



Transcript of Proceedings

CRIME AND MISCONDUCT COMMISSION

MR R NEEDHAM, Chairman

No 5 of 2005

PUBLIC HEARING INTO GOLD COAST
CITY COUNCIL

BRISBANE

..DATE 29/11/2005

..DAY 25

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THE HEARING RESUMED AT 10.38 A.M.

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CHAIRMAN: Yes, Mr Mulholland?

MR MULHOLLAND: Chairman, I call Dale Dickson.

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DALE ROBERT DICKSON, SWORN AND EXAMINED:

MR MULHOLLAND: Could you state your full name, please?-- Dale Robert Dickson.

Mr Dickson, have you been served with an attendance notice in relation to today's proceedings?-- Yes, I have.

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Would you have a look at this document, please. Is that the notice?-- I believe so.

I tender that.

CHAIRMAN: That's Exhibit 305.

ADMITTED AND MARKED "EXHIBIT 305"

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MR MULHOLLAND: You were in addition asked to provide a statement and any documentation to the Commission; is that correct?-- Correct.

And did you do that?-- Yes, I did.

Would you have a look at this statement which is dated 10th November 2005 together with a short letter enclosing that statement together with supporting documentation. Is that material that you supplied to the Commission?-- It appears so without validating all of the attachments of which there are many.

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It looks like the material?-- Yes.

I tender that, Mr Chairman.

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CHAIRMAN: All that material will be Exhibit 306.

ADMITTED AND MARKED "EXHIBIT 306"

MR MULHOLLAND: Thank you. Mr Webb intends to ask Mr Dickson some questions first.

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CHAIRMAN: Yes, thank you, Mr Webb.

MR WEBB: Thank you, Mr Chairman. I've accepted the offer made by counsel assisting to do so. At the outset, might I just offer to you, Mr Chairman, a document that will make this much easier to follow. This is an exact copy of the document that - of which you have the CMC generated copy. The advantage is you'll be able to see where the exhibits are.

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CHAIRMAN: Thank you.

MR WEBB: It's got Mr Montgomery's name on the front. I take it you won't take an exception-----

CHAIRMAN: Thank you for that. It is fairly difficult to follow which is the particular annexures without something like you have here.

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MR WEBB: I found it quite impossible.

CHAIRMAN: Thank you.

MR WEBB: The witness also has a copy which he - I'll be asking him to refer to, a copy of the document that he originally submitted.

CHAIRMAN: Thank you.

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MR WEBB: There's another matter I should mention and ask permission for the witness. He has - and you'll hear a little bit about his personal history, not much, at the end of his evidence. He has a back condition that means sitting for any sustained period is extremely difficult and painful for him, and I've found that he has to perform all sorts of exercises and get up and down. I thought I should ask your permission could he stand up from time to time or do his exercises, and that's the explanation for it.

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CHAIRMAN: Yes, certainly, Mr Dickson, do whatever you need to, and if you need an adjournment at any time, just say so and we will adjourn.

MR WEBB: That statement that you tendered dealing with matters, Mr Dickson, are the facts set forth in that true and correct with one update as to one attachment, or there is another document generated, but apart from that document, are the facts true and correct or do you believe them to be true and correct?-- I believe them to be true and correct.

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Thank you. Normally, I'd make a tender under Section 92 of the Evidence Act, sir, but of course it doesn't apply strictly. I want to take you to that statement, Mr Dickson, initially. Do you have a copy of the document?-- Yes.

And you also have, as you heard me tell the Commissioner, a copy of your original document of which it will be easier to refer to exhibits if you are asked about any exhibits?-- Yes.

May he have permission to refer to that copy for that purpose?

CHAIRMAN: Certainly.

MR WEBB: If the questions are asked, and they'll be by others, not me.

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Would you go to page 3 of your 15 pages, please. At point 5 of that page, you speak of a request having been made of Lionel Barden and you say there, "I have not yet received a response from the letter sent to Mr Barden." Is that so?-- Correct.

That was correct at the time you made that statement?-- That's correct.

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Have you since received this document?-- Yes.

And so far as you are concerned, that matter has been finalised?-- That's correct.

I tender that letter, if it please the Commissioner.

CHAIRMAN: Yes, that will be Exhibit 307.

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ADMITTED AND MARKED "EXHIBIT 307"

MR WEBB: Thank you. Now, would you-----

CHAIRMAN: There's no date on this letter.

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MR WEBB: No. Could you tell us when that was received, please?-- I can't give you an absolute date. I'd have to confirm with my office. I did raise the same issue at the time, and they would have notated on the - in the record the date that we actually physically received it. So, I'd have to check with my office.

CHAIRMAN: Well, it's been received some time between your letter of 11th of November and today?-- That's correct.

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MR WEBB: All right. I take it that really narrows the field sufficiently.

CHAIRMAN: I think so, Mr Webb.

MR WEBB: Now, I want to take you then to the last whole paragraph at that page, that's page 3. This concerns discussions between your Mr Tony Davis and Mr Chalmers leading

ultimately to asking Ms Scott to furnish further information in accordance with the suggestion made by the Local Government Association officer who's named in your statement; is that so?-- Correct.

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Did you make some inquiries of two of your officers, and you've mentioned their names in here I think, namely Mr Montgomery and Mr Davis?-- Yes.

In relation to just what was their understanding or misunderstanding between, firstly, themselves and then Mr Chalmers on the other hand?-- Yes, I was aware of discussions that took place between the two of them.

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And discussions with Mr Chalmers?-- That's correct.

Who had discussions with each of them, I think?-- As I understand it, with Mr Davis.

Right, Mr Davis spoke to Mr Montgomery. There was more than one discussion between each group?-- That's right, Mr - I'm certainly aware that Mr Davis spoke to Mr Chalmers directly and Mr Davis spoke to Mr Montgomery.

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All right, did it become apparent - you're not a lawyer, I'll come to your qualifications later, but you don't carry that particular qualification?-- That's absolutely correct.

Was it apparent to you when this matter was looked at more closely that there appeared to be some misunderstanding between the three parties as to what type of trust account was under discussion. That is whether it was a general trust account or a specific trust account?-- Yes, that'd be a fair - fair statement.

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But in the end it really came to nothing because of the advice that you deal with later in this statement received from the Local Government leading to Ms Scott putting in an amended return?-- That's correct.

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Thank you. Now, I'd like you to go to - that in fact appears at page 7 of 15, that's so-----?-- Yes.

If you look at the second whole paragraph. That was the end of the matter so far as firstly, Mr Davis was concerned and it was resolved satisfactorily so far as you were concerned?-- Yes.

I didn't go through - and I don't intend to go through all of your statement, because it's there, it's tendered, but just so this is meaningful in the record, what was Mr Davis' position in relation to this particular transaction?-- His - his original view, as I understand it, was that-----

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No, no, his position, what role or title?-- I beg your pardon, he is now the manager of the office of the CEO.

Right, at that time he was?-- I'd just have to confirm what period of time we're talking about because his title has changed.

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At the time of the elections, that will - the elections we're concerned with here, I mean?-- I believe he had the same title. He has some different responsibilities-----

All right?-- -----but he had the same title.

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And he had the responsibilities looking after the returns of those successful candidates-----?-- That's right.

You had delegated that to him?-- Yes.

You believe you have power to make such a delegation?-- Yes.

And you had delegated the third party returns and the unsuccessful candidates to a Mr Bignon - Baynon?-- The unsuccessful candidates, certainly. The third party returns I'd just have to-----

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I think you're saying there that-----?-- I'd have to check my submission to see if I made some comment about that. It was certainly one or the other.

All right, again you believe you have the power to do that under the Local Government Act?-- Yes.

All right. Now would you go to page 13 of 15 item F. I don't want to open this up in any detail but at the date that you signed this document, was that issue outstanding?-- Yes.

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And is it still outstanding?-- Yes.

Thank you. I want to go to some of the matters which have been raised here in the hope of clarifying them. Firstly, in relation to the witness James Kelly, did you write as requested by the Commissioner to the Commissioner-----?-- Yes, I did.

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To the Commission, I'm sorry, it may have been to the Commission, I don't have a copy here, but you wrote in any event in response to that request for information?-- Yes, I did.

Thank you, and the matters as set out, were they accurately recorded in that letter?-- Yes.

Now, a matter that's been - I should ask you because it appears in some memo - some emails and some of your exhibits, who is Conrad Martens?-- Mr Martens is the Council's fraud prevention officer.

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Right. Now can we go to the matter of the last meeting of the last - of the previous Council? That's the meeting of 19th March 2004. Firstly, a copy of these minutes have been furnished to the Commission. We received a request late

yesterday and they've now been furnished. I'd ask the witness to look at this document please. There is one there for you, Sir.

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CHAIRMAN: Thank you, Mr Webb.

MR WEBB: We supplied a copy, but there's - Mr Mulholland has one. We haven't copied the extensive document, it's probably unnecessary. Do you recognise that document as being a document of the previous or of the Council but under previous stewardship?-- Yes.

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And would you look at page - you know the issue that the Commission's been hearing about. This came from or commenced with Councillor Sarroff's evidence that he snatched a document from your hand and ultimately it seemed to be agreed by everyone that there was no motion moved as such but there was a procedural motion moved in the course of that meeting so the infrastructure charges could be discussed, infra charges policy - infrastructure charges policy. You're generally aware of the evidence that's been given about that?-- Generally aware, yes.

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All right, and you received a request relayed through your solicitor yesterday afternoon to produce a copy of the document that was allegedly by Councillor Sarroff snatched from you and which we've heard some evidence about. Do you recall this meeting?-- The council meeting?

Well, I'll come to that. There were three meetings on that particular day, is that so?-- As best I recall, yes.

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Well, I'll deal with them chronologically so we can set the scene properly. What was the first meeting?-- First meeting was a meeting involving one councillor and a number of officers, including myself. The-----

Right. Were those officers all from one area or more than one area?-- No, they were from various arms of the organisation.

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Right. And this is the first meeting that occurred that day. Was it in the morning, is your memory good enough to tell us that?-- It's not that good. I don't absolutely recall it was on that day but I do recall a meeting in a morning and I, to the best of my recollection, believe it was the same day as that Council meeting.

Right. Well, who was the Councillor-----

CHAIRMAN: When you say it was the first meeting, are you meaning the first in point of time on that day?-- Mr Webb referred to three meetings-----

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Yes. But when you say then the first meeting was, do you mean the first in order-----

MR WEBB: Point of time?-- Yes. In point of time. I beg your pardon, yes.

CHAIRMAN: The Council meeting seems to have been at 10 o'clock so presumably the other one had to be before 10?-- That's correct.

MR WEBB: There are two others, I thought I'd mentioned those, having put them in chronology, if I didn't I apologise. So there was this meeting and who was the Councillor who was present?-- Councillor Power.

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All right. And was there some general discussion?-- There was.

And was that concerning various representations that had been made to him?-- As I recall, yes.

Well, you needn't go into the details at this stage. And at the end of that - did that meeting finish on a note whereby there was a request for an agenda item to be prepared?-- My recollection is that I agreed to prepare a draft motion for a Councillor to bring forward to the Council meeting.

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All right. Did you make it plain at that time or at a later time that you would not be advancing that nor asking one of your Council officers to advance that motion?-- That's correct.

Was it at that meeting or the next meeting?-- Both.

So that's how the first meeting finished. Was there then a second meeting at which the Mayor Gary Baidon attended?-- There was a second informal meeting-----

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Well, the first one was informal, was it not?-- Yes-----

Is it unusual for Council officers and yourself and Councillors to have informal meetings?-- Not at all. Not at all.

Can we go to the second in point of time?-- Yes.

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Gary Baidon was there?-- Yes.

Who else was there?-- As I recall Councillor Sarroff. I was there, I can recall Mr Montgomery being there. Beyond that I don't have a recollection of other people but I have a general recollection that there were a good number of officers and some Councillors-----

Were they the same officers who'd been at the first meeting?-- No.

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Was it a complete shift change or there were some left over and some new ones joined or-----?-- There may have been but I don't recall.

And do you - can you tell us so we can narrow this right down where this informal meeting was held?-- It was held in what is

described as the Councillor's lounge which is within the same building that the Council Chambers are. It's a meeting room.

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Do you recall having Councillor Sarroff snatch, take, relieve you of, whatever, a piece of paper?-- No.

Do you recall having any particular piece of paper with an agenda item or a possible notice of motion at that time?-- I don't recall that, no.

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Well, since you don't recall it this might seem excessive but can you say whether there was a handwritten document or a typed document or-----?-- No.

You have no recall of Councillor Sarroff taking it from you?-- No.

Well, to some of us it might seem that's an unusual thing not to remember, it'd be something that would - normally if someone took a paper from me I think I'd probably remember that though other people mightn't. Is there any reason?-- I can only say there's much theatre attached to Gold Coast City Council and that would - that was merely one day in many days so I don't have a recollection of that particular incident.

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Right. I don't want to take you to talking about particular Councillors - you maintain do you a role where you are - you're there to serve and assist them as best you can?-- Yes.

With no preferences for one over the other-----?-- Yes.

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-----in terms of answering requests?-- Correct.

Just if you remember that if you need at some time in your evidence to speak of personality to explain actions do so because otherwise the Commission may be misled. So you don't remember what's been described in evidence as a piece of paper being taken off by Councillor Sarroff, photocopied and circulated to two other Councillors?-- No, I don't have a recollection of the document.

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All right. May have occurred, you just don't remember?-- May have occurred.

Now, can I take you then to page 59 of these minutes which I've handed to you. See a procedural motioned, move Councillor Power, seconded Councillor Robbins, that the standing orders be suspended. Do you remember that that occurred?-- I have a general recollection of what transpired.

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Was the City Solicitor present at that meeting?-- He may have been. As a general practice he attends Council meetings.

Thank you. For the purpose of giving you advice or giving the meeting advice?-- Yes.

Both purposes?-- Both.

Thank you. Well, do you recall that there was some discussion about the infrastructure charges?-- Yes.

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And do you recall Gary Baidon speaking to the matter?-- I don't have a recollection of what - of individual Councillors speaking to the matter.

All right. But was there some concern voiced by at least some that the persons who were affected by these matters sought to have the introduction phased in, in stages?-- Yes.

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Or something to that effect?-- Yes, yes, something to that effect, yes.

In any event no motion came forward?-- Not that I recall, no.

Well-----?-- The minutes don't-----

-----you don't recall it and the minutes don't show it?-- Yep.

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I'm going to ask you a little bit about those sorts of procedures in a moment. Was it a particularly heated discussion that took place?-- Not-----

Strong views being expressed perhaps not heatedly?-- I wouldn't classify the discussion as particularly heated.

In any event-----

CHAIRMAN: Sorry, you would or would not?-- Would not.

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Would not, thank you.

MR WEBB: All right. So, in any event no-one saw fit to move the thing forward and so nothing appears as to the discussion in the minutes?-- That is correct.

Now, is that usual procedure at meetings of the council where there is no formal activity moved and seconded, and carried or lost, or - and I'll come to a term that I think you and I might have different views on - resolved?-- Mmm.

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Is that - if none of those formal things occur, then nothing appears in the minutes other than the topic might be discussed as appears here? You don't even show here, "discussion ensued"?-- That's correct.

All right, and is that the normal procedure and has it, in the time you've been involved, which I'll come to shortly, for the council, or for two - at least two councils?-- There isn't a practice of recording discussion. We record in the minutes the decisions and other related aspects.

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All right. Now, I want to - just so the Commission will be properly informed as to how procedures are advanced in the council - you have a number of standing sub-committees?-- Yes.

And, of course, you have the council meeting in caucus and the whole body?-- Full council we describe it as, yes.

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Full council?-- Yes.

So, at - I'll deal with it in the stages - matters pertaining to a particular sub-committee's area of interest are dealt with at - by that sub-committee?-- Yes, we refer to them as standing committees, yes.

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And the standing committees consider reports prepared by council officers?-- Yes.

Or information that a particular councillor may introduce?-- That's right.

Relative to that particular standing committee?-- Yes.

Now, if a matter is discussed and nothing is done about it, is that recorded in any way, apart from being on the agenda?-- No.

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If matters are discussed and then a motion is moved, is that recorded?-- Yes.

If there's a report for that whole meeting which is, I believe, is the way that it's done - it's an agenda with attached reports?-- Yes.

Is that the way it's done at the Gold Coast City Council?-- For - for standing committees?

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For standing committees?-- Yes, an agenda is prepared. That agenda comprises one or more officer reports. Right?-- And it makes provision for general business which will be matters that may be brought forward by, generally, councillors.

All right. Matters contained in - are different agenda items individually moved?-- Yes.

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And either - they're carried or they fail. Is the mover of the motion at a standing committee level recorded?-- Yes.

And seconder, I suppose?-- As a general practice, yes. There may be some variations to that, but that is generally the practice, yes.

All right, and so we go through the meeting. Now, what happens next in terms of record?-- Well, the minutes of the meeting are compiled and they are presented by way of a report to the full council meeting-----

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All right. Who compiles-----?-- -----for consideration.

Sorry?-- They are compiled under the - the responsibility sits with a senior officer. In practical terms there is an administrative person who takes the minutes of the meeting and

they would prepare those minutes under the supervision of a more senior officer as a general practice.

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Are the minutes - is the business taped?-- Not for-----

Electronically recorded?-- The council meetings are. I'm not aware that any standing committee meetings are. They may be but I'm not aware-----

Thank you. Now, when those minutes have been prepared and - if I may use the term - processed, do they go to an electronic system which then produces the minutes for the council - the full council meeting?-- Yes, they are. We put - we ultimately prepare the agenda for the full council meeting in hard copy form and each councillor receives the council agenda which comprises, amongst other things, individual reports from standing committees.

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All right, and then - and I already dealt with, in respect of one matter how things proceed at council, but are votes - I'm sorry. For a matter to go forward it must be moved at the council - at the full council meeting?-- Moved and seconded.

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And are those who voted for or against recorded?-- Not necessarily - if a division is called.

Well, if a division is called then the individual names are moved?-- Yes, are recorded.

Are recorded, I'm sorry?-- In terms of voting for and against and those that might have abstained and are therefore taken to be voting against. Alternatively, there will be individual councillors who would request that they - that their name be recorded as voting generally against a particular motion, so there's no division called, but individual councillors have that right-----

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All right?-- -----and we would accommodate them.

But I'm interested in - you mentioned the abstentions. If a person abstains by some process, as you understand it, is that under the Local Government Act, or something else, deemed to be a vote against?-- Yes.

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Do you know where that comes from?-- I just can't recall off the top of my head whether it's the Act or our meetings local law.

Okay. All right. Well, perhaps it doesn't matter. Now, most organisations can also move by way of resolution. That is, where there is no - a matter may be introduced, say, in general business, raised - there's a clear indication as to what those at the meeting consider, and it is simply resolved without a formal motion. Now, is there any such procedure that you're aware of whereby that has been done in council?-- Well, it would - the local provides - or the local law and the local law policy would provide for motions to be moved and seconded before they are debated or considered, and

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that should be the practice. There may be some informality at standing committee meetings from time to time, but that is the local law position. That should be the practice.

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Right. Do you use the term "resolution" to mean where a motion has been moved and has been carried or lost, so that the matter is resolved? It's a term you use, I've noticed?-- Yes. Yes.

You don't use the term in the way in which I've attempted to describe it to you?-- No.

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Thank you. Now, I tender the minutes - if I haven't already done so, Sir - of the council meeting of the 19th March 2004.

CHAIRMAN: They will be Exhibit 308.

ADMITTED AND MARKED "EXHIBIT 308"

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MR WEBB: Perhaps while I'm dealing with more formal matters, have you had prepared the number of reports considered by council and its standing committees as at - this council, since its inception - as at 25th November 2005?-- Yes.

Would you have a look at this document, please?

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MR RADCLIFF: While that's being taken up, could I see Exhibit 308 when it's been marked, please?

MR WEBB: I'll provide my copy to my learned friend. I'll just put my claim on it. Is that the information that has been prepared for you?-- Yes.

And does that generally - the numbers, that generally in accord with your understanding of where the numbers would be?-- Yes.

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CHAIRMAN: Over what period is this?

MR WEBB: The life of this council to the 25th of November, 2005.

CHAIRMAN: Right, okay, thank you.

MR WEBB: I tender that.

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CHAIRMAN: Exhibit 309.

ADMITTED AND MARKED "EXHIBIT 309"

MR WEBB: Now, those reports in for, say, the planning, environment and transport, could be from an application to erect a - a duplex - what used to be called a duplex anyway, probably got a fancy new name now - to multi-storeyed buildings?-- Well, they would be reports relating to applications that were dealt with by council rather than by delegated authority.

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Thank you?-- By officers.

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Now, would you have a look at this document, please? Did you have another - did you also ask that all applications be dealt with in another document? That so?-- Yes.

That's - all reports in this case dealt with by the Planning Environment and Transport Directorate?-- All applications.

All applications, I beg your pardon?-- Yes.

And that's - that's the total number listed there?-- Yes, for a particular period, which doesn't correlate with the current council.

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No. Is that-----?-- But it is close. Correct.

Yes. It commences January 2004 up to November 2005?-- Correct.

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All right. I tender that, if it please the Commission.

CHAIRMAN: Exhibit 310.

ADMITTED AND MARKED "EXHIBIT 310"

MR WEBB: Now, it may seem that that's - to some that's a large number; others may say, "Oh yes, ho hum", and so we've heard some discussion already from witnesses that - what's the - where does the Gold Coast City sit in sizes of cities in Australia?-- As a city I understand it's the sixth largest.

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Right. Where does it sit in terms of councils - size of councils?-- In terms of?

In terms of, say-----?-- In budget terms?

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Say in terms of budget and full-time equivalent staff?-- As I understand it we're the second largest council in Australia.

Which is the largest?-- Brisbane.

Right. How many employees does the council have at the present time, give or take whatever might have occurred since

you got the information?-- In the order of 2,800 full-time equivalent employees.

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So there may well be more numbers of people because there may be four part-time-----?-- That's right.

Where in another council there would be one person?-- That's right.

And you do have numbers of part-timers in the Gold Coast City?-- Yes.

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That information incidentally is sourced from the manager of human resources-----?-- Yes.

-----in the Gold Coast City Council?-- Yes.

Size of budget?-- Current financial year, in the order of \$812 million thereabouts.

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Right. Are there - I don't quite know the correct term here, but there are awards made by various bodies to different councils throughout Australia; is that so?-- Yes.

Have you listed - or had listed, collected and prepared the awards received by this council in the period April 2004 to November 2005?-- Yes.

Have a look at this document, please. There's a copy for you, sir. Does that deal with the awards that have been received over that period?-- Yes, it does.

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All right. I tender that, if it please the Commission.

CHAIRMAN: Exhibit 311.

ADMITTED AND MARKED "EXHIBIT 311"

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MR WEBB: Excuse me a moment, sir. While we're talking about procedures - sorry, just before I went to that I was dealing with the way in which minutes are prepared and recorded and are prepared electronically. You are only too aware of a little confusion that has occurred because of the way in which minutes are prepared electronically in this Commission in relation to the matter of Carn River. There's been a lot of to-ing and fro-ing to get the exact agenda item that went to council?-- Yes.

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Now, could you explain - I don't want to take a lot of time on this and if you go as quickly as you can; when the minutes are prepared from a meeting of a standing committee, if that committee acts further on it before it gets to council, is that then recorded electronically at the end of the minutes from that standing committee?-- That's my understanding of the

practice. What you're referring to, as I understand it, are changed recommendations, so at officer level there is a recommendation; at committee - standing committee level there is some amendment or change to what is recommended and that change is recorded electronically, yes.

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Now, eventually did you cause to be obtained from the mayor's office a hard copy of the agenda item, agenda item dealing with Carn River in council?-- Yes.

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That is the document that came forward from the Standing Committee Finance? Sorry, beg your pardon. I was talking about Yarradene, I apologise, I can understand the confusion. I was confused, I apologise. Yarradene, the Yarradene?

CHAIRMAN: Do you mean - do you mean Yarrayne?

MR WEBB: Yarrayne. It's - may he see Exhibit 250. Did you eventually obtain a hard copy of the Standing Committee agenda that was presented to the full council?-- Yes.

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I just ask you to look at this document and confirm. Is that the hard copy that you caused to be obtained?-- Yes, it is, I believe so.

I just want to take you to the - leaving aside the cover sheet on the second-----

MR MULHOLLAND: Sorry, what's the exhibit number? I missed that.

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CHAIRMAN: Two fifty

MR MULHOLLAND: Thank you.

MR WEBB: Item 1 which - well, it's the third page of the exhibit, it's the second page of text after the frontispiece. Now you see that there was a note there of amendment of the recommendations. That notation on the - if anyone searched your website and obtained the electronic copy does that notation appear at the end of the minutes rather than in this position?-- It may. There would be potentially a difference between the electronic version of our minutes, various minutes, and what we refer to as the minute book which is our bible, if you like, which is the-----

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It's the repository of the hard copy of the minutes?-- Yes, which should represent the absolute point of truth.

Right?-- As a record of all deliberations.

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All right. But is there something in the system that electronically some items might not be printed in exactly the same order?-- That's right. What we do electronically for ease of reference is, as I understand it, we combine with the record of committee deliberations or committee minutes details of any changes that are made at either committee level or

council level relating to matters on that - considered by that committee. 1

CHAIRMAN: Sorry, at committee level or?-- Or at council level.

At the full council level?-- Yes. So you might - we might in effect have an officer's recommendation that might well be changed at Standing Committee level and then it may again be changed where the matter is considered by the full council because the council has not delegated to any of its standing committees the power to effectively make decisions. All - all matters from standing committees are merely recommendations for the full council. 10

MR WEBB: All right, but-----

CHAIRMAN: But can I ask on that? You say the officer's recommendation may be changed?-- Yes. 20

Are you meaning the committee-----?-- The - sorry.

-----moves and resolves that in fact a condition be a different condition to what the officer recommended?-- Yes, yes.

They don't go back and physically alter the council-----?-- No. No, I beg your pardon, they don't.

-----the officer's recommendation?-- That's correct. 30

They just adopt a different recommendation?-- That's correct.

And then, of course, the council can alter it again?-- That's correct.

Yes, all right.

MR WEBB: And because of the way that's done sometimes do - an alteration appears at the end of a report rather than where it - a purist would say it should be inserted rather than-----?-- Yep. 40

-----retype everything at that stage?-- The electronic version, the electronic repository of minutes of Standing Committee meetings and council minutes may be different in form to the minute book. That might mean that the page numbers are different because there are insertions for convenience and ease of reference in the electronic version. That's - that's, as I understand it, the only point of difference. 50

All right. Everything is there but it might be found in a different place?-- It might be in different order.

Or a different page?-- Yes.

Well, that's probably the same thing.

CHAIRMAN: But Mr Webb, I wasn't clear. You refer to an item on this page. Can you just make clear which item on this page 3 you're referring to?

MR WEBB: It's the recommendations, it's the last - the last full paragraph, sir.

CHAIRMAN: "The recommendations have been amended in compliance with the committee resolution above," that paragraph?

MR WEBB: Yes. That was the notation to the minutes that I asked about earlier, and I think I finally got - yes, it was there but in the electronic version it's found at the end. This caused at least me some difficulty understanding it that's why I've attempted to explain it through this witness.

CHAIRMAN: Wasn't there evidence that the committee resolved in a particular way, and the way I understand the evidence, and correct me if I'm wrong, was that the committee resolved in a particular way and subsequent to the meeting, and that was different to the officer's recommendation, subsequent to the meeting it was found out that that change had an unintended consequence?

MR WEBB: Not quite but nearly there, if I may-----

CHAIRMAN: Yes.

MR WEBB: -----say. There were two conditions, condition 1 and condition 40(d), and condition 1 called for the provision of the same things that were dealt with by 40(d). Some members of that subcommittee then went out with council officers on site.

CHAIRMAN: Yes.

MR WEBB: And I've lost this term again - what sort of drain was it? Swale drain.

CHAIRMAN: Swale drain, yes.

MR WEBB: I think of that as a spoon drain. It's swale anyway. And it was seen then and those present agreed that the swale drain area was a perfect place to put more - an acceptable, I won't say perfect - acceptable place to put the water entrapment-----

CHAIRMAN: Treatment devices.

MR WEBB: Entrapment areas to allow sedimentation to occur and with the obvious benefit. Well, I'm not going to talk like a town planner but you can see that there are benefits from having material-----

CHAIRMAN: Yes.

MR WEBB: Alluvial material deposited in a grassed area. And so then the council officers said yes and this change was made. But-----

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CHAIRMAN: Yes, well, that's basically as I understand the evidence. And so they - as I understand it what was put to Councillor Sarroff was that an amendment was then made to the minutes-----

MR WEBB: Yes.

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CHAIRMAN: -----to reflect this sort of negotiated outcome.

MR WEBB: That's correct. That's what I put, I think.

CHAIRMAN: And that was the query I raised, that they can amend council minutes without letting the councillors who were at the meeting, at the committee meeting even know that this is done.

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MR WEBB: Well, it was a standing committee but those same councillors, of course, are then - they received the agenda and it has the notation there-----

CHAIRMAN: Yes.

MR WEBB: -----in the minutes of the sub-committee, plus the notation-----

CHAIRMAN: Yes, all right.

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MR WEBB: -----which explains what occurs. And I think to be fair to him, Councillor Sarroff was looking at the electronic version-----

CHAIRMAN: Yes, but the only query I had, and I don't think it's really relevant to this hearing, is that if one is doing that it seems to me strange that you go back and amend the minutes to record something that was never part of the meeting; why the change isn't just made at the full council meeting that followed.

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MR WEBB: Yes.

CHAIRMAN: Introduce the change at the full council meeting and explain it and let the council adopt it. But that seems to be the way the council does its business, so be it.

MR WEBB: No, no, it did its business once this has arrived.

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CHAIRMAN: I see, did its business.

MR WEBB: The - it's been noted and rather than use the notation system, as I understand it, the different procedure will apply, so that that comes up.

CHAIRMAN: All right.

MR WEBB: And there's been a lot of time expended on this - well, perhaps I won't make an address at this stage.

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MR RADCLIFF: If it assists you, your comments in relation to the Yarrayne matter were found at 2067 of the transcript.

CHAIRMAN: Look, I don't have the transcript with me, so-----

MR RADCLIFF: No, no.

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CHAIRMAN: Thanks. Thank you.

MR WEBB: I hope I haven't confused matters, I hope I've clarified them and could the witness now pass that exhibit back?

CHAIRMAN: Certainly.

MR WEBB: Now, I want to go to the matter of the Sunland rates. Have you caused - probably a lot of concern - but some council officers to go back and review some documentation that they either generated or reported upon?-- That's occurred, yes.

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Could you have a look at this document, please?

MR MULHOLLAND: Well, Mr Chairman, I must object at this. We've had a succession of material introduced this morning without any notice to counsel assisting that these documents were going to be produced. Now, it's standard procedure, and one shouldn't have to repeat this, that if - if it is intended by any legal representative to produce a document in their witness's evidence, then advance notice ought to be given to the Commission of that document - a copy ought to be given, particularly in relation to something like the Sunland matter, which has been the subject of repeated cross-examination of various people.

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So far as I know, if this document is going to alter the store of knowledge that we have in relation to Sunland, that will create a considerable problem because many witnesses have been cross-examined without the benefit of this material and if the proposition that Mr Webb is wishing to advance by the document that he's now going to introduce - that is to say if it's relevant in some way - then that is something which should have been raised with these witnesses and we should have been informed of it. And let there be no mistake so far as the future progress of the Commission is concerned, if anyone is going to produce a document counsel assisting should be provided with that document as soon as possible and in advance of the hearing, and indeed only a few witnesses now remain but this is becoming an increasing tendency in the last few days of documents just being produced and put to the witness.

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Mr Dickson - and he perhaps personally is not to blame here - but Mr Dickson knew of the Commission's interest in relation to these matters and documents that the Commission had asked for. If this document was relevant to Sunland it should have

been produced long before now, and if there was some necessity for a delay in relation to the matter, well the Commission should have been advised of it.

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Now, I don't know what this document is going to say but having regard to its importance, if it is going to attract some relevance, then we'll obviously want to consider what is now produced to the Commission.

MR WEBB: Can I answer that?

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CHAIRMAN: Just - if I can make a couple of comments first. I endorse what you say, Mr Mulholland, and, Mr Webb, I'm concerned about a couple of matters here. Councillor Young - Councillor Young made a very good point when he was questioned, I think by you, about this matter. He made the very good point that what is relevant is the material that council had before it at the time that it reached its determination on that day. I'm not suggesting that we shouldn't bring out if it is the fact that what was presented before the council was wrong, that will naturally have some overall relevance, but the main points of relevance is what was the material before the council at the time it's made its decision, because it is only on that material that the council's decision can be judged. It would be unfair to the council to judge it on material that it was not aware of at that particular time that was not brought before the council.

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So that means any material subsequently basically is irrelevant and secondly, I'm a little bit concerned at the term that you used when you prefaced your question by saying to the witness as to whether he had caused officers to revisit their opinions they'd expressed.

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MR WEBB: I didn't say their opinions.

CHAIRMAN: Well-----

MR WEBB: My learned friend has taken the point and I acknowledge the point, but I have had some experience and I've put the content that this deals with to this Commission and this is the clarification; there was no other letter from Sunland, it clarifies the Falcon matter.

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CHAIRMAN: Well-----

MR WEBB: It my learned friend had have waited-----

CHAIRMAN: If - if-----

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MR WEBB: -----because we provided them with the only other-----

CHAIRMAN: Mr Webb, if you'd put it to other witnesses it means that you've had it in your possession for some time.

MR WEBB: I know.

CHAIRMAN: And that makes stronger the point that's made by counsel assisting, that if you'd had it in your material for some time there was absolutely no reason why it wasn't provided to counsel assisting.

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MR WEBB: No, no, with respect, can I say what the matter is and then we might be able to move on?

CHAIRMAN: All right.

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MR WEBB: This is the question of the Falcon letter, the Falcon Group letter. This is addressed by the officer who says she made some wrong assumption and she says there was no letter from Sunland, there was a letter - now, I made a statement to you, sir, that that is what occurred. I did not have her statement at that time, all I had was some instructions, and actually I'd looked at it and I'd seen that it said "Falcon Group" and it wasn't a Sunland company. I made some inquiries about that, but-----

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CHAIRMAN: Well, can I say that-----

MR WEBB: -----I'll withdraw the revisiting and put a neutral word. I thought I'd put an accurate word. Simply this witness has gone back to the officer who reported to council and the report was actually misleading in that the Falcon letter was described - you'd recall this.

CHAIRMAN: But-----

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MR WEBB: I've dealt with all of this.

CHAIRMAN: -----this has all been dealt with, but may I say that to me the Falcon letter is irrelevant.

MR WEBB: Well-----

CHAIRMAN: All that shows is this; the letter went to level 18.

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MR WEBB: Yes.

CHAIRMAN: We know that by that time Sunland was no longer occupying any offices on level 18. We know that in fact they had 12 months previously moved from level 18 to level 15. And for some reason, which only they could explain, if it can ever be explained, seven months after their move from level 18 to level 15 they still put in - they still put in to council that their address for services of notices on their form 24 was level 18. That's an error on the part of Carn Land and Carn Land - Carn River should live with that error.

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Now, no one in the council seems to have looked at it that way, that it was just a basic error on the part of Carn River. Now, I don't care whether it - whoever it went to on level 18; whether it went to Falcon, or whether it went to Sunland or to Billy Bloggs, that's all irrelevant. It went to the address that Carn River gave to the council. Mr Abedian's point that

all other matters were addressed by the council to their P O Box number with respect to Carn River is also irrelevant, because if you look at his list they're applications for other things that they'd have written to the council and given their address as P O Box whatever, and the council, of course, on those matters, some of the other two and a half thousand employees outside the rates area would have sent correspondence back to the address on the application by Carn River. So, you know, to me the whole matter is very simple.

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MR WEBB: Mr Chair, I'm just reminded, you asked me to find out where this letter from Sunland that is referred to, incorrectly as it turns out - I've simply carried out your request.

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CHAIRMAN: Yes, all right.

MR WEBB: And it's not a controversial matter or I would have given the-----

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CHAIRMAN: Mr Webb, go ahead and produce it, but will you learn from this and in any future matter - and this applies to everyone here - please produce matters to counsel assisting prior to producing them in the hearing.

MR WEBB: Well, we got this yesterday afternoon. It was not controversial. That's the only reason I didn't hand it on to my learned friend, just as I didn't hand on all that statistical information because he couldn't possibly want to do anything with that. Now, may I hand a copy for you, sir, and the original. Since I've already made a statement to you about it, sir, really it reminds one of a Shakespearean play title.

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Now, you asked Paula Deveson who was the officer who prepared the report to address matters; is that so?-- Yes.

Or asked her director?-- I had people under my authority ask that question, yes.

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And that's what's been produced?-- Yes.

I tender that, if it please the Court - if it please the Commission.

CHAIRMAN: Yes. Exhibit 312.

ADMITTED AND MARKED "EXHIBIT 312"

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MR WEBB: Now, would you have a look at this document, please. Now, that is a document that simply deals with the process for receiving development applications which was requested of the appropriate officer. It explains the term DART and things of that nature?-- In summary terms, yes.

I tender that, if it please the Commission.

CHAIRMAN: I'm sorry, what is this, process?

MR WEBB: It's the process - summary of the process for receiving development applications. That fits in. I started to go through it.

CHAIRMAN: Yes.

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MR WEBB: But then I moved on because I thought then I'd simply tender it at a later stage. It's to do with in part this suggestion of non-following of a practice of protocol.

CHAIRMAN: Can you remind me. I'm not following you in respect of which matter.

MR WEBB: Councillor Young complained that he was being cut out of-----

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CHAIRMAN: I see, all right. Now I understand; thank you. I understand the context in which you're referring to it.

MR WEBB: I don't think you've given it an exhibit number, sir.

CHAIRMAN: No, that will be Exhibit 313, thank you.

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ADMITTED AND MARKED "EXHIBIT 313"

MR WEBB: Now, I just want to conclude by obtaining your personal details. You were born on 3rd January - 3rd July 1962?-- Yes.

What qualifications do you hold?-- I hold a Bachelor of Business in Local Government.

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Where was that from?-- That was Royal Melbourne Institute of Technology.

Is that now a university?-- I believe so, believe so.

What else do you have?-- I have a Graduate Diploma of Management from the University of Central Queensland.

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Yes. That's now called, I think, Capricornia University?-- It was; it is now called University of Central Queensland.

It's gone the other way; I apologise. Yes. Do you have another degree in that area?-- I have a Masters Degree in Public Policy and Management.

And where is that from?-- That's from Monash University.

Right. Were you first the CEO of the Whitsunday - is it Shire Council or-----?-- Shire Council, yes.

Fine. When was that?-- I was with the Whitsunday Shire Council from late 1993 to early 1999, from memory, or early - sorry, early 1994 to early 1999, about five years. I wasn't CEO formally for all of that period but for most of that time I was for the other part of that period a director of acting CEO.

Right?-- A large amount of that time.

When did you join the Gold Coast City Council?-- March 1999.

In what capacity or what-----?-- As Director, City Governance, as it was then.

Right. What is it now?-- It's the same title but it is significantly different to - as an arm of the organisation to what it was when I first came to the position.

And did you then become CEO, Chief Executive Officer?-- Yes.

And when was that?-- That was 4th July 2003.

Independence Day. Have you - in addition to those studies, have you some other achievements; you've been a member of two Australian football clubs - the Melbourne Football Club and the Bears Football Club?-- Correct.

From 1981 to '86 the former, and '87 to '89 the latter, and you played in total 86 AFL games?-- Yes, and of those about five good ones.

Right. Have you from time to time been called upon in various areas to deliver speeches or-----?-- Yes.

-----address matters. Are you a professional, full time, local government officer?-- My career, my working life has been in local government. It commenced with the degree, earning a degree at RMIT and moving through local government both in Victoria and in Queensland.

All right. Well, I didn't go back into your local government history in Victoria, but that's your career, in that area. That's the evidence.

CHAIRMAN: Thank you, Mr Webb. Mr Mulholland?

MR MULHOLLAND: Thank you, Mr Chairman. Mr Dickson, you've recently been asked about Sunland and you have had tendered Exhibit 312. Do you have a copy of that there?-- I have a - yes, I believe so.

This is from Ms Deveson?-- Yes.

Who was one of the officers who had provided a report in relation to this matter, is that correct?-- She was the author of the report, yes.

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And what she says in this latest statement of the 24th of November 2005 in paragraph 8 is this - let me set it in context - paragraph 7, she says, "Based on the contents and wording of the letter" - this is a letter from Falcon - "I assumed, wrongly as it now turns out, that the Falcon Group was a representative of the Sunland Group," and then she goes on in paragraph 8, "Whether the Falcon Group were or were not representing the Sunland Group would not have been regarded by me as relevant to the decision made by me to reject the request for the discount. The Falcon Group letter further confirmed what the earlier letter from the Sunland Group dated 18 June 2004 had confirmed, namely, that the rate notice had been sent to the registered address." Now, you know of course that that was the Council officer's recommendation that the discount not be allowed and that that was maintained through the course of this affair which went on for months. You know that by reference to the material which no doubt you've had; is that correct?-- I've got - I've got the document that you refer to, I've got a copy of the report-----

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And you-----?-- -----which goes back to 2004, so.

You would have had a look I take it at Exhibit 34 that was tendered here?-- Sorry, what is Exhibit 34?

Exhibit 34 was the documentation in relation to - that was tendered here in relation to Sunland. Did you lawyers make you aware of Exhibit 34?-- I'm not - I don't recall that particular exhibit, I'm sorry.

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Right. Well, anyway, it's the document which sets out relevant documents associated with the Sunland discount matter. You say that you haven't referred to it?-- I haven't - I don't recall perusing that document. It just doesn't come to mind, I'm sorry.

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Now, Mr Dickson, what I want to ask you is this, you are aware of the Council officer's recommendation that the circumstances here did not amount to circumstances beyond the person's control in the terms of the relevant section of the Local Government Act; you're aware of that?-- Yes.

Do you support that view of the Council officer's?-- I understand that view. Yes, I would support that view.

Did you support that at the time?-- No. I didn't have a direct interest in that particular issue. It was first considered as I understand it at the relevant standing committee - that is, the finance committee. I wasn't there as I recall. It then came to the Council meeting and I was present for the debate on the issue at the Council meeting but in terms of having a direct interest in that particular issue I didn't. We have directors who are responsible for the reports and in this particular case we have a director who

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reports to me who took responsibility for that particular matter coming forward and that director in practical terms is there to answer any questions at the Council meeting and at the standing committee meeting.

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Who was that Council officer?-- That's Mr Finlayson.

Now, were you made aware also of Exhibit 203 which is a document tendered here comprising a memorandum from Cassandra Kenyon dated the 9th of November 2005; have you seen that document?-- I'm generally aware of it. I don't recall reading it in any detail. I'm generally aware of that particular matter.

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You know that in this memorandum which was tendered she says this, "While there has been a number of instances where discount for late payment has been granted due to special circumstances Council officers are unable to identify any situations in the past where the circumstances identified by the rate payer in the Carn River case warranted the discount being awarded pursuant to section 1021 of the Local Government Act." Did you read that in that memorandum that-----?-- I don't recall reading that particular memorandum in any detail but I - I wouldn't have any difficulty with those particular remarks.

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Yes?-- They're understandable.

Now, you - in relation to these meetings I can tell you that the meeting of the committee was on the 9th of November 2004 and the meeting of full Council was on the 22nd of November 2004. You attended the meeting of the 22nd of November not the one of the 9th of November?-- That's correct.

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Now, were you - was there any lawyer present to your recollection at that full Council meeting?-- Not to my recollection. It may have been because our practice was to have Mr Montgomery attend Council meetings but I - I don't recall that he was actually there.

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Well, I take it that having regard to the importance that has attached to it during the course of this - these hearings - that you would have searched your recollection for any memory that you have as to what occurred at that meeting of the 22nd of November; have you done that?-- Yes.

What do you recall of that meeting?-- I recall a debate about the particular issue and I recall in general terms the decision.

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Now, were you asked at that meeting by anyone to express a view in relation to the Council officer's recommendation?-- Not that I recall, no.

And your position was at the time that you left that to your officer-----?-- On that-----

-----who was present at that meeting?-- On that particular issue, yes.

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So you neither supported nor did not support that Council officer's recommendation, you didn't really have the detailed knowledge-----?-- No, I didn't.

-----in relation to the issue, is that what you're saying?-- That's correct.

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Can I ask you about this infrastructure charges issue; this concerns the draft resolution. You know the matter that I'm referring to?-- Yes.

And you have been taken to it by Mr Webb this morning. Essentially what happened in relation to this is that the matter was before the Council, the last meeting of the last Council as Mr Webb put it, on the 19th of March 2004; is that correct?-- Yes.

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I want to take you to the evidence. Are you familiar with the evidence that has been given here by several witnesses, namely, Mr Sarroff and certainly Mr Young also?-- I'm not aware - I'm not familiar, no. I - it's not been practical for me to read the transcripts or keep abreast of the proceedings.

I just thought that your lawyers may have taken you to what was said in relation to this meeting?-- Not - not - I don't recall specific conversation about it, we talked out it in general terms, that's all.

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Let me put to you what Mr Sarroff said in relation to this matter, 1281. What Mr Sarroff said was this, he recalls it may have been a general business matter. "I recall there was a resolution that was already drafted. The resolution was in the hands of the Chief Executive Officer," you were the Chief Executive Officer. "We were alerted to this item coming up. I don't believe it was an item on the agenda. In actual fact I confronted the Chief Executive Officer and saw that resolution in his hand and I took it away, copied it and passed it on to some of my colleagues in order to be able to respond if the matter came up and if the resolution was put to Council." Are you with me so far?-- Yes.

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Just in relation to that, you have said that you don't recall, as Mr Webb put it, this being snatched away from your hand?-- Mmm.

By that are you saying that you can't say one way or another whether it occurred, or are you saying something more than that?-- No, I think - I think you - the way you've described it's appropriate.

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So you are not denying that this occurred?-- I can't confirm that I had a document in my hand that Councillor Sarroff, to use his words, snatched out of my hand.

Well, now, he went on to say this, that "My recollection, Councillor Power" - this is 1282 - "was involved in that issue. I'm aware he had received correspondence from the individuals in his capacity as the chair of planning at the time of the meeting." It wasn't specifically mentioned who was driving that particular agenda and the Chief Executive Officer wasn't prepared to outline exactly where the instructions came from but he did say it was in response to some councillors. Now do you remember anything in relation to there being some attempt to find out where this move for a - for some change was coming from?-- I was aware of where the matter - how the matter was raised.

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So it had been raised at one of the earlier meetings that day?-- Yes, was raised with me.

Right, by who?-- By Councillor Power.

By Councillor Power?-- Mmm.

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Well, what Mr Sarroff is saying and Mr Young said much the same thing, in fact he put it this way at 1548, that you claimed to have been lobbied in relation to the matter. Do you remember saying anything like that?-- No, I don't, I don't and I wouldn't - I wouldn't think that I would use that term. I don't recall using that term.

But there was some reference to this not coming from the administration?-- I made it plain and I don't believe any councillor had a difficulty with me making it plain that in the circumstances I wasn't going to bring the matter forward as an administrative recommendation, but I was perfectly happy as I have done on many occasions, preparing a draft motion that could be brought forward validly by a - by a councillor-----

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Yes?-- And that's - that's the essence of the issue.

Mr Sarroff said at 1285, "As I indicated before, the Chief Executive Officer already had a motion that was drafted. He had it in his hand and when I snatched it out of his hand, he responded by saying, 'This is political, it's not the administration's position. We were asked to draft this motion.'" Any recollection of saying something like that?-- Oh, that - those sentiments were generally what I expressed, I don't know that I have Councillor Sarroff's apparently clarity of recollection, but those sentiments were expressed, yes.

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All right, but you don't remember - you don't remember the reference to it being taken from you?-- No.

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You certainly drafted a resolution?-- I don't recall drafting a resolution, I recall agreeing to the proposition that a draft resolution could be prepared for a councillor, whoever that may be, to take forward at the council meeting that day.

As I put to you, Mr Sarroff recalls actually copying it. In cases like this where a draft resolution is prepared, is that retained on the system?-- It may be, if it's prepared electronically. It may have been that it was prepared simply in handwritten form.

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Has anyone checked to see whether or not a copy of this draft resolution remains on the system?-- We have made inquiries, yes.

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You're satisfied that full inquiries have been made in relation to that question?-- Yes, in the time available, yes.

In the time available, what do you mean by that?-- Up until now, up until today.

Right. Is there anything - is there any further search that could be made in that regard?-- I don't know but I'm satisfied we've done what we can to establish whether or not there is a copy of the draft motion.

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You've had other people do that, have you?-- Yes.

And those inquiries that have been made have proved fruitless?-- Yes.

Would you have had any problem about telling Mr Sarroff if he had asked where this move was coming from, or this draft resolution?-- As a general proposition, no, but in the circumstances I think I was asked the question - well, it was assumed by me that rightly or wrongly that an issue would be made about who brought the matter forward, so I, as I recall, chose not to disclose the councillor concerned who brought the matter to my attention.

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Why not, if it had come forward the way that you said that day?-- Because the reality of the political landscape is that issues can be made of those things and I don't necessarily divulge to councillor A a discussion I've had with councillor B, it depends upon the circumstances.

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But a draft resolution being prepared for the attention of Council is surely a matter which concerns all councillors?-- Ultimately, yes, if it's brought forward.

If it's brought forward, but there was a draft resolution prepared with a view to it being brought forward, wasn't there?-- Yes, but the reality is that no councillor at that meeting ultimately moved a motion.

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Well, we may speculate in regard to the reason why no-one moved a motion in view of the fuss that was created-----

MR WEBB: I object to that. I object to that, Mr Chairman. This witness should not be asked to proceed upon a speculative adventure-----

MR MULHOLLAND: I'm not asking him-----

MR WEBB: -----that many witnesses have - well, why mention it? May I proceed without interruption, as Mr Mulholland has asked? It's not a proper question to put to the witness, it's a statement my learned friend is making. It's probative of nothing. "We may speculate" - it's loaded, it's absolutely loaded with double entendre. I object to the question.

CHAIRMAN: Well, I think, with respect, Mr Webb, that the question hadn't been fully asked. I understood that it was, "We may speculate but" - and was going on to ask the question, is the way I interpret it. I think we will hear the full question and then you can see whether you object.

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MR WEBB: With respect, Chairman, you're being charitable, but I'll sit down and listen.

MR MULHOLLAND: We may-----

CHAIRMAN: Well, I generally try to be, Mr Webb.

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MR WEBB: I know that.

MR MULHOLLAND: We may - thank you for being charitable, Mr Chairman. We may speculate, as I was about to say, but the question is this. In circumstances where a draft resolution was being prepared, surely if a councillor asks you for information in relation to what the source is, you'd tell that councillor?-- Not necessarily.

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You mentioned that there - you seem to pay heed to some problems in relation to council, as if indicating by that answer that you saw some potential problem in making that kind of information available to Mr Sarroff, did you?-- At that particular time it was the last council meeting of the quadrennium. We were in pre-election mode. There was, as there is generally, a heightened sense of anxiety and anticipation amongst councillors who are candidates. There are all sorts of comments and inferences made about who said what to whom and why. In that particular climate my practice is to be as neutral and as circumspect as I can possible be in those circumstances and that's the approach I took. I saw no need to disclose to one particular councillor who had proposed the issue. What was important at the end of the day was that there was - I had no difficulty whatsoever in having prepared a draft resolution because I have done it previously and I have done it since that day, and that is assisting any individual councillor to bring a matter forward, potentially. It is a matter for them as to whether or not they actually bring it forward at the council meeting. As it transpired, no-one did.

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It's probably no easy job that you have down there, Mr Dickson, however your duties and your responsibilities as chief executive officer would involve you, I'm sure you'd agree with me, in being completely even-handed in relation to treatment of all councillors. Would you agree with that?-- Yes.

And that is the case and that is the obligation on you irrespective as to any personal view you may have as to the rights or wrongs of any position taken by a particular councillor?-- My responsibility at the end of the day is to the council. That means that on occasions individual councillors might have a difficulty with what I do or say, but that's how I see it.

So, it's not to a single councillor or to a group of councillors. It's to the council as a whole?-- Correct.

And it doesn't matter whether or not the group of councillors is in the majority or in the minority. It's to the council as a whole-----?-- Correct.

-----as you see it?-- Yes.

And that's the way that you have tried to satisfy your responsibilities?-- Yes, as I see it, yes.

Now, can I ask you about a couple of matters? First of all, there was a suggestion, you may recall it, in the media of 21st April 2004, an article titled, "Young Muscled Out Says Shepherd". Do you remember that article?-- No, I don't.

The question is really this. There was, after the election, a combining of the planning committees. Do you remember that happening?-- Yes.

Do you remember how that came about?-- Yes.

What's your recollection as to how that occurred?-- As is the custom, and in my experience elsewhere, there was - there is an informal meeting at which matters of composition and chairpersons of standing committees and other issues relating to what's described as the post-election meeting, are attempted to be sorted out. They are - they have to be, at the end of the day, formalised at the post-election meeting, the first meeting of every new council, and it is always possible that, no matter what understandings might be canvassed, that there's a different outcome when the matter is actually decided formally by the council, but the common practice, in my experience, both at the Gold Coast and elsewhere, is that, for sensible reasons, the newly elected people come together with the CEO of the day, generally, and have a discussion about those particular matters, such that the post-election meeting runs as smoothly as it - as it possibly can.

Now, when was the post-election meeting held?-- I don't recall the specific date, but it would be in the order of 10 days or so following polling day.

Right?-- Thereabouts. It might be a bit longer than that - about two weeks.

Did you put a number of options before the new council?-- I'd have to go back to the agenda for the post-election meeting. There was - there was certainly some discussion at the informal meeting of all councillors that preceded that meeting, and there was some airing of options.

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Right?-- And I can recall being involved in that particular process.

Well, before the election of 27th March 2004, there were north and south planning standing committees?-- That's correct.

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Is that correct?-- That's correct, yes.

Was it your suggestion that they be combined?-- I don't recall, but I didn't have a problem with the proposition as I recall.

Right. You didn't have a problem with that occurring?-- No, not at all.

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But you - what, did you have a view that it ought to occur?-- No, I didn't have a strong view. Matters of standing committee arrangements are to go - quite properly amplified and discussed between elected members to the extent that it's appropriate and possible the CEO gets involved. I've certainly been involved in those discussions, as I said, both following the last election - I assisted the then CEO with a similar meeting prior to the previous election in 2000 and when I was the CEO of Whitsunday Shire Council. It's - pretty much the same thing occurred.

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Would it be false, then, to imply that you had combined those planning committees - those previous two planning committees, one to suit the request of Mr Shepherd?-- That would be false, yes.

Just going back for a moment to the question or the issue of the infrastructure charges that I asked you about, did you receive any representations in relation to a moratorium being placed on that policy that had been agreed prior to the election? Did you receive any representations from anyone outside the council?-- I may have received phone calls or correspondence that I may have referred on relating to that issue because it was an issue that was certainly out there in the public domain. I just can't recall any specifics, obviously.

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Do you know who, the class of person who contacted you?-- It may have been that there were consultants on behalf of developers. I can't recall any specifics.

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So any representation that you did receive you referred on to someone else?-- As a general rule. If we received a letter, yes, I'd refer it on.

And when you say refer it on would that be to a council officer?-- Yes.

As distinct to a councillor?-- Yes.

All right. Yes. Could I ask that Mr Dickson be shown Exhibit 3, number 24 please, Mr Chairman. If you have a look at that article you'll see its from the Gold Coast Bulletin of the 20th of March 2004 and it refers to you in about the - about half a dozen lines down. Have you got that?-- Yes, I have.

Okay. "Chief Executive Officer Dale Dickson admitted he had been asked by some councillors who he would not name to draft a recommendation calling for an indefinite moratorium on the charges to allow further investigation." Now did you say that to a reporter?-- I can't recall saying it to a reporter.

Well, no doubt you read that in The Bulletin at the time?-- Not necessarily. I'm not an assiduous reader of The Bulletin.

Right. So you've got no recollection of this article?-- No, no.

Because it would have been, may I suggest, at the time, this is a week out and having regard to what occurred on the 19th as we have discussed it would have been a matter of some controversy, it's surprising that you have no recollection of it?-- To my mind once the matter had been aired in the way that it was at the council it was utterly academic. No councillor brought the matter forward. The council did not deal with it. That was the end of it as far as I was concerned.

Well, what it expresses, you see, is that you were asked by some councillors. Now you've confirmed for us today that it was Mr Power in fact that asked you, is that correct?-- Yes.

There wasn't more than one, there was just one, Mr Power?-- I can recall, as I said, with the - with regard to the second meeting that the mayor - it may have been that Councillor Power spoke to the then mayor about the issue.

So you think, what, the then mayor may have agreed with Mr Power to bring it forward?-- The mayor, yes, I believe there was some discussion between the two because the mayor became aware of the matter.

But what? To what effect?-- Nothing. At the end of the day, as I said, the issue was academic.

No. No, no, I'm just asking you, are you suggesting that the mayor agreed with Councillor Power or he was just informed as to what Councillor Power had wanted to happen?-- He may have had prior discussions with Councillor Power, I simply don't know.

This-----

MR WEBB: The witness hadn't finished, he was going on.

MR MULHOLLAND: I'm sorry?-- That's the best I can do, I'm afraid.

CHAIRMAN: What was the purpose of the second meeting? You've told us of the second meeting but we haven't heard anything about it?-- I think there was some other purpose.

I see?-- It wasn't - it wasn't a meeting convened to canvass the particular issue, it was quite separate.

I see?-- It was just circumstances conspired that there were some councillors there, myself, and some officers for another reason, as I recall. I don't recall the specific purpose.

MR MULHOLLAND: As the Chairman has pointed out, this third meeting so-called on that day was at 10 a.m. so it would suggest that the first meeting was also - that there was some issue in relation to these charges and some discussion with Councillor Power?-- I'm not absolutely certain that the first meeting was that day. I believe so but I'm not absolutely certain.

Right. Well, I think you said that earlier as well. If it had not been that day are you able to indicate when it was?-- Well, it was close to that date. I could go back to my diary records. They may or may not confirm-----

You haven't done that?-- No.

All right. Well, you might, if you would, having completed your evidence, if you would do that and inform me and the Commission as to the result of those inquiries please, Mr Dickson. Just coming back to this article, does the reference here to the recommendation bring anything back to mind. What it suggests that you had admitted to the newspaper is that it was to draft a recommendation calling for an indefinite moratorium on the charges to allow further investigation?

MR WEBB: I have to object to the question. The witness hasn't admitted that he said that to the newspapers.

CHAIRMAN: Well, with respect, Mr Webb, if you listen to the question that's just being asked, "Well, what you are said to have said here"-----

MR WEBB: No, no, no.

CHAIRMAN: -----"does that bring anything back to your mind?"

MR WEBB: No, no.

CHAIRMAN: There's nothing wrong with that question.

MR WEBB: He said what you admitted to. That's what I picked on and that's the point of the objection. He hasn't admitted it.

CHAIRMAN: Well, I think you heard it incorrectly.

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MR WEBB: That's possible.

CHAIRMAN: Thank you, Mr Mulholland.

MR MULHOLLAND: Just to repeat what I said. This is what the newspaper said you admitted and what I'm asking you is whether or not reading this brings back to mind what this draft recommendation was about. What it suggests here is to draft a recommendation calling for an indefinite moratorium on the charges to allow further investigation?-- The reference to an indefinite moratorium I can't confirm. It may have been something more like staged implementation of charges rather than something indefinite. That's a - that's a reference by the journalist. I can't confirm that that's correct.

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All right. Well, that's the best you can do anyway. That's the best you can-----?-- Sorry, yes. I beg your pardon.

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Thank you. You could just put that to one side now. Now, can I ask - can I bring you to a complaint which was referred to the Commission in relation to Mr Young. This is Exhibit 235. Could I ask for the production of 235 please. Now, do you remember this complaint being referred to the Commission by letter of Mr - by e-mail from Mr Martens? This is July the 18th, 2005? On the front of it, Mr Dickson. July the 18th, 2005?-- Sorry, I'm still looking for that date somewhere.

At the top?-- Oh, yes, yes, thank you.

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And it's addressed to the Commission and it comes from Mr Martens that Mr Webb has confirmed with you is the fraud prevention and security adviser; is that right?-- Yes.

Now, what happened in relation to this referral was that the matter had been considered by the City Solicitor; is that correct? You'll see that as part of this there's a memorandum of the 15th of June 2005?-- Yes, correct. I sought some advice on the matter.

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You sought some advice on the matter?-- In practical terms, yes, I received some advice from the City Solicitor. I may not have directly asked for that advice but that's what transpired.

Now, I'm particularly concerned with the disclosure that Mr Young had made or the non-disclosure that he had made in his gifts return after the election, and this is the subject of - among other things this is the subject of this memorandum. If you go to page 2 of it you'll see the - it says about two-thirds of the way down the page that Councillor Young completed an interim return of electoral gifts disclosing a donation of 3,000 on the 2nd of March 2004 from Kato and you may remember the circumstances - it was 3,000, not 5,000, and that was subsequently corrected and the Commission has heard evidence from Mr Young in relation to it at 1659. The matter was referred on to the Commission on that

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date. Now, there was also in relation to the Mayor a non-disclosure in relation to an amount of between 20 to \$40,000 in kind; that was also subject to correction at a later date; do you remember that?-- Yes.

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Was that matter referred on to the Commission?-- No, not that I am aware. Not by myself, no.

Well, you don't know of any referral of that non-disclosure of the Mayor to the Commission; is that correct?-- I understand and I believe from memory I make reference in my submission to having a belief that there's been a referral of one matter relating to the Mayor; whether it's that particular one or the other matter, I'm not sure, I just can't recall.

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Well, I'm particularly - you make reference - do you have a copy of your statement there?-- Yes.

I'll just remind you of what you say if you go to page 10 of 15. You refer there to an attachment 9. Unfortunately the copy that I have is not paginated, I think as everyone has now accepted at this end of the table. Could you just refer me to that document, please - newspaper article.

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CHAIRMAN: "Mayor's gift list goes missing", a newspaper article from The Australian. That's the first page of nine. Did the original - there would have been an original came into the Commission with all the bundles like this presumably?

MR MULHOLLAND: Well, all I have is a copy of it.

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CHAIRMAN: Yes.

MR MULHOLLAND: And I don't have it, unfortunately, paginated, so I - I'm just trying to find it - find what you, Mr Chairman, are referring to. Mr Chairman, could we have a short adjournment, please.

CHAIRMAN: Yes. If there is - there would have been an original came to the Commission and for the purposes of this you should have the original here.

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MR MULHOLLAND: Well, I-----

CHAIRMAN: We can get that down.

MR MULHOLLAND: Yes, I want to get that down.

MR WEBB: No slight was intended to Mr Mulholland; as I said, I assumed he'd have it.

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CHAIRMAN: No - look, I'm not apportioning any blame. I'm sure there is none applicable to you or your client, Mr Webb. We'll adjourn until further notice.

THE HEARING ADJOURNED AT 12.27 P.M.

THE HEARING RESUMED AT 12.49 P.M.

DALE ROBERT DICKSON, CONTINUING:

MR MULHOLLAND: Thank you, Mr Chairman.

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Mr Dickson, in the material you provided to the Commission, you included a memorandum that you sent to councillors and that is dated 17th May 2005. Do you have that in your material there?-- Yes, I do.

And you there refer to the article in The Australian newspaper of 16th May and in relation to that matter you then go on to advise of your response to Mr Roberts who wrote that article. Now, that article was the article headed, "Mayor failed to disclose nightclub grants," the article, as I say, of 16th May, and you advised the councillors and others that you had looked at the advertisements - I'm referring to page 2 of your memorandum, "I've looked at the advertisements of the newspaper report of 26th March 2004 referring to the SMS messages. I do not believe that either of these constitute in kind gifts for the purposes of the Electoral Gifts Register," et cetera. Now, what you are there referring to is the matter of any in kind support that might possibly have been raised in relation to the Licensed Venues Association; is that right?-- Yes.

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And you had the advice of the City Solicitor in that regard; is that correct?-- That's quite likely, yes.

The advice that you received from the City Solicitor was in fact - I may have misled you there - was in fact received on 15th June 2005. So, you later did receive such advice. That's with the Martens communication with the CMC that I referred you to earlier. So you had received at some stage that advice from the City Solicitor indicating to you that that was not an in-kind gift; is that correct?-- I can recall an advice from the City Solicitor, a written advice that referred to three matters, two of which related to Councillor Young and one of which related, if I recall correctly, to the Mayor. I'd need to have a look at that particular advice, if I may.

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Well, just have a look. Yes, have a look at that, please. It's part of Exhibit 235. It may have been take back from you. Have you found that advice?-- Yes, I have.

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And my question to you is did you receive advice from the City Solicitor in relation to the Licensed Venue Association matter and whether or not the Mayor had any obligation of disclosure in that regard?-- My submission sets out my understanding of the matter. Yes, I did take advice from the City Solicitor,

verbal advice along the way and then ultimately written advice dated 15th June 2005.

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Right. Now, my question is not directed at that, although can I just say before leaving it that - can I ask you to - I want you to just have a look at an email - 217 please. This is an email from Mr Clarke to Paul Allen, subject: pledge re SP Licensed Venues Association. Have you seen that email?-- No.

Before?-- No.

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So, needless to say, you had no knowledge of that when you formed the view that you did in relation to Mr Clarke's obligation of disclosure?-- Correct.

Now, leaving aside the question of the Licensed Venues Association matter, so far as the matter of nondisclosure of the Mayor's, Mr Clarke's in-kind donation of \$20,000 to \$40,000 by way of the raceway sign, did you receive any advice in regard to any obligation on the Mayor in that regard?-- It was certainly discussed with the City Solicitor. I don't recall that I've seen written advice.

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My question really comes down to this, Mr Dickson: that was disclosed by the Mayor by letter of 11th April 2005; you referred on Mr Young's nondisclosure, why did you not refer on Mr Clarke's nondisclosure?-- The two officers - two senior officers who were giving me advice on that particular matter had considered that issue, as I understand it, and neither of them had brought the matter to my attention in terms of suggesting that I had a former view that there was a suspicion such that I should refer to the Commission.

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But did you consider the question as to whether or not on the same basis that you were referring the matter of Mr Young to the CMC that you also, to be even-handed about it, refer Mr Clarke's matter on to the CMC?-- As each of the matters were brought to my attention, I looked at them on their respective merits.

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Well-----?-- And prior to me looking at the matters, they were considered in some detail by the responsible officers.

Well, the amount of, so far as Mr Young was concerned on this particular matter, was a difference of some \$2000?-- Mmm.

Why would you refer that on to and go to the trouble of getting formal advice in due course as you did from the City Solicitor and not do the same in relation to Mr Clarke?-- Certainly, in respect of Councillor Young, I received advice to the effect that I should refer it to the Commission. The advice made it plain that it was an artificial breach. In terms of the Mayor as regards Darlington Park, in general terms my understanding is, even though I'm not au fait with the specifics, the Mayor became aware of effectively an allegation. As soon as he became aware of the matter, he amended his return. The officers looked at that particular

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issue for me and as it transpired there was no recommendation forthcoming that I should refer the matter to the CMC.

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Now, let me make it plain, I'm not criticising you for referring the matter of Mr Young to the Commission, but I suggest that the distinction that you seek to make, if it is a distinction you seek to make between Mr Young and Mr Clarke is not valid. In fact in the advice that you received in relation to Mr Young, it was regarded as - it was treated on the basis that Mr Young has been quite contrite in relation to the matter and as soon as he found out the facts he made disclosure and referred to his cooperation in that regard, so that certainly wouldn't be a distinction. What is a distinction?-- If - if memory serves, and I stand corrected, on page 10 of my submission I refer to an understanding by at least one of those senior officers that the matter of the alleged 20 to \$40,000 in kind assistance had been referred to the Commission. That may well have been the reason.

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Had been referred to the Commission?-- Yes, I refer to that at page 10 of my submission.

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Right, so is that reference to the newspaper article?-- It may have been, I don't know on what basis the officers established that the matter may have been referred to the Commission.

There is of course a statutory obligation on you to report matters of this kind to the Commission?-- Mmm.

Irrespective of whether it had been reported by someone else, let's say by a fellow councillor to the Commission and it was reported in the newspaper that that was so, wouldn't you have an obligation to report it?-- That may be the case.

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I'm just wondering - but you say that's the reason anyway, that you - that the view that was taken was that this had been already under consideration by the Commission?-- That was the understanding and that's what's conveyed in my submission.

And that seems to have been gained by someone reading a newspaper?-- It may have been, I don't know what the officers relied upon.

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Yes. Now, I'd like you to look please at Exhibits 9 and 10. You could just put that exhibit to one side.

MR WEBB: Nine and 10 of his attachments?

MR MULHOLLAND: No, no, Exhibits 9 and 10. While these are coming, these relate to the information for prospective candidates and the handbook. Can I ask you this, Mr Dickson, are you aware of any training night for prospective candidates of the 2004 election? There has been some evidence given that there - different candidates may have gone to some instruction night which included reference to the obligations of candidates. Are you aware of any such night?-- The - the responsibility for the conduct of the election was delegated to another person. As a matter of practice in my experience,

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returning officers conduct information sessions for candidates, and I have a recollection that the Department of Local Government officers conduct training sessions for prospective candidates.

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Right?-- Whether that was in respect of the 2004 election, I can't specifically tell you.

Now would that be recorded somewhere as to whether that took place? Would that be recorded by the Council if that had occurred?-- It may be in the Council's records, it may be.

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Again, could I ask that you check the records in that regard to see whether or not there is any. This is a function that you had delegated to the two officers that you've mentioned, is that right?-- The - in terms of training for prospective councillors, that was generally conducted by the returning officer and his team of people. The two officers that you refer to, Mr Davis and Mr Montgomery, practically dealt with the disclosure obligations post the election.

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Right so-----

MR WEBB: The witness said Montgomery, I think he means Beynon which was his evidence-in-chief-----

WITNESS: And Mr Beynon.

MR MULHOLLAND: All three. Well, so far as the - so the returning officer that you're referring to here is who?-- The name of the returning officer, bear with me - Mr McPaul from memory.

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Right?-- There were - there was a returning officer appointed and as it transpired, he resigned by election day and Mr McPaul took over and completed the job.

Right. So you may not know this, whether in fact this occurred, but you would expect that there would have been training sessions for prospective candidates?-- I had a recollection of the department conducting training sessions at councils and one I have a recollection there was one conducted either before the 2004 election or the 2000 election. This is the Department of Local Government.

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Well, there's been some evidence given and I'll just show you - before I come to Exhibits 9 and 10 - I'd ask you to have a look at Exhibit 64? I'm conscious of the time, Mr Chairman, I'm conscious of the time. I'll just finish this if I can?

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CHAIRMAN: When you're ready, Mr Mulholland.

MR MULHOLLAND: Thank you. Now this - the evidence I can tell you is this from Ms Scott at page 378 of the transcript. She went to a session, a local government information session at Evandale on 6th October 2003 and that's material that she received. Now that would be one of the sessions to which

you've just referred?-- That - that seems to be confirmation of my recollection.

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Right, and that document, if you'd just a look quickly at it, are you familiar with that document?-- No, not personally, no.

Right, so you haven't seen that document before?-- Not that I can recall, no.

All right, well, perhaps I can take you to Exhibits 9 and 10 after lunch. Thank you, Mr Chairman.

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CHAIRMAN: Adjourn till 2.15.

THE HEARING ADJOURNED AT 1.07 P.M. TILL 2.15 P.M.

THE HEARING RESUMED AT 2.20 P.M.

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DALE ROBERT DICKSON, CONTINUING:

MR MULHOLLAND: Mr Dickson, have you obtained any information over the luncheon break in relation to the matter we discussed before lunch, that is these training sessions?-- I believe I have, yes. I believe I have some information.

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Could you tell us what you've discovered, please?-- That I understand that there was a training session conducted at Evandale on the 6th of October 1993, conducted by the Department - Department of Local Government.

Right. And any other information in relation to any other session?-- No, that's - that's all I have.

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Now, can I ask you to look at Exhibits 9 and 10. First of all, Exhibit 9, these are given to, as the name implies, prospective candidates; is that correct?-- I believe so, yes.

This one suggests that it's the 2004 local government election. Can you say that this is something that was provided, as far as you know, to candidates in relation to that election at the time that they nominated?-- I can't - I can't personally confirm that that was so but it certainly appears to be a document that was created by the Council for that purpose.

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Right. So this wasn't prepared, this document, under your direction?-- No.

Under whose direction would this have been prepared?-- It may have been prepared under the Returning Officer's direction.

The gentleman that you mentioned earlier?-- Mr McPaul, yes.

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McPaul; yes. But you can't - it may have been but you can't - it does say at the end of it on page 15, "Alex Mackenzie, Returning Officer"?-- Yes, well, that - that - that appears to affirm what I was saying because as I think I make mention in my submission, Mr Mackenzie was originally appointed as Returning Officer. He was subsequently replaced by Mr McPaul.

Right. And so any rate, you had nothing at all to do with the preparation of this document?-- No.

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Or what went in it?-- No. In fact, I haven't seen this before that I can recall.

You haven't seen it before until today?-- Not that I can recall, no.

Would you go now to Exhibit 10, please. Would you turn the page - first of all, are you familiar with this document?-- Generally familiar, not - not in absolute terms but generally familiar. I have perused it.

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All right. At the time of the election in March of 2004 were you familiar with this handbook issued by the government?-- I wouldn't have been familiar. I was, at the time of the election, focusing on my responsibilities as CEO, so at the time of the election I doubt that I would have been, to be frank.

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Right?-- I certainly had officers that are mentioned in my submission who would have been far more conversant with the document than I because they - they administered my responsibilities on my behalf.

Having regard to the importance of returns in relation to electoral gifts, and they are important aren't they?-- Most certainly.

Right. And your responsibilities generally, isn't that something that you would have taken an interest in, that is information going to candidates in advance of the election telling them what they would have to do so far as any return is concerned?-- The practical reality of my position is that it is - we are talking about the second largest Council in the country. My responsibilities day-to-day are enormous. The demands on my time are considerable. Yes, I would - it's fair to say I have an interest in these matters, as I have a general interest in matters of corporate governance, et cetera. However, it was practically impossible to be - to be familiar with the details of the matters. I had to, of necessity, delegate to other officers, competent officers.

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Now, the delegation that you've referred to other officers, how was that delegation effected? Was it in writing?-- It may have been.

You don't know whether it was or wasn't?-- I can't confirm that it was but there was certainly a very clear understanding that Mr Beynon was responsible for the - as I've referred to in my submission - matters relating to unsuccessful candidates. Mr Davis was responsible for successful candidates, et cetera.

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Yes. All right. So you haven't checked before you came here-----?-- I have-----

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-----in relation to that or in preparing your statement to see whether or not you had a written delegation?-- No.

So it just may be an oral delegation we're talking about?-- It may be. I can't answer that question at the moment. I have - I am comfortable that there was no doubt that for practical purposes Mr Davis dealt with, as I said, the successful candidates, Mr Beynon the unsuccessful candidates.

At page 17 of this document - sorry, 16 of this document, clause 2.5.15 it deals with, under the heading "Gifts Via Solicitors or Accountants Trust Accounts", and it says, "Where a gift is made by a client through a solicitor's accountant's trust account, the return must include the name and address of the client who made the donation. The relationship between solicitor, accountant, and client is that of agent and principal. For the purposes of the Act's disclosure provisions, a gift paid by an agent at the direction of his or her principal is a gift made by the principal and not the agent." Were you aware of that advice or statement in relation to the situation of such a gift?-- That particular provision, as I understand, or that reference in this document as I recall, and I can only recall in general terms, was the matter of discussion between Mr Davis and the City Solicitor that went to the issue of their - the understandings of what the Act provided in relation to - in relation to Roxanne Scott and the - as I understand it the Mal Chalmers Trust Fund. I'm not personally au fait with the details, I have to confess. Again, it was a particular matter that I left to - to those officers.

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To Mr Davis. He was dealing with successful candidates?-- Correct.

And Mr Montgomery, the City Solicitor. Well, you mentioned the matter of Scott. Let's go to that in your statement. You refer to it on page 3 of 15 and you say at about point 8 of the page, "It was subsequently ascertained by Mr Davis from Mr Chalmers that he had been holding money of a client in his trust fund and had merely distributed that money according to his client's wishes, that a third party return was not required." "It was subsequently ascertained by Mr Davis from Mr Chalmers". "Furthermore, it was confirmed by reference to section 414 of the Act and to Mr L Cormack, now deceased, of the Department of local Government that the unsuccessful candidate, Ms Roxanne Scott, had complied with her reporting obligations. Subsequent to Mr Davis's discussions with Mr Chalmers, Mr Chalmers advised Ms Scott of the name of the

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principal who had provided the gift." Now, that rather suggests that she was being advised that she should disclose the name of the donor?-- I guess to - to clarify matters, Mr Davis did deal with successful candidates. This particular matter, as I recall, came to Mr Davis's attention by a journalist after the disclosure period, so given that was the case, Mr Davis dealt with all matters beyond the - the particular disclosure period for both successful and unsuccessful candidates. The - the essence of the issue, as I understand it, was that we took a practical view that to put what was something of a grey area beyond any argument, that - that Roxanne Scott disclosed the name of the person that had contributed money into the trust fund in whatever form that took, and there was some ambiguity, as I understand it, about what form the trust fund took, and the end result of all of that was that Roxanne Scott disclosed the name I think of Mr Rix and - and that was the end of the matter.

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Well, the - Mr Chalmers advised Ms Scott to do that but not the council apparently; is that correct so far as you know?-- Mr Davis conducted conversations certainly with Mr Chalmers along the way. I'm not sure that he spoke to - to Roxanne Scott but the end result was as I described it, that effectively the name of the apparent donor was ultimately disclosed by Roxanne Scott.

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Mr Dickson, having regard to your responsibilities under the Act, surely you would agree with me that there could be no possibility of - so far as a candidate is concerned - saying that she had received a gift from the solicitor. She hadn't received a gift from the solicitor, had she?-- There were discussions as to what the interpretation of the Act was. Those discussions were precipitated, as I mentioned, by a journalist raising the issue with Mr Davis. The events that unfolded are as I described them.

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But look, having regard to your responsibilities, surely you would have a view because of the issue of controversy that arose about this, here was - here was Ms Scott disclosing Chalmers first of all on her return, is that right?-- Correct, as I understand it.

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And there was some issue, you say, in relation to the facts. If there was an issue on the facts, why, having regard to your responsibilities - and we've heard evidence so far as - so far as council officers, and I think it's Mr Davis was chasing up candidates after the election to ensure that they put in a return, particularly councillors who were elected - why wouldn't someone investigate the circumstances in which the gift had been made? Why wouldn't you see that as part of your obligation?-- I would say that that's what occurred.

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You would say that that occurred?-- Yes. The matter was brought to effectively my attention through Mr Davis by a journalist, we explored the issue to the ultimate conclusion of there being a disclosure of the specific details of the donor by Roxanne Scott.

I'm just, I might say, flabbergasted by your suggestion that the council could come to the view that her obligations would be satisfactorily complete by disclosing the solicitor as the donor?-- That was, as I understand it, as I recall, the original view based on discussions between Mr Davis and Mr Chalmers.

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On the basis of what, he was the trustee of a trust fund in relation to the money?-- I don't recall the particular details. I wasn't involved in the discussions. It wasn't a matter, given all the other competing responsibilities I had, that I could take a - a day to day interest in. I left it to Mr Davis and then to further involve the City Solicitor to the end result that there was disclosure.

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Didn't you - didn't you ever come to a view as to whether or not the solicitor here was going to - was within the term - that this fund that was involved in relation to this amount of money that went to Roxanne Scott which had come originally from Mr Rix, as to whether that was a trust fund within the definition of the Act?-- There were various discussions about - involving Mr Davis and Mr Chalmers going to the issue of what form the trust fund took. There-----

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I'm interested in what your view was. Did you come to a conclusion, whether it was on advice that you received or not, did you come to a conclusion as to whether in these circumstances what was - what was satisfactory so far as the obligations under the Act were concerned were for Ms Scott to simply say well, she received the gift from the solicitor?-- I took the ultimate practical position that - that if it could be that we could ascertain who the donor was, and that that could be disclosed, notwithstanding that it hadn't been originally, that was a good thing, it served a public interest purpose and it - and it, at least to my mind, put to bed any potential argument about opinions as to what the Act actually said in terms of that particular provision and what the - the guidelines actually said and how they should be interpreted.

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Well, what-----?-- They were matters of some discussion.

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Well, I'm still wrestling with the conclusion that her obligation, so far as the council was concerned, was satisfactorily completed by disclosing the solicitor on her return?-- I can't amplify the matter any further than I have, I'm afraid.

What, you accepted the views of others in relation to that, did you?-- No. I - I listen to the views and advice of officers, on occasions I contest it - or test it; on this particular occasion, as I described in my submission, the end result was I think a sensible one and a practical one.

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Were you - did you ever discuss with your officers this provision that I've drawn your attention to in the handbook, so far as solicitors are concerned?-- Not that I can recall. I certainly can recall asking Mr Davis to discuss the matter with the City Solicitor.

If the - if that were correct, that is the say that the solicitor is an agent not the principal, and so the gift hasn't come from the solicitor, surely that's something that you would have wanted to have properly resolved?-- Well, my view is that that's exactly what transpired. We - we finessed the issue through - through discussion involving Mr Chalmers and Ms Scott, as I said, with the end result that there was a high level of disclosure.

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Yes. My point is this; so far as the council was concerned it gave, even though it was drawn to its attention about this controversy, it did not take any steps to tell Ms Scott that she should find out who the donor was and that's the person who should be on her return, not the solicitor?-- I don't know that that didn't occur. What-----

Well, there's nothing in your statement to suggest it did?-- Right, but I - and that's why I hadn't made any mention of it. I'm certainly aware of direct discussions between Mr Davis and Mr Chalmers.

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See, the evidence - the evidence here is - well, this is what an inquiry presumably would have determined; the evidence here suggests that at the time that the gift was made into the solicitor's account it was receipted in the name - with the name R. Scott; in other words, at the time it was paid into the solicitor's trust account it was obviously intended for Ms Scott?-- I don't know that that was obvious to Mr Davis in his original discussions with Mr Chalmers.

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I see. Any rate, in the end what Ms Scott did, not from information or advice that she received from the council, but from apparently speaking to Mr Chalmers, she ended up correcting her return so as to disclose the name of Mr Rix's company; is that correct?-- That's correct, as I understand it.

You see, let's just go from that situation to the situation in relation to candidates generally. You would be aware that in relation to the candidates who put in a return after the election, they indicated that these gifts had been received from various entities. First of all, for the most part, they indicated Hickey Lawyers or variant - variants of Hickey Lawyers; you know that? They referred to a common sense campaign fund and one candidate, Mr Betts, disclosed Lionel Barden's name as a person from whom the amount was received. Now did that come to your attention after the election, that this is what - and bearing in mind the public controversy that has arisen - that arose in relation to this around about election time, did you pay attention to the returns when they came in and who - who was stated on the returns that the money had been received?-- No.

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Right?-- In fact, I don't believe I read the returns.

You didn't read-----?-- I left that to a senior officer - a competent senior officer to administer that function. It was a practical reality.

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Have you taken any steps having regard to your responsibilities under the Act to ensure that this matter is clarified with the Local Government Department?-- No.

You haven't? Even in the light of everything that has occurred?-- Well, the inquiry, I believe, has amplified issues that weren't necessarily apparent before?-- Yes, but one might have thought, Mr Dickson, that because of the public controversy that arose and in view of the returns and what they disclose that you would have been anxious to ensure that the council spoke to the Local Government Department in order to resolve what the obligations were in this regard. Now you say you've never done that?-- I haven't personally done it. I'm well aware that Mr Davis had a longstanding relationship with the gentleman in the Department who is now deceased, and there were, as I understand it, various discussions along the way about issues that have been amplified in the public domain.

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Well, that you were not aware of the details of the returns put in by candidates. Is that right?-- No, no.

What, even to this date you're not aware of them?-- Correct.

Haven't you concerned yourself to find out just what happened here?-- No, not personally. I have - I have worked through two very senior and competent officers, Mr Davis and Mr Montgomery.

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Well, you keep saying that and we accept the fact that you delegated, however it was done, your responsibilities to someone else, but because of the high importance of the matter surely you would have taken a personal interest in what was determined and actually have an input into clarifying the situation so that in future something similar wouldn't happen again?-- Sorry, clarifying what situation?

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Clarifying the situation as to what had to go into candidates' returns. What I'm suggesting to you is that we have a situation here where the candidates put in returns which, as I say, apart from the exception I mentioned about Lionel Barden, had various names which, if you put their returns together with any third party returns, one after the event would have no idea where the money came from. In other words, candidates are disclosing that they received this money from lawyers, and we've seen what the clause says in relation to the lawyers, apart from the exception of Mr Betts, and if you were to put any third party return with that, such as Mr Barden, apart from Mr Betts you'd have no idea - you couldn't - you could not connect up the dots, in other words, between the third party return and the candidates, could you?-- I had an officer, as each return was submitted, conscientiously and diligently check that return. I have no reason to believe that the officer or officers have not done so diligently.

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There's been no matter outside of the inquiry that has been drawn to my attention that has required any particular action. A couple of weeks ago I arranged for a - as a matter of prudence, if you like, a further review of the returns, not myself personally, to test whether or not my belief that we'd done a professional job was valid. It's picked up a couple of minor issues but that's all.

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A couple of minor issues, in a situation where the candidates had disclosed for the most part lawyers as the people from whom the gifts had been received. Well, no one is suggesting the lawyers have to put in a return, are they?-- I'm comfortable that-----

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Well, are you suggesting that, from your - from anything that you've been - you've been advised that the solicitor should have put in a return?-- I'm comfortable that my officers have advised me competently as to my responsibilities in respect of the returns.

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Let's just take the case of the trust fund. Do you know there's been much reference to the trust fund and you know the provisions of the Act referring to the trust fund, and it is a trust fund, then there has to be disclosure of the trustees of the fund, doesn't there?-- Are you referring to the-----

And an address?-- To whom are you referring? Which - which trust fund? The Chalmers trust fund or the-----

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No, no, I'm referring to the definition of the Act in relation to the details that have to be disclosed and in the case of a trust fund the names of the trustees have to be disclosed, don't they?-- As I - as I understand it, section - I think it's something like section 414

Yes?-- Or thereabouts has - it sets out what the disclosure obligations are. I'm not a lawyer.

Well, are you not familiar to the extent that if there is a trust fund involved and a gift received that the trustees of the trust fund have to be named? Aren't you aware of that?-- I'm not aware, I'm not aware or intimately au fait with the legislation. I'm not-----

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See, what I'm suggesting - sorry?

MR WEBB: Let him finish.

WITNESS: I'm not intimately au fait with the legislation. I've had legal advice along the way from my city solicitor and I've had a competent officer administering my responsibilities as regards disclosure.

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MR MULHOLLAND: See, if you have a trust fund with a trust instrument, trustees and so on, then, well - and there is an obligation on that trust fund to put in a third party return, then we - then it would be possible to know where the money

went because you would be able to connect up the dots in the sense that the candidates would be indicating that they received money from a trust fund and any third party return from the trust fund or the principal of the trust fund, the trustees, would be indicating the amounts that they received and who the - who the money was received from by them, wouldn't it?-- I'm sorry, I'm not following you.

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If the candidates had received money from a trust fund and the candidates disclosed the name of the trust fund and there was a third party - there was an obligation on the trust fund or the trustees to put in a return then one could very easily work out from the third party return where the money came from and go to the candidates' returns and see that they'd received whatever money it was from that trust fund, couldn't you, in that situation?-- There may be other variables that I am not aware of. There might be issues relating to disclosure periods, for example.

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MR WEBB: Mr Chairman, while there's a break before the next question, it's quite clear that Mr Mulholland has a view of the Act based in part on the interpretation in the handbook which is certainly not shared by a number of other lawyers here. This witness is really being cross-examined as to matters of law. We have his answers and it's really not appropriate that he should be cross-examined as to matters of law based upon my learned friend's interpretation.

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He may be right or he may be wrong or it may be arguable, but in any event it's not appropriate that this witness should be cross-examined about matters of law when he said quite clearly he's sought legal advice from the City Solicitor.

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CHAIRMAN: All right. Well, perhaps he should tell us what the legal advice was that he received. If it was, as I would see - presume you are suggesting that the lawyer has to put in the return as the trustee, then he might answer why his office has never looked for a return from any of the lawyers. Hickeys were named on a number of the returns and yet there was never any third party return put in by Hickeys and they were never contacted by the Council to ask them for one.

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MR WEBB: Oh, no, Hickeys were contacted as you've heard from one of the witnesses last week and referred to - you should have a look at section so-and-so. It's not really a matter-----

CHAIRMAN: But they didn't put in a return.

MR WEBB: No, they didn't put in a return.

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CHAIRMAN: And there was never any follow-up by the Council saying to them you're breaching the Act or subsequently prosecuting of them for breaching the Act.

MR WEBB: Because, as you can see, there's a handbook there that argues for one interpretation and there are other interpretations open. Now, you can't run the-----

CHAIRMAN: So what does the Council do, because there's two interpretations open; does the Council do nothing?

MR WEBB: Well, my learned friend's saying, you've got some sort of duty to connect up all the dots and do some reconciliation. No provision of the Act says that that's the function of a returning officer to connect up third party returns and candidates' returns. There are different purposes, quite different purposes.

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If he can show me a section that says there's a duty to do some sort of analysis of all of these returns and say all this - maybe the dots don't meet, that's not what the Act requires.

CHAIRMAN: Mr Webb, your client doesn't need your assistance. If he wants to say that it's not part of his duty as he sees it as the returning officer, that if he gets specific returns from candidates or return councillors and they don't - they show that gifts have been received from third parties who should be putting returns in, if he doesn't see it as part of his duty to check to see if a return has come in from that third party, well, he can tell us.

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MR WEBB: Mr Chairman, I was not giving the witness assistance; I was addressing you.

CHAIRMAN: No, I'm not suggesting you were but-----

MR WEBB: Well, that's what you just said, Mr Chairman.

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CHAIRMAN: Well, no, I'm going back to your point that it's not appropriate to cross-examine this witness on his understanding of the law and what he did. If he understood the law a different way from Mr Mulholland - what Mr Mulholland says, this is the - this witness is the CEO, as he tells us, the second largest Council in Australia. He's perfectly capable of handling himself here and telling us what his view is and what he did or should have done or what his officers did or should have done.

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MR WEBB: Mr Chairman, I'm quite sure you're well aware of the basis of my objection. Asking this witness matters of law on which obviously my learned friend has an interpretation - this witness is not a lawyer, and may I repeat, there are a number of lawyers in this room who do not agree with my learned friend's interpretation-----

CHAIRMAN: And there are other lawyers who do agree.

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MR WEBB: -----and that will be a matter for submission and eventual determination.

CHAIRMAN: Indeed. But, Mr Webb-----

MR WEBB: It's putting - I'll sit down, Mr Chair-----

CHAIRMAN: Thank you.

MR WEBB: -----because I've made my point; I'm sure you understand it; and it's not appropriate that lay witnesses should be questioned about matters of law.

CHAIRMAN: Well, with respect, when it's the lay witness who is given a task by-----

MR WEBB: I beg your pardon; I didn't mean to sit down. I thought you'd finished.

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CHAIRMAN: When it's - no, that's all right. When it's a lay witness who is given a specific task under the Local Government Act to act as a returning officer for the election, one would have expected that he would take legal advice upon what's his obligations were. Now, if he disagrees on the legal advice he's been given with what has been put to him by Mr Mulholland, I would expect him to say that, "Well, what you're putting to me is contrary to the legal advice I received-----"

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MR WEBB: Well, he said he had-----

CHAIRMAN: "-----and therefore I did not do anything you suggest."

MR WEBB: he has said that he sought legal advice. I'll just sit down at this stage.

MR MULHOLLAND: Mr Chairman, there are just a couple of corrections that I need to make. First of all in relation to the evidence that Mr Webb referred to as having been given just recently in relation to a conversation between the City Solicitor and someone, now, that's a reference to Mr Welch of Hickey Lawyers; and the evidence in relation to that matter is that Hickey Lawyers were not told - this is the evidence so far - that Hickey Lawyers were not told that they should put in a return. They were simply referred to the Act.

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The second point is this, that if Mr Webb wishes to supplement the evidence before this Commission by something that Mr Montgomery, who has been referred to, wishes to say on these issues, then the Commission I'm sure would be happy to receive that evidence. Now, Mr Montgomery is at the hearing today. He has heard this evidence. If there is some matter that he wishes to clarify, then what should happen is that Mr Webb should ensure that Mr Montgomery provides a statement to the Commission as soon as possible. That statement can be tendered and we can then decide whether or not some further evidence is needed.

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And the third thing is this. I did not seek from this witness any view as to the law. I'm asking him as to the information that he had, and I'm inviting him to tell us if he had been instructed in some regard as to what the position was. I am not seeking to have a legal opinion from the witness. So that's all I want to say, and my invitation to Mr Webb and to Mr Montgomery, if they say that there has been some unfairness

here because of some position not being represented, I am quite happy to receive a statement from Mr Montgomery and we'll decide where we go from there. Now, can I return-----

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MR WEBB: With respect, Mr Chairman, two of those matters call for an answer. He was asking the witness about questions of law, matters which become questions of law. There can be no doubt about that. I note what he says about Mr Montgomery. I want to correct something. I said that Mr Montgomery rang someone from Hickey Lawyers and referred them to the section. I did not say he said anything to them about putting in a third party return. I did not say that, and that's not the evidence.

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CHAIRMAN: Thank you, Mr Webb.

MR MULHOLLAND: Now, Mr Dickson, just returning to this issue, is there anything that you wish to add so far as any advice that you had received concerning the obligations of candidates in these circumstances?-- No. There was - other than I am aware that the City Solicitor, as has been intimated, contacted I believe Hickey Lawyers and alerted them to the proposition that they should consider their obligations, their disclosure obligations. Taking it beyond that, as I understand it, we - we or I had no function.

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No one-----?-- No capacity to take that further.

Sorry. You were not told or were you told that Hickey Lawyers were advised that they should put in a return themselves; you're not suggesting that, are you?-- No, I'm - I'm saying to you that I'm aware that the City Solicitor made contact with someone from Hickey Lawyers and suggested to them that they should consider whether or not they had a disclosure obligation.

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Yes. Well, we know that here everyone apparently accepted that Chalmers didn't have any disclosure obligation; is that correct? Chalmers didn't have to put in a return?-- There were different views about the obligations of Mr Chalmers along the way.

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Well, to your knowledge, was it ever suggested that Mr Chalmers should put in a return, that is by Council?-- I'd have to refer to my submission just to refresh my memory.

Yes?-- Page 6, page 7.

Yes?-- I set out the details of contact made between Mr Davis and Mr Chalmers.

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Yes. Well-----?-- Mr Davis contacted Mr Chalmers to clarify the circumstances of the gift, whether it was a gift from Mr Chalmers himself or from another person, et cetera.

My question is: did anyone ever give advice, to your knowledge, that is from Council, that Mr Chalmers had some obligation to put in a return?-- Not that I can recall, no.

Now, you see, the situation here we know is that for most of the time that this so-called trust fund operated, it was operated by - as the account of Power and Robbins?-- Sorry, this is the other trust fund?

It's not the other trust fund, and I'm not accepting it was a trust fund. Let's call it "the so-called trust fund". That way we'll meet halfway. The so-called trust fund, what I'm suggesting to you is this: that the evidence here clearly establishes that for most of the time that that fund - call it what you will - operated within Hickey Lawyers that it was controlled by Power and Robbins, two councillors. Now, you would know that; is that correct?-- No, I've not been privy to the - the evidence that's been provided to the - to the - to the Inquiry.

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But haven't you sought in your position to familiarise yourself with what actually happened here?-- No. It's not been a practical possibility.

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You see, well, what I'm suggesting to you is this: you can accept this, that for the large period that this fund operated, it was controlled by two sitting councillors, Power and Robbins. Does that come as news to you, Mr Dickson?-- No.

And that what ended up being the case, in the one case that I mentioned to you, namely of Mr Betts who disclosed Lionel Barden, for the remaining part of the period this account was controlled by Mr Barden, controlled in the sense that he was the signatory to the account at Hickey Lawyers. He was the client of the account is what I'm saying?-- Right.

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But I'm suggesting to you that for the majority of the time, Power and Robbins controlled the disbursement of funds. Now, you're unaware of that?-- My interest in the issue-----

Are you unaware of that, Mr Dickson?-- I am generally aware of that issue but I'm not intimately au fait with the details. I'm generally aware that that's been an issue that has arisen, as I understand it, as a consequence of this Inquiry.

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Have you concerned yourself at all, having regard to your responsibilities in regard to returns, with whether or not there should be a return, that is a third party return, put in by someone other than Lionel Barden?-- Yes, there were, as I understand it, or as I recall, discussions involving the City Solicitor. The City Solicitor alerted me to the fact that he proposed to make contact with Hickey Lawyers and bring their attention to the possibility that - that they had a disclosure obligation. That's what I'm aware of.

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That Hickey Lawyers had a disclosure obligation?-- Sorry. May have a disclosure obligation.

Yes. No, we're not talking about Hickey Lawyers; just focus on what my question is directed to. Listen carefully while I repeat what I've already said. We're talking about a fund,

right, we're talking about a fund of money and an account held within the trust account of Hickey Lawyers, and for the majority of the period that we - in the lead up to the election - this campaign account was in the name of Power and Robbins. That's the account name within Hickey Lawyers, but for a period of about a month it was in the name of Lionel Barden, right? Lionel Barden put in a return, a third party return, but Power and Robbins didn't. My question to you is: have you given any consideration at all, having regard to the history of this matter, the publicity that has been given, to whether or not you had some responsibility in relation to Power and Robbins putting in a return?-- I'm not aware that the issue that you raise, the reference to Power and Robbins, was something that I was aware of or should have been aware of prior to this Inquiry commencing.

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So when did you become aware of Power and Robbins? I didn't know that you were aware of Power and Robbins?-- I have been made generally aware of matters amplified through these proceedings. I am not personally conversant with the evidence, but I am advised - I have been advised on a reasonably regularly basis as to matters that have surfaced or have been amplified as part of the Inquiry.

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When you did learn of Power and Robbins - just let's establish this first of all, at some stage you learned that Power and Robbins was involved in relation to this fund and this account put in Hickey Lawyers, is that right? They were the clients in relation to this fund?-- Again, I'm generally aware of evidence to that effect that has surfaced as part of the inquiry. I wasn't aware or don't recall being aware or being made aware of that as an issue prior to the inquiry commencing.

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Were you surprised to hear that?-- Not particularly, or not necessarily. I didn't have a view about it to be quite frank.

And so you haven't really turned your mind at all to the question as to - in order to meet your responsibilities you should do something to ensure that there be a third party return?-- Not thus far, no.

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Do I understand your statement to indicate that your understanding of your obligations under the Local Government Act is really summed up on page 5 when you say this halfway down the page, just above 3(c), "With regard to the question of accuracy and completeness of returns, the CEO's role is generally limited only to ensuring the returns are received and completed satisfactorily in matters of form. As is pointed out, it would be impractical if not impossible to check the veracity of the information disclosed in the returns." Is that your understanding of your obligations?-- You've conveyed what I have said in my submission, yes.

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Right, well, I've read from what you've said in your submission. So we're talking about things like what, give us an example. Give us an example of what you'd see that you

should do about a return in order to have it corrected?-- Well, the Act as I understand it provides for corrections to returns. The CEO has a functional role where there is a matter brought to his attention-----

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Yes?-- So to that extent, at least, as I understand it, there is some responsibility going beyond the mere acceptance of a return, so if a person hypothetically speaking comes forward directly and hypothetically speaking puts in writing to the CEO that they don't believe the material in a particular return to be correct-----

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Yes?-- -----then I have particular responsibilities as laid out in the legislation. But that is the extent of it, as I understand it, of my obligations.

So you don't, for example, think that in a situation such as the present one there is really any obligation on the CEO to ensure that a third party is lodged by the appropriate person?-- No. The CEO, as I understand it, has no practical investigating or coercive powers to ensure that a particular party or person, whoever it may be, submit a return in a particular way. The obligation rests with the other party, not the CEO.

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But in a situation where, to quote what happened here, where solicitors are being indicated as the person from whom the gift is received, in that situation wouldn't that jump out at you as requiring some attention?-- It wouldn't jump out at me personally, as I said before. I had quite a competent officer administer the process of receiving and checking returns and amendments to returns. I have every confidence in that officer and that - that expertise has been supplemented by legal advice along the way as and when required.

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There was some relatively minor correction made by Mr Barden, apparently, quite recently between the time that your statement was supplied and now. This is Exhibit 307. You can't tell us the precise date; it's just between when your statement was supplied and today, is that what you-----?-- I can validate that date by contacting my officer. I believe that was a matter raised earlier. I haven't done that as yet.

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So what, that took about the year, more than a year?-- Well, I - as far as I'm concerned, that was effectively an oversight. That should have been followed through, it wasn't, but it has been, when it was drawn to my direct attention.

A fairly minor matter?-- I don't think matters relating to disclosure are minor, I haven't said that.

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It was the address of Blue Sky, that's the detail which wasn't supplied in the return?-- As I understand it, yes.

So all that was shown in the return was not known, so someone followed that up, but you don't think that in regard to a situation where a whole number of candidates are indicating Hickey Lawyers or a variant of it, that that requires

following up?-- As I said, we've had - I've referred to a conversation that I've had with the City Solicitor on that particular matter. He proactively did what he could and that was the end of the matter, as I understand it.

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Well, Mr Dickson, having gone just about as far as I can in that direction, can I approach it from another matter - from another direction? What can you tell the Commission, having had this experience, what suggestion that you can make to the Commission, what recommendation can you make? You must have given this some thought, in relation to ensuring that this lack of clarity as it would appear in relation to returns is fixed. I take it you've given this matter considerable thought?-- No, not considerable thought. I've certainly given the matter some thought. I've made some preliminary notes which I don't have with me because the expectation I have is that those thoughts will be further discussed with the officers that I've referred to and there will in due course be a submission to the Commission on what my views are or suggestions might be to improve the disclosure laws.

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Let me ask you - and that's appreciated. No doubt in due course you would assist the Commission at the second stage of its inquiry, but let me ask you now: what shortcomings have you identified in relation to the present situation?-- Are you talking about shortcomings in terms of-----

Disclosure?-- Legislative shortcomings or other shortcomings?

Either - well, legislative shortcomings or shortcomings in relation to obligations on candidates?-- There are various matters, as I said, that I've commenced thinking about and discussing with various players that I've mentioned - Mr Davis and Mr Montgomery. I would prefer to think about those matters a little more, such that I crystallise my views before-----

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You're not giving-----?-- -----giving the Commission a firm view, a firm and final view or opinion.

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You don't have any view at all at the moment in relation to any shortcomings either in the matter of the legislation or the manner of returns by candidates?-- No. I have given the matter some preliminary thought.

Well, can you share any of them with us at the moment?

MR WEBB: Commissioner, the witness has said quite clearly that he doesn't want to give a view that's a preliminary view which may not be his final view when he's had the opportunity of reflecting. In fact, I intended to ask leave by way of re-examination to ask him this very question. I have a note of it: have you made some notes and have you reached a final conclusion, because I was aware that he had and I-----

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MR MULHOLLAND: Well, I've asked the question first, I suppose, Mr Chairman.

MR WEBB: Mr Chairman, in his position as CEO if he's forced to give some preliminary views, it's going to be publicised and they may not be the views that he would like, and he says he doesn't, he doesn't want to advance them at this stage. It's perfectly proper and a professional attitude. We frequently in courts have professional witnesses called who may be an expert in a particular area but he may not have considered something and he says - and it's always accepted, look, I haven't considered that aspect; I'd like to come back to that when I have, and that's all he's saying.

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MR MULHOLLAND: If he has formed any view at all, Mr Chairman, I would like him to indicate it. If he hasn't formed any view at all, then he can say so. After all, Mr Webb was going to ask him apparently in further examination in relation to the very matter that I'm interested in.

MR WEBB: No, that's not what I said. Mr Mulholland has to be more accurate.

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CHAIRMAN: Please, that isn't quite what Mr Webb was meaning to say, at least.

MR WEBB: Well, I didn't say-----

CHAIRMAN: Mr Webb was going to raise it in a different way. I have no doubt about that. Well, I'm surprised the witness can't give us some assistance at this stage. It tends to suggest to me and, quite frankly, a lot of what I'm hearing from Mr Dickson I query to myself who wrote his statement because I'm tending to listen to not much of Mr Dickson's opinions but most of what he's been told by others and he needs to go back and read his statement to be able to answer the questions, but if Mr Dickson is not able to give us his own personal opinions but needs to take advice on the matters, well, he can tell us and I'll respect that.

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MR MULHOLLAND: Mr Dickson?-- Well, that's appreciated. I would prefer to think about the matters a little further.

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So you don't want to give us the benefit of any views you hold?-- No, because I had an expectation coming here that those matters would be properly submitted at the appropriate time which is not today.

Yes.

CHAIRMAN: Mr Dickson, can I just ask: the number of matters that were taken up by Mr Mulholland about the various returns that came in from candidates and then the third party returns, Mr Mulholland said they came in a number of various forms including from Hickey, Tony Hickey, Hickey Lawyers, et cetera, but one at least came in in the name of Common Sense Trust. From memory, that was Mr Rowe's election gifts return disclosing that he got - I forget the amount, I think about 35,000, a considerable sum of money from Common Sense Trust. Do you not see it at all as part of your role as returning officer for the election through either yourself or through

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your officers to check to see that if a candidate puts in a sizeable gift as being from what is obviously a third party, not from an individual, to check to see whether a third party return comes in covering that amount?-- Not necessarily.

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Why not?-- The officers have dealt with the information as it has been submitted, each and every individual return on its merits. There have been a select number of other matters which I identify in the statement which have been the subject of further more detailed discussion relating to interpretations of the Act, et cetera, the Chalmers Trust Fund being an example, they're matters that have been explored in more detail and there have been some further revisions along the way as a consequence, but that's been the extent of the activity by my officers in terms of making sure that I discharge my obligations.

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Well, I don't understand that because it seems as if it's a half hearted approach, with respect. Mr Montgomery rang Mr Hickey to advise him or suggest that - sorry, he rang his firm to suggest that they should look at the particular provision in the Act?-- Mmm.

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Now, I can understand his doing that and it tends to suggest that the Council takes seriously this issue about getting election gifts returns in as required under the Act. Now, there were a number that said Hickey Lawyers and Tony Hickey. So I can understand Mr Montgomery doing that. What about ones then like Common Sense Trust that - nothing to connect it to Mr Hickey unless Mr Montgomery acknowledged that we haven't heard about. Now, one would expect that there would be - I would expect that there would be a question to Mr Rowe: who is the trustee of this Common Sense Trust because you are required in your election gift return to give not just the name of Common Sense Trust, you are required, Mr Rowe, in your return to give us the name of the trustee and the address of the trustee. He hadn't done that. No one asked him. And then having asked him and found out that perhaps the - whatever name he would have given, to check whether that particular person then put in a third party return as required under the Act, and why I suggest that perhaps this should be done by the Council is that Council does seem to take upon itself the duty of prosecuting for any offences with respect to election gifts because we've seen a fairly detailed memorandum by Mr Montgomery to you where he's setting out the steps that the Council could take with respect to prosecuting Mr Young, Councillor Young with respect to a factor in his election gifts return. So, clearly, the Council does take on itself that obligation. Why wasn't it done in this case?-- I can assure you that the officers concerned took their responsibilities seriously. It may well be that there have been some matters that the officers could have been more diligent in terms of their perusing and acceptance of individual returns, but that's - it is what it is, but I can - all I can say to you is that the officers did, as I understand it, take their responsibilities quite seriously, particularly Mr Davis in dealing with issues relating to successful

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candidates and all matters that ensued after the disclosure period.

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Well-----?-- I don't say to you that there have not been some potential omissions or errors in doing so.

What were - Mr Davis I think we've been told his position in the Council-----?-- He's the manager of the office of the CEO.

Right. And what was his prior experience in conducting elections and dealing with returns after elections?-- Very experienced, bearing in mind that in terms of returns after elections, as I recall or as I understand it, that was something that has only come in since about 1997. But certainly both Mr Davis and Mr Beynon are very experienced officers in terms of matters relating to elections, as am I. I've been a returning officer and assistant returning officer previously. What is an issue here is the practical size of the organisation and the day to day issues that we must deal with, and I say again the officers concerned are both very experienced. I did rely upon them, and that was a practical reality.

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All right. So are you putting it down to the fact that - and I can understand that with an election with the number of electors at the Gold Coast - to the fact that it's just too much work to be able to go in and check all these details?-- For me personally it's not a practical possibility.

No, I can accept that but for your officers?-- The officers, as I understand it, were diligent in receiving the various returns and checking them for completeness. In terms of then doing anything beyond that, as far as any interrogation of issues or raising further issues, the submission refers to particular matters that we had explored. We had, we believe, good reason to do so, but beyond that there's nothing that I can further convey, I'm afraid.

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No, I keep hearing you say that, but to me it doesn't seem terribly difficult for them when they're going through it to just write down on a piece of paper the names of all these people who obviously are not donors of gifts, such as commonsense trust is a very clear example of it. That obviously is going to require a third party return from that body, that entity, whatever, commonsense trust is. To then just jot down on a list of - okay, these are all the various bodied that we should receive a third party return from, and then at the end of the day just tick them off when it's received. If it isn't, have a look at it and perhaps make inquiries. That doesn't seem to be a terribly difficult job that I would have thought any competent officer would do?-- There may well be some improvements to administrative process that are brought into sharper focus as a consequence of the inquiry. That would be a good thing. That would be a good thing, but - but I-----

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All right. Well, it might be something you address in your future submission to us?-- Yes. Yes.

Yes. Thank you. Thank you, Mr Radcliff.

MR RADCLIFF: Thank you. Mr Dickson, I appear for Councillor Shepherd and I only want to ask you some questions about him. At page 2041 of the transcript, for those who have it, Councillor Shepherd was asked to comment in relation to something that Councillor Grew and in fact Councillor Hackwood and Councillor La Castra have all said and that is that there has never to their mind ever been a circumstance of favouritism shown to any person who's been a donor to anyone's campaign. I'll just read you a passage from what Councillor Shepherd said and I'll ask you just to comment in relation to this. At about line 15 he says, "But what I have found in the six years that I've been a councillor, that the Gold Coast City Council is actually at the forefront of putting in place protocols and procedures having an excellent staff to support us where these sorts of activities could never occur. We are always under scrutiny; we are always in the public eye. We have procedures that are designed to make us so. We've got procedures that we as a council adhere to. To suggest that any one councillor would have an influence over an outcome is wrong because of the processes that we have, and to suggest that any one councillor could get away with, to use a phrase, anything of that nature is totally inappropriate because it just can't happen. There are too many checks and balances." Now, I know it's a long phrase, but do you have a comment in relation to what he says concerning the prospect of someone favouring a donor or a developer; what do you say about these checks and balances?-- As a general proposition there is considerable disclosure obligations that exist in terms of gifts, in terms of material personal interests and the like, that - that are part of the institutional framework of contemporary local Government, and that is supplemented by various other corporate governance measures that - that exist within each individual organisation and certainly exist within Gold Coast City Council. Those two aspects come together and constitute a pretty rigorous framework that - that I think ensures that the issues that are referred to there are improbable. For example, when you look at the Gold Coast City Council, there are no delegations to Councillor Shepherd-----

Yes?-- -----as the chairperson of a standing committee, and that means that Councillor Shepherd can't as an individual decide a development application. The Council has not delegated that power to him. It could. It could. It could alternatively have delegated its power to the planning committee such that the Council doesn't make the decisions. In a practical real world sense either the Chairperson, Councillor Shepherd as the standing committee, or the standing committee could make decisions relating to development applications. That is not the case. So that of itself is an indication that the Council, I think, takes those responsibilities seriously and when you look at the decision making processes relating to development applications outside of the Council meeting regime - so there are recesses from

time to time, say over the Christmas period - we have a delegation regime that applies to, as I recall, the Mayor and myself as CEO, to exercise a decision making power on behalf of Council to decide certain applications but within very strict and explicit parameters. So they're examples of what is a robust institutional framework, supplemented by quite a strong corporate governance framework, and these are - these institutional improvements or arrangements are the product of the current legislation that have been in place by and large since 1994 and local Government is far better for it.

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Yes. Now, I touched briefly on the article to which my learned friend Mr Mulholland spoke to you about where - you remember the headline, "Young muscled out by Shepherd". It was number 60 in Exhibit 3. I don't think we need to show you that again but this was an article which spoke about where there was previously the north and south planning committees and they were combined as one. You said that you didn't have a strong view one way or the other about whether there was a combination, but can you recall if one of the arguments that was put forward so as to combine the two committees, that is the planning north and planning south, was that there was a possibility that planning south could be - have a number of councillors whereas planning north might have different councillors and they may have different points of view about development within the whole of the City?-- There were various complications, if you like, that arose as a consequence of having two geographically-based standing committees dealing with development related matters. There was considerable political debate around the merits of retaining that situation or moving to the current position. There was considerable disquiet expressed by some individual councillors about the move to a single standing committee. I think the practical reality when you look at what has transpired over the last 20 or so months is that the move to a single committee is working just fine. And as I say - as I said previously, the issues are fairly academic or relatively academic because that particular committee like all other standing committees has no substantive power that has not been delegated by the Council. They are only empowered to make recommendations to the Council.

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And as well, I understand that any councillor who is not a member of that committee can attend these meetings?-- Yes.

And vocalise their support or opposition to any proposals being put forward?-- There has been considerable political debate around that particular issue but I say that for my perspective it was a fairly - it's fairly academic when you think about it, when you think in terms of what I've described.

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Yes. Because half of the committee's - the standing committee having no delegated power-----?-- Correct.

-----must go to the full Council for a decision?-- Correct. And the single committee has, in my observation at least, worked as it should have in terms of properly discharging its

function dealing with matters in a timely and appropriate manner and making recommendations to the Council.

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Thank you. Mr Dickson, you were also referred to number 24 of 3 which was the article "Power bid to stop fee hikes spikes anger" and this is the one where it was suggested in the article - I'll just read - these words were attributed to you, "Chief Executive Officer Dale Dickson admitted he had been asked by some councillors, who he would not name, to draft a recommendation calling for an indefinite moratorium on the charges to allow further investigation." Your answer to Mr Mulholland was that you can't recall having stated this to The Bulletin. My question is this: now that you've heard that, did you make any statement to The Bulletin on these very issues that-----?-- I may - I may have been questioned by the journalist after the Council meeting.

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Right?-- That may well have occurred. I don't recall the - that particular issue at that particular day. It was within a climate that was highly controversial. There were all sorts of pre-election matters being aired publicly, and that was the environment and the climate at the time. It was one of-----

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But what I'm saying is that being the climate and environment at the time, would you have made that statement to The Bulletin at that point in time?-- I think I recall questioning whether I referred to an indefinite moratorium or - or words to that effect.

So those words you don't think that was something that you said?-- I may have referred to it but I - that - I think I said this morning that I may have referred to a staged implementation. There are various descriptions of what might have been contemplated and they give very different inferences.

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Can you recall what your draft resolution was? Was it for an indefinite moratorium?-- I can't recall the details, honestly, I just can't.

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Now, you may or may not be able to answer this question but let's see how we go. Well, first of all, to set it up, you attend every Council meeting or every Council meeting when you were in working for the Council; is that the case?-- Yes.

And you attend a good number of the standing committee meetings?-- No, I don't.

Oh you don't; all right?-- Not a practical possibility.

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No; all right. Therefore, you would attend the majority of Council meetings, full Council meetings?-- Yes.

You've heard through the publicity of the paper and through this Inquiry about this so-called bloc. We've heard from a number of councillors who deny its existence. Do you see or observe from the voting trends at Council meetings that there is such a thing?-- There have been various references to a

bloc, a - and there have been various embellishments of that term. Those references have been amplified in the press and they have certainly been part of the political language that's been used by individuals over - over the life of this Council. Beyond that, I've never had it explained to me what the term actually means. From where I sit, what is important is that the Council is making decisions and it is irrelevant as to the composition of Councillors that might be voting a particular way. So references to a bloc or the embellishments of that term, from my perspective, are effectively irrelevant or redundant I have to say.

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Well, do you say it exists or does not exist from what you observed?-- I don't know what the term means. I could - I could make an assumption about what it may mean and I've heard various descriptions of what it may mean but I've - I have to say those references or descriptions have been in two forms in the - valid political form - I'm not saying that it's - I'm not being derogatory when I refer to that - there is a valid political debate that occurs with every Council and individuals can use whatever terminology they think appropriate to influence the views of others. That's quite appropriate. I'm not putting it forward in a derogatory sense but I am saying that's the flavour and certainly in the - in the media particularly the press it's been a term that's been used. I don't know in a practical real world sense what it means and from my perspective it is irrelevant. The Council as a body is making decisions.

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Do you say that it's a media creation or do you say that it's something that does exist?-- I'm not saying who created it.

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But do you say-----?-- I don't know.

I'm trying to - we've had so many definitions of this, these like-minded candidates all vote together and the bloc of 8 is being described. Is that the case, does that occur?-- There isn't a perfect linear evidence of eight Councillors voting a particular way on every issue that's before the Council. The permutations and combinations of individual Councillors voting on a particular issue vary from decision to decision. That's the reality.

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I'll deal very briefly with Exhibit 313. This was a - you might have to look at this document, Exhibit 313, it seems to be an email from David Montgomery to - sorry, from Mr Hulse, Matthew Hulse, to David Montgomery and copies to you concerning processes of relevant development applications. Can you recall that document - we'll give you a copy?-- I believe I was the recipient of that particular advice.

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It was tendered through you?-- Yes. I received a copy of it.

So therefore is it a document which you adopt as being correct or is that just a document which was passed through you?-- Well, it's a précis or a summary of the process of dealing with development applications as they are received at the door so to speak.

Yes-----?-- And it also refers to pre-lodgement applications so processes remain there too.

I ask you to look at the second paragraph and there's an indent, then a star, then a second indent and a star. I'm reading the section, "This is not unusual that developers wants to meet with the City Chair or the area Councillor to discuss their application." Can you follow that paragraph?-- Yes.

Now, do you endorse that, is that what you say happens in the usual course of things, that developers will go directly to Councillors or to the Chair of the Planning Committee for advices even before Councillors officers get to know about applications?-- I would say it wouldn't be unusual in my experience both at Gold Coast City Council or elsewhere.

And is there anything that you see to be inappropriate with that course of conduct?-- Of itself, no.

All right. Thank you, I have nothing further.

MR S FYNES-CLINTON: Just two questions, Chairman, with leave. Mr Dickson, just for clarification you were asked some questions by counsel assisting concerning your involvement in and knowledge of candidate training. The Council appointed an independent returning officer for the 2004 election; correct?-- Correct.

So you did not have that role?-- Correct.

When an independent returning officer is appointed what role or powers do you have as CEO with respect to the conduct of the election?-- None that - none.

Thank you. And the only other matter is this, you referred in your statement and your evidence to section 435 which contains a process for making enquiries if something is drawn to your attention?-- Correct.

And your evidence as I understood it was that you're not aware of any other powers to investigate or make enquiries and that generally unless section 435 is invoked there's no other specific responsibility you have; that was your evidence, wasn't it, effectively?-- That's correct.

Just wondering if you know - and if you don't say so - is that a view shared generally by the CEOs of Councils throughout Queensland, do you know?-- It's not a matter that I've discussed with my colleagues. I would be surprised if it were otherwise.

Yes. Thank you.

MR NYST: Mr Dickson, just in relation to that council meeting of the 19th March, the one that dealt with the infrastructure charges - you recall what I'm talking about - 19th March '04? It's correct to say, isn't it, that at that time you, the - at the Gold Coast City Council were still grappling with this whole issue of infrastructure charges and how they ought to be levied, and so forth?-- Yes, that's been an evolving area of law and - and application.

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Right, and administratively as well as politically it was a - it was a new animal to you, wasn't it?-- It has been new and quite complex, yes.

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Yes. I was going to come to that. There were some very complex issues, weren't there, about how the infrastructure charges ought fairly be and legally be levied?-- Yes, they've been quite complex issues.

And at the same time it was also - back then in March '04, it was also a hot political potato, wasn't it, in the lead up to the elections?-- Correct.

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There were some candidates in the elections who were using the infrastructure charges as a - something of a political football. Is that fair?-- I wouldn't use that language, but that's a - that's a way of describing it.

Well, you understand what I'm saying? Perhaps my language sometimes tends to be a little more colourful than it should be, but using it as a political issue, it-----?-- It's been - the issue of infrastructure charges has been the subject of pretty intense political debate.

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Yes, and within the context of that debate, it was sometimes oversimplified, wasn't it, in the sense that some candidates - some of the debate was featured by accusations that those who in any way sought to question the infrastructure charges were somehow doing the bidding of developers?-- That general proposition or inference has been part of or characterised as part of the legitimate political debate. I think that's fair to say.

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Yes, but it was very much part of the debate at that time, wasn't it, that some people were overlooking the very complex issues that still had to be sorted out?-- Well, I think the - I would say that the issues relating to infrastructure charges had proven to be quite complex. To some extent we are still grappling with them.

Yes?-- And to simplify them arguably doesn't do them justice-----

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Yes?-- -----and issue justice.

And to go back to, then, in March '04, a couple of issues that even then were very live issues for you to consider were, for example, issues of the retrospectivity or the possible retrospective effect of the levying of the infrastructure

charges. That was a live issue, wasn't it?-- Well, the issue of timing, the impact of timing and the quantum of charges was certainly - had certainly proven to be an issue for the council, yes.

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Yes. I mean, you talked about staged implementation. Now, that was one of the issues; whether it was appropriate to levy all infrastructure charges on the first stage of development regardless of actual yield, or whether the - or whether to stage infrastructure charges between the first and second subsequent stages of development, isn't that so?-- The issues of timing and - and the rate of increases has been the subject of much debate by the council.

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And any sensible, responsible person approaching the issue of infrastructure charges had to, of necessity, consider those sort of issues. Isn't that fair? Had to give them some serious consideration at that time?-- I would say, yes, that is a - that is a - an important policy aspect.

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Yes?-- Or issue.

It wasn't as simple, then, as saying, "Oh, either/or, right now or nothing, because if you're for all right now you're responsible, but if you're the other way, you're pro-development and then corrupt." That's just not a legitimate equation, is it, or was it?-- As a general proposition, if someone didn't agree with a decision to - to not impose a high rate of charges in one go, one fell swoop, then there is a possibility in the political world of local government in Queensland that those - the issues that you raise could be amplified.

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Yes, that flavour was rolling around in the political debate in that fervour, that cut and thrust of the pre election period, wasn't it?-- These are - these are all matters of valid political debate.

I'm not challenging that but I'm saying that was a flavour that was rolling around at that time, wasn't it?-- Yes.

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And I suggest you were all walking on eggshells at that time because there were these serious issues that had to be addressed; issues of retrospectivity, issue whether there should be staged implementation. They were issues you had to address and get a sensible solution to but at the same time you were facing this political flavouring to the argument, to the debate?-- In that particular issue there are tensions between having regard to the interests of those people that would pay those charges directly, the development community, if you like, and the ideal scenario of generating as much money as quickly as possible to provide infrastructure. They are two ends of the spectrum-----

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Yes?-- -----and it is a valid policy decision for any council to take a position on those and decide a position in respect of those competing tensions.

It was in the context of that general debate, wasn't it, that you heard from various people, including people such as the Mayor, Gary Baildon, at the time, Councillor Power, you heard issues - you heard discussion about, "Look, there are some serious questions about retrospectivity and other potential legal challenges that need to be addressed here."?-- I think that's a fair statement, yes.

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And I think you said that - I think you mentioned maybe the Mayor had spoken about the issue in one of these prior meetings prior to the council meeting?-- Yes, correct.

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And ultimately you had - did you say that you - you had drawn a motion?-- As I recall I agreed to the proposition that we as officers could prepare a motion, as we do and have done, for any councillor if requested.

Yes. But there was - sorry-----?-- And that's what I agreed to.

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Go on?-- I didn't prepare it. I don't recall the details thereof.

Right. But there was - there was nothing inappropriate or even unusual about you doing that?-- No.

And indeed it's fair to say, isn't it, that the discussions that were being had leading up to that meeting of council were discussions that you considered quite sensible and appropriate in that what was being discussed was, "We perhaps need to look more carefully at the legal issues here before we move forward."?-- There was - there was and has been since the election considerable discussion at a political level and at an officer level about the various issues relating to infrastructure charges, and there has been much discussion about those competing tensions and taking what might be at the end of the day an appropriate position.

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Right. Well, what I want to suggest to you is that the talk that day was about whether the infrastructure charges needed to be put on hold until legal advice had been taken in respect of this potential issue of retrospectivity?-- I wouldn't dispute that.

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I suggest-----?-- I have a general recollection that that was an issue raised-----

Yes?-- -----I think by Councillor Power.

I mean, you don't remember the specifics of it but what you remember is that there was some proposal that a motion be put to allow some - do you recall that there was some proposal that a motion be put to allow some legal advice to be taken?-- I can recall the council getting legal advice along the way. I don't recall a particular motion off the top of my head.

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All right, okay. Well, what I want to you on instructions is that Mr Power did not on that day, or any other day, has never suggested an indefinite moratorium on infrastructure to you or in your presence or to anybody?-- Well, I don't recall that.

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Yes?-- I made reference to another way of describing what I believe was the discussion.

Yes, yes. I understand that. You were taken to a newspaper report where this - this term "indefinite moratorium" was used and you've said, well, you didn't recall saying that but you might have talked about staged implementations, but I'm simply putting to you on instructions that Mr Power has never been an advocate of killing off the infrastructure charges; indefinitely staying or getting rid of the infrastructure. He's never advocated that to you or to anybody else?-- Not that I can recall.

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No. Thank you, sir.

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CHAIRMAN: Anyone else? No, you're right. I was just checking if there was anyone else. Back to you, Mr Webb.

MR WEBB: Well, no one is challenging. I just have one matter, sir. Look, you said to Mr Mulholland fairly early on in the piece about the searches that you'd been able to make in relation to this agenda item that Councillor Sarroff gave some evidence about. You know what I'm talking about?-- This is the draft motion?

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Yes?-- Yes.

When was the first request made of you to look for that document?-- Yesterday.

What time?-- Late afternoon, as I recall.

All right. And as I think you said to Mr Mulholland, so far there's no trace electronically or otherwise?-- Correct.

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But you were still given instructions for people to look further or check again?-- Yes, I certainly endeavoured to do that.

CHAIRMAN: Thank you.

MR MULHOLLAND: Just in relation to that, Mr Dickson, were you aware at the time that Mr Sarroff gave his evidence as to what he had said in regard to yourself?-- I'm not-----

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That is, were you made aware of it by your lawyers?-- In general terms only.

Now, can I take you to the point raised with you by the Chairman. What the Chairman took you to was the case of Mr Rowe and what Mr Rowe had declared. I want to refer you to

the Lionel Barden situation itself. What was declared by Mr Betts in relation to Lionel Barden was the Lionel Barden Trust Fund. Right? Are you with me so far?-- Yes.

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So that's what he disclosed. Now, in your statement you have referred to section 433 of the Act in relation to registers of electoral gifts and you say, "As CEO I am required pursuant to section 433 of the Local Government Act to keep a register of electoral gifts." Now you say a copy of that was given to the CMC in April 2005 and you go on to say, "The Register is kept in two volumes, one for successful candidates, that is elected councillors, and the other volume for unsuccessful candidates and third party returns." Now I take it that you would understand the obligation there of you keeping - that it would be a keeping of that register in compliance with the Act. Did you understand that that or do you understand that that is the obligation on you?-- I don't have any difficulty with what you're saying.

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All right. Now, you go on to refer to a number of provisions, one of which is section 435, this is on page 2 again, and you quote section 435(1): "A person who suspects or believes on reasonable grounds that a return given to the Chief Executive Officer of a Local Government under this part has an error or omission may inform the Chief Executive Officer." Right? Now that of course would be one way that it would come to the attention of the Chief Executive Officer of some error or inaccuracy or non-compliance in the register, wouldn't it? That would be one way?-- Correct.

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Of course, another way is simply by whoever's task it is to look at the returns, and may we take it that the people that you have delegated would have had that task, to check the returns, is that right?-- As they are received, yes.

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Sorry?-- As they are received, yes.

As they are received. Now, on page 5, this is at about point 2 or 3, under Register of Electoral Gifts you say this: "When a candidate brought their return in for submission the return was perused and if there was any omission or clarification required this was brought to the candidate's notice at the time." Now, having regard to the provision of the Act in relation to trust funds, and you've been reminded of this, and the obligation on candidates to provide relevant details, the Act defines relevant details in relation to a gift purportedly made out of a trust fund as the names and residential or business addresses of the trustees of the fund, two, the title or description of the trust fund. Right?-- Correct.

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So the names as well as the addresses. So in relation to the Lionel Barden Trust, the names of the trustees should have been disclosed by the candidates, shouldn't they? Accepting that it was as it stated the Lionel Barden Trust Fund. Isn't that right?-- I believe so.

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Well, would that be the kind of thing that you would have envisaged as being something which ought to be corrected at

the time the return is brought in, or steps taken to correct it at the time the return is brought in?-- Possibly.

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Possibly?-- Mmm.

Well, why is it only possibly?-- Because the officers have perused the documents at the time. What they have done is what they have done. It's a matter of record. They - if there are issues that have come out of this particular inquiry that suggest otherwise, there's nothing I can do now to change that. What they've done is what they've done.

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Yes. So that short of that situation, that is to say it being apparent on the face of it that there's something wrong with it-----?-- Mmm.

-----or short of someone bringing it to the attention of yourself under section 435, then you wouldn't carry out any investigation; is that the position?-- I think I said - I think I said previously that I - as I understand my responsibilities I don't have any investigative or coercive powers to elicit further information from people other than what is provided for in the Act.

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But having regard to the obligation to keep a register, that obligation on you to keep a register would have been understood, as you've said, as keeping an accurate record and in compliance with the Act, wouldn't it? That's the obligation?-- From a - from a practical perspective, I take the view that the officers should be diligent in ensuring that the - that the returns are complete, that there are no obvious omissions or errors, that at the end of the day the disclosure obligation rests with the individual or the third party, not the officers concerned. They have a practical delegated responsibility to administer my responsibilities under the Act but the actual disclosure obligation rests with the other party.

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There would be, however, in certain circumstances some - what we've discussed already - be understood by the officer that you have delegated this power to that they would make inquiries of other people?-- I've referred in my return to various inquiries or discussions about particular issues that have come to the officers' attention or my attention such that we've been proactive, but that's as complete as I can convey it. I referred to some specific issues at pages 6 and 7, from memory.

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Yes. Now, so far as the officers who you delegated this responsibility to, so far as the returns are concerned, did you take any active role with those officers in ensuring that they met certain requirements that you had so far as these returns were concerned or did you just leave it to their experience and their own expertise?-- I generally left it to their experience and their expertise. What I have done subsequent to - or since the inquiry has commenced is - has been to ask Mr David to go back over the various of the returns to see if there's been any other matter that I should

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deal with, hence I think the Lionel Barden correction, and that's the extent of it.

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Yes. The Lionel Barden correction that is the subject of that exhibit tendered today?-- The letter, yes.

Not the Lionel Barden defect that I've pointed out to you?-- That's your word.

All right. And so far as those officers who have been delegated this responsibility is concerned, there weren't any written directions in place as to how they should go about it?-- No. No.

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And so apart from you having raised with the officers as to go back over the returns and see whether or not there's anything else that should have been done that hasn't been done, so far as doing anything actively to address any deficiencies in the returns more generally, you are awaiting the outcome of this inquiry?-- I have made reference in my return - my submission to particular actions that we have taken in respect of particular matters, but beyond that, no, apart from the other issue that I alluded to and that was the - the scanning of the returns that we have to hand to see if there are any other matters that I should deal with at this time.

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So, really, let me focus in finally on this point: so far as what I put to you previously in relation to Mr Power and Ms Robbins, the Council has not considered the question as to whether Mr Power is under an obligation to put in a return?-- No. No.

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Yes, thank you. Mr Chairman, may the witness be excused?

CHAIRMAN: Yes, thank you, Mr Dickson.

WITNESS EXCUSED

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MR DEBATTISTA: Mr Chairman, I have a procedural question to raise at this time. The Commission - you have already informed those of us here that counsel assisting will make oral submissions on 22nd December. Can I ask what timetable is envisaged for submissions for the interested parties?

CHAIRMAN: By the end of January.

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MR DEBATTISTA: Thank you, Chairman.

CHAIRMAN: We appreciate there is Christmas. So, we've got to give more than the normal say three weeks. So, by the end of January.

MR DEBATTISTA: Will they be required to be oral, or will they be required to be in writing?

CHAIRMAN: I think it would be better in writing.

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MR DEBATTISTA: And, Chairman, will a copy of the transcript of counsel assisting's oral submissions be made available to us?

CHAIRMAN: Yes.

MR DEBATTISTA: In the normal fashion.

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CHAIRMAN: Yes.

MR DEBATTISTA: Thank you.

MR WEBB: Mr Chair, do I understand by that we won't be given the opportunity perhaps to request to supplement our submissions?

CHAIRMAN: To request?

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MR WEBB: To supplement our written submissions with any oral address. I'm not asking that as a loaded question. I think that's quite plain.

CHAIRMAN: Yes. No. Well, it should be able to be done, I think, if there's any particular reason why people think they need to make oral submissions, perhaps we can address it when we resume in the week of the 12th before we finalise the - I can't at the moment see any particular reason why it would be necessary to supplement.

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MR WEBB: Thank you, Mr Chairman.

CHAIRMAN: I'm willing to listen to any submissions if you have a particular point you wanted to make.

MR WEBB: I wasn't indicating I'd necessarily wish to do that.

CHAIRMAN: No, no.

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MR WEBB: But I just wanted to clarify it; that's all.

CHAIRMAN: Well, that's why I say we can take it up in that week. If people want to think about it, if there are particular matters that you want to raise as to why you should do it that way, I'd be prepared to listen.

MR WEBB: Thank you, Mr Chairman.

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CHAIRMAN: I might say with respect to the hearings that I would envisage we would have in the earlier part of next year with respect to the recommendations that with - perhaps I'd be prepared to listen with respect to the Local Government Association, I wouldn't envisage there would be legal representation.

MR WEBB: Well-----

CHAIRMAN: Because it's not a legal matter at all. It's a matter going to representations to hear the views of organisations such as the Local Government Association, the Local Government Managers Association, individual persons.

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MR WEBB: Save that there might be in respect of that some legal questions but I anticipate they're going to be addressed.

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CHAIRMAN: Yes.

MR WEBB: At least they are from us in the oral-----

CHAIRMAN: Yes, they should be addressed-----

MR WEBB: In the written submissions.

CHAIRMAN: They should be addressed in the written submissions.

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MR WEBB: Yes. It wasn't envisaged, for instance, that - at this stage anyway that we would necessarily be-----

CHAIRMAN: Because those matters would be more talking about the meaning of the present law.

MR WEBB: Exactly.

CHAIRMAN: The terms of reference 2 and 3 are about any recommendations that should be made for the future.

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MR WEBB: Yes. Thank you, sir.

CHAIRMAN: Right. So, we'll adjourn till 10 o'clock on the 12th.

THE HEARING ADJOURNED AT 4.08 P.M. TILL MONDAY, 12TH DECEMBER 2005

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WITNESS LIST

DALE ROBERT DICKSON, SWORN AND EXAMINED	2236
WITNESS EXCUSED	2306

EXHIBITS

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