words, during, the accounts that indicated of the dividend payment of 1.64 in 2009 was not available, from ASIC at least, to unsecured creditors until this year—September 2011. What happened? Why did you not lodge the 2009–10 accounts prior to September 2011?

[11.40 am]

Mr Wallace: I had better—I think it may have been—I will just have to take that question on notice.

Mr W.J. JOHNSTON: When you are reviewing that issue, it would be helpful, too, to know why you signed the financial statements on 14 September 2009 but the auditor did not sign the statement until 21 September 2011.

Mr Wallace: I think that was implied in Mr Nahan's statement.

Mr W.J. JOHNSTON: No, this is a specific question.

The CHAIRMAN: I referred to lodging it with ASIC.

Mr W.J. JOHNSTON: This is a specific question. I want to know what happened between 14 September 2009, when you signed the director's certificate, and 14 September 2011—sorry, 21 September 2011—over two years later when the auditor signed the report. I want to know what transpired between those two years.

Mr Wallace: I will take your question on notice.

Mr W.J. JOHNSTON: Yes, I understand that.

Mr Wallace: I will get it back from my accountant.

The CHAIRMAN: And your accountant is —

Mr Wallace: Charters.

The CHAIRMAN: Charters. Can you explain why you did not raise the 30 June 2009 dividend payment when discussing factors that impacted the company's cash flow when you appeared before the committee previously? Why did we hear about it in the press? Whatever your explanation, the issue—the whole debate—was the adequacy of cash flow to meet the liabilities of your firm. You discussed various impacts on your cash flow—Water Corp, the banks and what not—but you did not mention, for whatever purpose, the withdrawal of the cash in the form of dividends.

Mr Wallace: There was no particular reason. I do not think I was asked and I am not sure that I would have remembered at the time anyway.

The CHAIRMAN: We had no capacity to know.

Mr I.C. BLAYNEY: I think the point is more that if you are talking to a company that might be experiencing cash flow problems, the last thing you would expect them to be doing is paying out a dividend. That is the way I would see it.

The CHAIRMAN: Was the 2009 dividend payment enabled exclusively by a drawdown of the company's retained earnings—or retained profits?

Mr Wallace: I think I had better take that on notice.

The CHAIRMAN: Okay. I think the question is retained profits, not earnings. What prompted you to declare this dividend in 2009 when gross revenue from land sales had fallen by 33 per cent over that year? Would this sharp drop in land sales suggest that cash flow difficulties were imminent?

Mr Wallace: I think I had better take that on notice, too.

The CHAIRMAN: Mr Wallace, the questions are going to get more technical and intricate. It can get complicated. I think it would be best if you brought expertise. It is not satisfactory to have all these questions pile up.

Mr Wallace: I have not been given these questions beforehand, so I have not had time to research what you are talking about.

Mr W.J. JOHNSTON: Can I just put it to you that in a year when your company lost \$100 000—I will rephrase this—I would put it to you that it is a surprise that in a year that your company lost \$100 000, that you at the same time paid \$1.64 million in a dividend.

Mr Wallace: Again, I will have to take that on notice. It is a technical question that I do not know the details of.

Mr W.J. JOHNSTON: It is not a technical question.

Mr Wallace: You are asking me about something that happened three years ago.

Mr W.J. JOHNSTON: No, I am asking you very simply, as a layperson, do you think it is surprising that in the year that a company loses \$100 000, at the same time it pays out \$1.64 million in dividends to its shareholders?

Mr Wallace: I just have to take your question on notice.

Mr W.J. JOHNSTON: So you do not have any opinion as a layperson on that issue?

Mr Wallace: No.

Ms A.R. MITCHELL: Could I ask you what prompted you to declare this dividend in 2009 when the gross revenue from land sales had fallen by 33 per cent over that year? Would this sharp drop in land sales not suggest that cash flow difficulties were imminent?

The CHAIRMAN: I already asked that one, did I not?

Mr Wallace: Again, it is another question that, honestly, I have not been given before and I have not had time to think about it, so I will have to take it on notice.

The CHAIRMAN: Mr Wallace, you are one of the leading shareholders of the assets here. You are the manager and you signed the accounts. I know that this is complicated and it happened three years ago, but it was during a crucial period when you had to make a lot of decisions with respect to the firm and these are the crucial decisions that we are trying to explore. You signed the accounts. You should know these things. If you could not answer them—some of the details were provided to you—you should have brought advice. What I am going to do is go through all these questions that we need answers to. We will put them on the record, we will send them to you for completion and we will notify you that we will probably ask you to come back with professional advice. There are some limits, we understand, to the types of professional advice you can bring. Legal advice is acceptable. They have to be sworn in as a witness but they cannot answer the questions. We will also, if you bring your accountant—we need your accountant here, obviously, to answer these questions. We will ask you to come with your accountant or legal adviser or whatever, and have that person sworn in as a witness, and the accountant can also answer questions directly, if you so wish.

Mr Wallace: Sure.

The CHAIRMAN: I will go through these questions and you can answer them as much as you can now; we encourage you to. However, we will go back at these questions. Your answers recognise that you will have another chance with your advisers next to you answering these questions. Prior to the declaration of the payment of dividend in 30 June 2009, did the directors assess the solvency of the company to determine whether the company would be able to meet its current and future debt liabilities, as and when they fell due; and, if so, was this assessment of future cash flow documented? There is a solvency test that firms must meet before they pay dividends. One of those is to estimate the cash flow, given all the available information at that time, for the next 12 months or so to see whether it is positive, before a payment of a dividend is allowed under the Corporations Act. Did you undertake that cash flow assessment as part of the solvency test, and has that been documented?

Mr Wallace: Again, you are asking me to recall something that happened three years ago. I would have to go back and look at our records associated with it.

Mr W.J. JOHNSTON: Could I ask, in respect of the 2010–11 accounts, which you say are currently at the auditors, did you do that assessment?

Mr Wallace: Of course.

Mr W.J. JOHNSTON: And would you have done it last year?

Mr Wallace: I would presume so. I will just have to go back through my notes, as I have said.

The CHAIRMAN: What was the rationale behind the authorising of a further dividend of \$180 000 on 30 June 2010 after gross revenues from land sales had fallen a further 21 per cent over the 2009–10 year? Why did you pay the dividend? What is the justification for the dividend in 2010?

[11.50 am]

Mr Wallace: Again, all dividend payments have related to ATO payments.

The CHAIRMAN: ATO payments—with liabilities with the shareholders?

Mr Wallace: No; not necessarily. I have a note here in relation to 2010.

The CHAIRMAN: Again, just on your notes, I have a hard time understanding why the ATO liabilities of shareholders are germane to Ironbridge.

Mr Wallace: Sure.

Mr I.C. BLAYNEY: Almost the other way around as well: why are the tax liabilities of Ironbridge being paid by the directors?

The CHAIRMAN: If they are.

Mr I.C. BLAYNEY: I would have thought that Ironbridge, if it has got a tax liability, will pay its own liability and then would declare a dividend, which is what companies do. The shareholders would only pay tax on the difference between the degree to which the dividend is franked and the marginal rate that they were paying. That is something. You are obviously going to say that that is a technical question and you use professional advice to answer that, but I still cannot quite get my head around why Ironbridge is not paying its own tax liabilities; it is being handed to directors and then they are paying it. I am not quite with that.

Mr W.J. JOHNSTON: Particularly when taxation payments are shown in the accounts.

Mr Wallace: All I can do is take your question on notice and go back to our notes in the files.

The CHAIRMAN: How many formal complaints, Consumer Protection, for late or non-delivery of incentives—that is, package items—has the company been subject to since 30 June 2010?

Mr Wallace: Twenty-one formal complaints were received by the Department of Commerce by 30 June 2010.

The CHAIRMAN: Had your company already been engaged in conciliation with Consumer Protection by 30 June 2010?

Mr Wallace: Our first recorded contact with Susan Arthur from Consumer Protection, Department of Commerce, Bunbury, was on 26 February 2010. In early March 2010 the matter was referred to Consumer Protection, Perth office. On 18 March 2010 a meeting with two members of the branch of Consumer Protection at our offices occurred.

Mr W.J. JOHNSTON: Can I just clarify? Was that 18 March date the first conciliation?

Mr Wallace: I am not sure that I would term it as conciliation. We were asked to meet two officers from Consumer Protection to run through data.

Mr W.J. JOHNSTON: The question on notice you were given was: had you already been engaged with Consumer Protection by 30 June 2010? Had you been engaged in conciliation by that date? Are you saying you were or you were not?

Mr Wallace: We were.

The CHAIRMAN: What you are saying is that the first date was not necessarily a conciliation; it was a meeting, but other meetings took place after that.

Mr Wallace: No, the only meeting that has ever taken place was on 18 March 2010. The rest were discussions over the phone.

The CHAIRMAN: Was that an act of conciliation when you sat down and tried to ameliorate your liabilities, that Consumer Protection negotiates with you to identify your outstanding liabilities and for you to explain how you are going to meet them?

Mr Wallace: That is right.

The CHAIRMAN: Prior to the declaration and payment of the dividend on 30 June 2010, did the directors assess the solvency of the company to determine whether the company would be able to

meet its future and current debts as and when they fell due? If so, was this assessment of future cash flows documented? Did the directors' assessment of the future cash flow on 30 June 2010 include the liabilities to meet the fencing and landscaping obligations?

Mr Wallace: Look, again, unfortunately, if I had been given these questions beforehand, I would have had all the written responses to them. I will just have to take it on notice.

The CHAIRMAN: Where in the company's 2009 and 2010 financial reports have you provision for the moneys needed to meet the debt owing on outstanding fencing and landscaping packages and court orders?

Mr Wallace: Again, I will have to take your question on notice.

The CHAIRMAN: Where in the company's 2009 and 2010 financial reports have you provision for the bank guarantees held by Water Corp? Were these bank guarantees taken into account in the insolvency assessment for 2009 or 2010 financial assessments?

Mr Wallace: They usually are, but again, I do not recall that detail. It is better if I have the exact facts in front of me.

Ms A.R. MITCHELL: Did you bring any financials with you for this hearing?

Mr Wallace: No, I was not asked to.

Ms A.R. MITCHELL: Seeing as it was about financials, I thought you might have brought some information with you.

Mr Wallace: I had a list of questions that had been given to me. I have answers to those questions. I really did not know that other questions would be associated.

The CHAIRMAN: We did reserve the right to ask other questions.

Mr Wallace: Yes.

The CHAIRMAN: I am going through a number of these questions to get them on the *Hansard*, and then we will send them to you in writing. Some of the questions you have answered, so we will not ask those again. What are Ironbridge Pty Ltd's retained earnings figures for the financial year ending 2011?

Mr Wallace: Again, I will just have to go back to my accountant.

The CHAIRMAN: Given the delays many of your customers have endured, would you consider drawing down the company's retained earnings to meet the outstanding obligations for fencing and landscaping and to pay off your company's outstanding orders?

Mr Wallace: Again, I will have to take that question on notice.

Mr W.J. JOHNSTON: Would you consider it?

Mr Wallace: The fact is that we have been doing all the work.

The CHAIRMAN: You have testified previously that you have not drawn directors' fees nor paid your sales staff in wages since the company experienced cash flow problems. However, your cash flow statement for 2009 and 2010 indicates that payments to suppliers and employees are over \$20 million and \$12 million respectively.

Mr Wallace: Again, there would be a lot of breakup in that. Again, if I had been asked these details before —

The CHAIRMAN: I am putting these on *Hansard* and you can just say you will come back to us.

Mr Wallace: Sure.

The CHAIRMAN: How much of these amounts were employee payments? How much of these employee payments went to wages? Did you draw a wage from these figures? How many

employees did the company have across these two financial years? Did the company meet all the obligations to pay employees superannuation within the specified time during the 2009 and 2010 financial year?

Mr Wallace: I will take your question on notice.

The CHAIRMAN: In the 2009 financial statements you value your inventories, land sales, at net realisable value, but qualify on page 12 that the carrying figure may not be realised if the properties have to be sold on a fire sale prices basis—that is a statement of your accounts. Based on your 30 years' experience in the industry, what diminution of your inventory value would you expect if you were forced to sell your land holdings, which represents 99 per cent of your assets?

Mr Wallace: It is not an easy question to answer. It depends on the value attached to the particular property at the time. It can vary hugely.

The CHAIRMAN: Can you explain why there is no impairment of the company's inventories in 2009 and 2010 given the large fall in land values post the GFC, particularly in light of the fact that such impairments were common in industry at that time? We have looked at other listed firms, property firms. Almost without exception they have listed impairments, which is an accounting term, as I understand it—you might know it.

Mr Wallace: Yes.

The CHAIRMAN: Stockland and others. You did not list or indicate any impairments.

Mr Wallace: All our holdings at that time were reported at purchase value.

The CHAIRMAN: The impairment, as I understand it, is if the book value falls below cost. If there is a difference between your book value and cost—in other words, you are losing money on it—the accounting is to list impairment. Are you saying that you undertook an assessment of the book value or the value of the properties and that they were always above costs?

[12.00 noon]

Mr Wallace: Certainly I am aware that the auditor always asks those questions, and the questions have to be supported by independent valuations, not directors' valuations. I am sure that the conclusion was arrived at after referring to those independent valuations.

The CHAIRMAN: Could you provide us a copy of those valuations?

Mr Wallace: Sure; if that is necessary.

The CHAIRMAN: At your previous appearance you vigorously defended questions about the solvency of your firm; however, the independent auditor's opinion of your financial statement submitted to ASIC on 22 September 2011 said —

There is significant uncertainty as to whether or not the company will continue as a going concern for at least the next 12 months, given the company remains reliant on the ongoing support of its lenders, shareholders and creditors.

Can you explain why you did not acknowledge this independent auditor's opinion when you last appeared before the committee?

Mr Wallace: I suppose, really, all I can say in relation to that is that I would note that Ironbridge did remain solvent and did survive the financial year 2010–11, exceeding Moore Stephens' outlook, and a lot of this was—otherwise I had better take your question on notice.

The CHAIRMAN: Yes. Do you acknowledge or refute the validity of the audit opinion? Again, you can take that on notice.

Mr Wallace: Yes—obviously, I do.

The CHAIRMAN: Has the waste water pumping station now been commissioned?

Mr Wallace: It has been completed. It has been accepted by the Water Corporation, and the Water Corp has agreed to refund 95 per cent of the bank guarantees; and that apparently is due to happen over the next couple of days. The term “commission” has not yet been accepted by the Water Corp. The Water Corp has got to do some tests, but they have accepted all the work that has been done and —

The CHAIRMAN: And 90 per cent of the money will be released from the water authority during this month?

Mr Wallace: The bank guarantees will be released; yes.

The CHAIRMAN: What will be the immediate cash flow impact of this receipt of the moneys—the release of the bank guarantees? Are those bank guarantees a draw on your cash flow?

Mr Wallace: No; they are more of a —

The CHAIRMAN: An asset liability.

Mr Wallace: Yes.

The CHAIRMAN: Will the release of the commissioning have an impact on your cash flow?

Mr Wallace: Indirectly it will, because it enables the titles to be created.

The CHAIRMAN: But it will not have an injection directly of cash from the commissioning?

Mr Wallace: No.

The CHAIRMAN: And once the bond covering the construction cost is removed, it is basically a removal of a liability from your balance sheet.

Mr Wallace: That is right.

The CHAIRMAN: As per your undertaking at the previous hearing, have you now written to all affected residences advising that all outstanding fencing and landscaping obligations will be completed within the next six months?

Mr Wallace: I will as soon as this bank guarantee is returned in the next couple of days.

The CHAIRMAN: Why is that relevant? How does that enable you to meet these obligations? If it is just a transaction on your balance sheet and not a change in cash flow, why does the commissioning allow you to come up with cash to meet these liabilities?

Mr Wallace: It just gives me confidence in relation to the titles being created and the next stage going on.

The CHAIRMAN: Does it actually lead to more money coming in—cash?

Mr Wallace: No. It just leads to more equity being created, and that leads to more money coming in directly from somewhere else.

The CHAIRMAN: Do you expect the commissioning to allow you to have more sales or higher sale values of the land?

Mr Wallace: Not higher sale values, but it will lead to settlements occurring.

The CHAIRMAN: So it will lead to income coming in?

Mr Wallace: That is right.

The CHAIRMAN: You provided another undertaking at the previous hearing that the outstanding court orders would be paid within a couple of weeks after the waste water pumping station is commissioned. Have these outstanding court orders been settled?

Mr Wallace: No; they will be settled before Christmas.

The CHAIRMAN: So when the commissioning is done, you will stand by this commitment?

Mr Wallace: Yes; absolutely.

The CHAIRMAN: For confirmation: when they are settled could you indicate to us and provide us —

Mr Wallace: Sure.

The CHAIRMAN: In your supplementary submission you argue that the Water Corporation required a bond for the construction of the waste water processing station, but determined that it would also require that Ironbridge construct the pumping station by a certain date. Water Corp—from the advice that we have from Water Corp—claims that Ironbridge chose to design and construct the asset under a customer-constructed work agreement in order to expedite the release of the next lots of titles. Would you like to comment on this? In previous evidence you said that Water Corp required you to construct it.

Mr Wallace: The Water Corp requires the developer to do this work.

The CHAIRMAN: Water Corp has told us that it was going to construct it in the fullness of time; that you chose to construct it yourself to expedite the construction and get quicker release of those titles; and that it agreed to it but put bonds on you.

Mr Wallace: I am not sure that that really is quite the fact. The sequence was Water Corp entered into what they call a CCWA with us, whereby they agreed to bond the construction of the pump station—you are asking me to recall facts from a way back—and we agreed to do that. We provided the bonds and then the Water Corp said, “No, we are not going to accept those; we want you to go ahead and construct the pump station.”

The CHAIRMAN: That is a question.

Mr Wallace: Yes.

The CHAIRMAN: Could you check your records?

Mr Wallace: It is absolutely correct.

Mr W.J. JOHNSTON: Do you mind providing us with the correspondence that Water Corp sent to you on that issue?

Mr Wallace: No trouble at all.

Mr W.J. JOHNSTON: That would be great.

The CHAIRMAN: Have you applied to the Magistrates Court to have any property seize-and-sale orders suspended?

Mr Wallace: No.

The CHAIRMAN: In relation to the court orders you have provided to the committee, do the assets registered on the property seizure and sale orders remain in your possession?

Mr Wallace: Yes.

The CHAIRMAN: Does Ironbridge Holdings Pty Ltd own the landholdings for your other developments in Toodyay and Victoria?

Mr Wallace: I will just go back and be specific on that. Certainly in Toodyay, yes. Your question refers to Toodyay —

The CHAIRMAN: And Victoria.

Mr Wallace: And Victoria; it referred to Highton Ridge and Surf View. We do not own Highton Ridge any longer—that was sold—and Surf View we do.

The CHAIRMAN: Can you confirm the year in which Ironbridge commenced sales from The Tuarts estate?

Mr Wallace: I would just —

The CHAIRMAN: Take it on notice.

Mr Wallace: Yes, okay; I do not have that sitting right in front of me.

Mr W.J. JOHNSTON: I would just like to clarify a question regarding the guarantees that you provided to Water Corp. I understand there is the one that we have been discussing about the waste water treatment plant, but I also understand that you provided one for \$200 200 in respect of cartage of —

Mr Wallace: That is right.

Mr W.J. JOHNSTON: Could you just explain to us what happened that Water Corp needed to draw on that second bond?

Mr Wallace: Sure. As you are aware, the pump station took a lot longer to construct than was originally anticipated. In the meantime, we were liable for carting waste—I forget the term that is applied to it. We paid for that cartage for about 18 months. We ran short of money at one stage, and we had provided a bank guarantee associated with that. Water Corp called upon that bank guarantee. That was paid, and it has used that capital and has to account back to us as to how —

[12.10 pm]

The CHAIRMAN: They did draw down the money?

Mr Wallace: Yes; absolutely.

The CHAIRMAN: Did they just keep it in a trust fund or they did use it?

Mr Wallace: I have no idea; they do not tell you.

Mr W.J. JOHNSTON: Would you describe that as a default on your obligations?

Mr Wallace: Absolutely, as I would describe Water Corp's default on their obligations.

Mr W.J. JOHNSTON: I am not quite sure what that means. You were obliged to pay for the transport, and you did not, and so they had to take the money off you anyway?

Mr Wallace: Yes.

The CHAIRMAN: The 2009 and 2010 financial statements were not provided to ASIC, at least—therefore not to the public and to your creditors—until September 2011.

Mr Wallace: Yes.

The CHAIRMAN: I would like to know why. My question is: is it because the directors were unable to make the required solvency declarations for the previous two years at the time they were due?

Mr Wallace: No, definitely that was not the statement.

The CHAIRMAN: You signed the 2009 accounts in 2009; the auditor did not sign them until September 2011. Was that delay related to your ability or otherwise to give declarations of the solvency of the firm?

Mr Wallace: No.

The CHAIRMAN: I suggest you get expert advice on that, too, just like the other ones.

Mr Wallace: Sure.

Mr W.J. JOHNSTON: Mr Wallace, how long have you been a company director?

Mr Wallace: Thirty years.

Mr W.J. JOHNSTON: The last time we talked, you were giving your commentary on the way that the industry works and the way that LandCorp is getting developers to provide these incentive packages on the sale of land; do you remember doing that?

Mr Wallace: Yes.

Mr W.J. JOHNSTON: And you were doing that because of that extensive experience as a director of a land development company?

Mr Wallace: Experience in the industry in Perth, yes.

Mr W.J. JOHNSTON: Yes, and that is a very extensive block of knowledge and experience that you have in that way?

Mr Wallace: That is right.

Mr W.J. JOHNSTON: As a professional director, you have a good understanding of the obligations of a director?

Mr Wallace: Of course.

Mr W.J. JOHNSTON: And you have built up a substantial body of understanding of the obligations on directors?

Mr Wallace: Of course.

Mr W.J. JOHNSTON: So, questions that go to such essential issues as the solvency of your company, they are things you have a clear understanding of as a director?

Mr Wallace: Yes.

Mr W.J. JOHNSTON: And you are satisfied that as a director you have sufficient information to make the various declarations and complete all the information you are required to do?

Mr Wallace: That is right.

Mr W.J. JOHNSTON: And you have had professional advice all the time on those sorts of issues?

Mr Wallace: In relation to accountancy, yes.

Mr W.J. JOHNSTON: And in relation to legal matters, you have had professional advice on those topics as well?

Mr Wallace: I am not sure what you are referring to here.

Mr W.J. JOHNSTON: Do you feel that there are any inadequacies in your understanding of corporations law?

Mr Wallace: I do not think so.

Mr W.J. JOHNSTON: Right.

Mr I.C. BLAYNEY: If I may, I will just ask a question that follows on a little bit. The company's 2010 financial statements include a director's declaration that is dated, and the actual date is not completed. Instead of 2010 or 2011, it has "201", and then an empty space. You will have to go back and look at it to convince yourself of that, I suppose, but if that is the case, I am just really surprised that, first, that gets through an accounting firm, and then it gets past an auditor. I would just be curious to hear if either of those organisations would like to comment on how that happened.

Mr Wallace: Sure, I will have to take —

Mr I.C. BLAYNEY: It is an incomplete date, and my understanding is that it does have implications to the validity of various things if that date was not completed.

Mr Wallace: Yes, it surprises me completely.

Mr I.C. BLAYNEY: If you could perhaps just include that in your discussions, if you like, with your professional people.

Mr Wallace: Sure.

The CHAIRMAN: Thanks for your evidence before the committee today, Mr Wallace. A transcript of this hearing will be forwarded to you for correction of minor errors; we think it should get to you by Monday. Please make these corrections and return the transcript within 10 working days of the date of the covering letter. If the transcript is not returned within this period, it is deemed to be correct. New material cannot be added via these corrections, and the sense of your evidence cannot be altered. You will be providing additional information; the transcript will list these questions that I put, and I will send you another letter listing those questions that you have agreed to provide information on. We might ask some additional questions; there are a lot of them there, so I do not think there will be too many, but we might ask some more. You will provide additional information and elaborate on some of these points, so you will be providing a supplementary submission for the committee's consideration when you return your transcript and your response to the letters. We are likely to ask you to come back with expert advice; we will look at your response first. If we ask you to come back with accounting and legal advice, they will have to be sworn in as witnesses. If it is legal advice, then all the responses will be provided through you; the lawyer does not address the committee—I am letting you know what the procedure is. It is just like the committee clerk does not ask questions, but he whispers in my ear all the time. The accounting or financial adviser can be sworn as a witness and answer on behalf of Ironbridge, if you direct them to.

Mr Wallace: Sure.

The CHAIRMAN: That is to be discussed with your advisers. If you have any question about the procedures, please contact Tim; he is always in contact with me. Thank you very much for coming.

Hearing concluded at 12.16 pm
