

**Report No. 73**

**A report on complaints against the Crime and Misconduct Commission made by  
Cr David Power**



**LEGISLATIVE ASSEMBLY OF QUEENSLAND**

**PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE**

**A report on complaints against the Crime and Misconduct Commission made by  
Cr David Power**

**Report No. 73**

**March 2007**

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## **COMMITTEE MEMBERSHIP 52<sup>nd</sup> PARLIAMENT**

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DEPUTY CHAIRMAN:	Mr Howard Hobbs MP, Member for Warrego
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## CHAIRMAN'S FOREWORD

In 2005, the Crime and Misconduct Commission (the CMC or the Commission) commenced an inquiry into the 2004 election for the Gold Coast City Council. Councillor David Power is the Deputy Mayor of the Council.

As part of its investigation, the Commission conducted public hearings. In May 2006, it tabled its report titled *Independence, Influence and Integrity in Local Government*.

By letter dated 23 May 2006, Cr Power wrote to the Parliamentary Crime and Misconduct Committee (the PCMC or the Committee) making a number of complaints arising from the CMC's investigation and its report.

As an initial step in its consideration of the matters raised by Cr Power, the Committee sought a response from the CMC to the matters raised by Cr Power.

Following consideration of the complaints and the response received from the CMC, the Committee resolved on 7 June 2006 to refer the matter to the Parliamentary Crime and Misconduct Commissioner (Parliamentary Commissioner), Mr Alan MacSporran SC. Mr MacSporran was asked to examine the Commission's report (and other documents as he considered appropriate) and report to the Committee as to whether the actions of the Commission were appropriate in all the circumstances, having regard to the concerns raised by Cr Power and the response by the CMC. The full terms of reference, together with the concerns raised by Cr Power, are set out in the report of the Parliamentary Commissioner. Cr Power expanded on his complaints in subsequent correspondence to the Parliamentary Commissioner.

The Parliamentary Commissioner has delivered his report to the Committee. In summary, Mr MacSporran has concluded that the complaints made by Cr Power cannot be substantiated. Mr MacSporran notes in his report that the issue for consideration was not whether history will reflect the Commission's conclusion's as being correct but, rather, whether they reflect a view reasonably open on the evidence before the Commission's inquiry.

**Paul Hoolihan MP**  
Chairman

March 2007

## **1. INTRODUCTION**

The Committee has resolved to table the report of the Parliamentary Crime and Misconduct Commissioner in the Legislative Assembly. It is the practice of the Committee when tabling such a report to provide some background detail regarding the role and powers of both the Committee and the Parliamentary Commissioner.

The PCMC monitors and reviews the performance of the functions of the CMC. The Committee is established under the Crime and Misconduct Act 2001 (the Act) as a bipartisan Committee of the Queensland Legislative Assembly. It has the following functions:

- to monitor and review the performance of the CMC's functions;
- to report to the Legislative Assembly where appropriate on any matters pertinent to the Commission, the discharge of the Commission's functions or the exercise of the powers of the Commission;
- to examine reports of the CMC;
- to participate in the appointment of commissioners;
- to conduct a review of the activities of the CMC at the end of the Committee's term ("the three year review"); and
- to issue guidelines and give directions to the CMC where appropriate.

The PCMC can also receive complaints and deal with other concerns which it may be aware of about the conduct or activities of the CMC or an officer or former officer of the CMC.

The Committee is assisted in its oversight process by the Parliamentary Commissioner. Mr Alan MacSporran SC was appointed as the Parliamentary Commissioner in December 2004. Mr MacSporran's appointment is on a part-time basis.

The Parliamentary Commissioner has a number of functions under the Act. These include carrying out the following, as required by the Committee:

- conduct audits of records kept by and operational files held by the CMC;
- investigate complaints made about or concerns expressed about the CMC;
- independently investigate allegations of possible unauthorised disclosure of information that is, under the Act, to be treated as confidential;
- report to the Committee on the results of carrying out the functions of the Parliamentary Commissioner; and
- perform other functions the Committee considers necessary or desirable.

To assist in the performance of these functions, the Parliamentary Commissioner has wide powers.

Any decision by the Committee to ask the Parliamentary Commissioner to investigate or review and report on a matter must be made unanimously or by a multi-party majority of the Committee.

## **2. BACKGROUND TO COUNCILLOR POWER'S COMPLAINTS**

In August 2005, the CMC commenced an inquiry into the 2004 election for the Gold Coast City Council. Cr David Power is the Deputy Mayor of the Council.

As part of its investigation, the Commission conducted public hearings. In May 2006, it tabled its report titled *Independence, Influence and Integrity in Local Government*.

By letter dated **23 May 2006**, Cr Power wrote to the previous PCMC making a number of complaints arising from the CMC's investigation and its report.

### **3. COMMITTEE'S RESPONSE**

As an initial step, the Committee sought a response from the CMC to the matters raised by Cr Power. The CMC responded by letter dated **6 June 2006**.

Following consideration of the complaints and the response received from the CMC, the Committee resolved on **7 June 2006** to refer the matter to the Parliamentary Crime and Misconduct Commissioner, Mr Alan MacSporran SC. Mr MacSporran was asked to examine the Commission's report (together with transcripts and submissions and other material the Parliamentary Commissioner considered appropriate) and report to the Committee as to whether the actions of the Commission were appropriate in all the circumstances, having regard to the concerns raised by Cr Power and the response by the CMC. The full terms of reference, together with the concerns raised by Cr Power are set out in the report of the Parliamentary Commissioner. Cr Power expanded on his complaints in subsequent correspondence to the Parliamentary Commissioner.<sup>1</sup>

The Parliamentary Commissioner was also asked to advise whether any of the concerns raised by Cr Power were not able to be adequately considered by him upon examination of the materials mentioned in the Committee's referral to him (that is, the Commission's report, and the transcripts and submissions).

### **4. THE REPORT OF THE PARLIAMENTARY COMMISSIONER**

The Parliamentary Commissioner reported to the Committee on **5 December 2006**. Some time elapsed whilst the Parliamentary Commissioner awaited the delivery of further material which had been foreshadowed by Cr Power. Cr Power provided further material under cover of letters dated **8 September and 20 and 23 November 2006**. The Parliamentary Commissioner has annexed to his report Cr Power's three letters and enclosures.

In summary, Mr MacSporran has concluded that the complaints made by Cr Power cannot be substantiated.

In a letter to the Committee dated **5 December 2006**, Mr MacSporran refers to one matter raised by Cr Power in that correspondence. The Parliamentary Commissioner describes that issue as a complaint that CMC investigators displayed bias against Cr Power when setting about obtaining a statement from his personal assistant.

The Parliamentary Commissioner noted that that issue was arguably outside the terms of reference provided to him by the Committee. He expressed the view that:

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<sup>1</sup> One concern raised by Cr Power was excluded from the referral to the Parliamentary Commissioner. That allegation was that the CMC had failed to investigate the possibility of an unauthorised disclosure of confidential information in relation to the submission of Counsel assisting the inquiry. This issue had also been referred to the Committee by the CMC Chairperson (pursuant to section 329 of the *Crime and Misconduct Act 2001*). It was clear that a number of persons both within and external to the Commission had access to the submission. The Committee decided to take no further action, after receiving advice from Mr MacSporran that his view was that, given the potentially large number of persons having access to the submission, any investigation of the source of the unauthorised disclosure would very likely be unproductive. The Committee advised Cr Power accordingly.

*...it would be a useful exercise to deal with the issue now rather than leave it in abeyance for what may be a later reference.*

In his letter Mr MacSporran advises that in his view there is no substance to this allegation, and he explains why he reaches this conclusion.

It is clear that this issue raised by Cr Power with the Parliamentary Commissioner is connected with those previously raised by him in his letter to the Committee and referred to the Parliamentary Commissioner. In the interests of efficient and transparent administration, and in finalisation of that issue, the Committee has resolved to table with this report the Parliamentary Commissioner's letter dated 5 December 2006.

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**APPENDIX A**

**REPORT BY THE PARLIAMENTARY CRIME AND MISCONDUCT  
COMMISSIONER ON HIS EXAMINATION OF THE CRIME AND MISCONDUCT  
COMMISSION'S INQUIRY INTO THE GOLD COAST CITY COUNCIL 2004  
ELECTION**



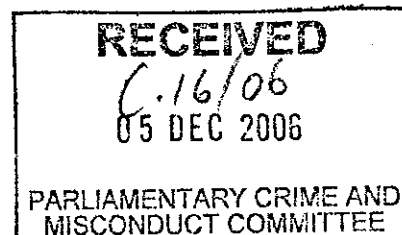


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5 December 2006



Mr Paul Hoolihan MP  
Chairman  
Parliamentary Crime and Misconduct Committee  
Parliament House  
BRISBANE QLD 4000

*hand delivered by  
M. Kunde - 3:30pm*

Dear Mr Hoolihan

**CMC inquiry into the Gold Coast City Council 2004 election – issues raised by Cr David Power**

I refer to your letter of 8 June 2006 wherein you advised of the Committee's resolution to refer the above named matter for my examination and report. I have now concluded my examination of the CMC Report and other material and accordingly provide my report on that examination for the consideration of the Committee. There is however, one further matter upon which I wish to comment.

In his correspondence to me of 20 November 2006, (Appendix 2 to the report) Councillor Power raised a further issue which is arguably outside of the Committee's terms of reference. However, it seems to me that in light of the view I have formed concerning this matter, it would be a useful exercise to deal with the issue now rather than to leave it in abeyance for what may be a later reference.

Essentially, the complaint is that the CMC investigators displayed bias against Councillor Power when, following the publication of the CMC Report, they set about obtaining a statement from Mrs Donna Gates, Councillor Power's Personal Assistant. Councillor Power believes that there was an attempt to manipulate the evidence obtained in respect of the prosecution proceedings brought against him pursuant to section 218(1) of the *Crime and Misconduct Act*.

In proof of this allegation, Councillor Power enclosed with his correspondence, a transcript of Mrs Gates' interview with CMC investigators and a copy of a draft witness statement which the investigators had provided for Mrs Gates' signature. The draft statement was prepared by the CMC investigators and purported to be based upon the answers she gave during her interview.

The copy of the draft witness statement was amended by Mrs Gates before she signed her final witness statement. The amendments essentially relate to the issue of whether correspondence typed by Mrs Gates was, to her recollection, prepared at the specific instruction of Councillor Power or not.

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Upon a perusal of the transcript of the interview, it is open to conclude that there may have been some confusion about what Mrs Gates was endeavouring to convey to investigators but importantly, in the context of this complaint, the draft statement was provided to Mrs Gates for her perusal and correction if necessary before signing and thus adopting its contents in respect of evidence she may later give against Councillor Power.

It is difficult to reach a conclusion that there has been an attempt to deliberately manipulate a witness' testimony. It must be remembered that the basis for Councillor Power's allegations came from the very fact that the CMC investigators tape recorded all contact with the witness thus allowing anyone, including Councillor Power, to later review the transcript to see what in fact had been said between the parties as the investigation proceeded.

In my view there is no substance to this allegation.

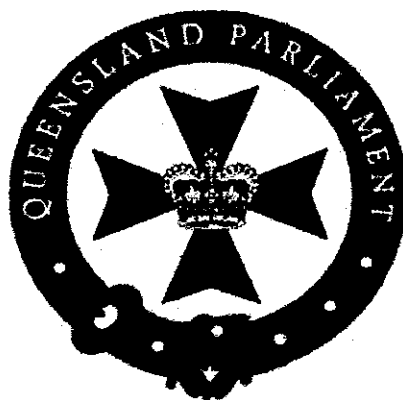
Yours sincerely

A handwritten signature in black ink, appearing to read 'A. MacSporran', with a long horizontal stroke extending to the right.

A J MacSporran SC  
**Parliamentary Commissioner**

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**REPORT ON THE EXAMINATION  
OF THE  
CRIME AND MISCONDUCT COMMISSION'S INQUIRY  
INTO THE  
GOLD COAST CITY COUNCIL 2004 ELECTION**



**OFFICE OF THE  
PARLIAMENTARY CRIME & MISCONDUCT COMMISSIONER**

**DECEMBER 2006**

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## INTRODUCTION

In July 2005 the Crime and Misconduct Commission took receipt of a large volume of material from the Honourable Desley Boyle MP, then the Minister for Environment, Local Government, Planning and Women. The material (referred to as a “dossier”) had been compiled by Gold Coast City Councillor Peter Young over a period of time and comprised a number of complaints and supporting material about the conduct of candidates and other persons leading up to and subsequent to the Gold Coast City Council election held on 27 March 2004.

The CMC had also received complaints from other persons, including other Gold Coast City Councillors, calling for an inquiry into certain aspects of the election. The CMC was also aware of numerous newspaper articles concerning the conduct of Councillors and others leading up to and subsequent to the election.

Amongst the concerns raised in the dossier, by other complainants and in the media were the relationships between developers and some candidates and the existence of a campaign fund to which developers had made financial contributions for the use of those candidates.

Subsequently, in August 2005 the Crime and Misconduct Commission approved the commencement of a misconduct investigation into the allegations concerning the 2004 Gold Coast City Council election. The investigation was called Operation Grand. The Commission later resolved to hold public hearings pursuant to sections 176 and 177 of the *Crime and Misconduct Act*.

The public hearings extended over 27 days, between 10 October and 15 December 2005, with final submissions made 7 February 2006. The report on the Crime and Misconduct Commission’s inquiry into the 2004 Gold Coast City Council election, entitled “*Independence, Influence and Integrity in Local Government*” was provided to the Attorney-General, the Speaker and the then Chairperson of the Parliamentary Crime and Misconduct Committee in May 2006.

On 23 May 2006 Gold Coast City Councillor and Deputy Mayor, Councillor David Power wrote to the Parliamentary Committee “*to complain about the conduct of the Crime and Misconduct Commission in respect of its investigation and report into the 2004 Gold Coast City Council elections...*”

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## TERMS OF REFERENCE

At a meeting on 7 June 2006 the Parliamentary Crime and Misconduct Committee resolved, in accordance with section 295(3) of the *Crime and Misconduct Act 2001*, that:

*The Parliamentary Crime and Misconduct Committee, pursuant to section 295(2)(f) of the Crime and Misconduct Act 2001, requests the Parliamentary Crime and Misconduct Commissioner to:*

- 1. examine the report of the Crime and Misconduct [Commission] inquiry into the Gold Coast City Council 2004 election (together with relevant transcripts, submissions and any other material you consider appropriate) having regard to:*
  - (a) the concerns raised by Councillor David Power in his letter to the Parliamentary Crime and Misconduct Committee dated 23 May 2006 (excluding his concern that the Commission failed to investigate the possibility of an unauthorised disclosure of confidential information in relation to the submission of Counsel assisting);*
  - (b) the response by the Crime and Misconduct Commission in its letter dated 6 June 2006;*
- 2. report to the Committee advising whether in respect of those concerns the actions of the Commission were appropriate in all the circumstances; and*
- 3. advise the Committee whether any of the concerns raised by Councillor Power are not able to be adequately considered by you upon examination of the materials referred to in 1 above.*

## RESULTS OF INVESTIGATION

After initially assessing the terms of Councillor Power's complaints, I invited him to provide further particulars of the allegations made in his letter of 23 May 2006. Councillor Power then provided further material in correspondence to my office of 8 September, 20 November and 23 November 2006. (I have provided copies of Councillor Power's further material with this report as Appendices 1, 2 and 3 respectively.)

In its broadest terms, the complaint by Councillor Power is essentially that the Crime and Misconduct Commission ("CMC") displayed bias against him and other Gold Coast City Councillors by the manner in which it conducted its Inquiry into the 2004 Gold Coast City Council election and by the terms in which it reported publicly on the outcome of that Inquiry.

I propose to deal with the terms of the complaint by breaking it down to its separate but related component parts.

**The allegation that:** *"...the Commission used inflammatory language to suggest that [Councillor Power] and other candidates in the 2004 Gold Coast City Council election had been guilty of "lies, secrecy and deceit" which had "corrupted the electoral process"..."*

Councillor Power complains that the CMC, in its report and in press statements accompanying the report, used inflammatory language to suggest that he and other candidates in the 2004 election had been guilty of lies, secrecy and deceit which had corrupted the electoral process.

Councillor Power maintains that this is a biased and unbalanced assessment which is not reflective of the evidence which was available to the CMC as a result of both its investigation and its public hearings.

Councillor Power complains:

*The various candidates gave evidence of their mistreatment, and in some cases misquotation by the press. However, despite objection, the Commission relied upon press reports purportedly quoting the candidates without calling any of the reporters concerned so that they would be available for cross examination. Rather, the press reports were accepted on their face, and explanations of the various candidates regarding their discussions with the journalists were apparently ignored, their dealings being simply bundled up under the tag of a "barrage of secrecy, deceit and misinformation." That process may serve the agenda of the CMC and its Chairman, but it does not serve the truth.*

*The truth is that these candidates were guarded, and, in at least one case, untruthful in their dealings with the press, but the result was no more secrecy than is sanctioned by law in the ordinary course, and is the almost invariable practice in all elections Local, State and Federal whereby electoral funding is not disclosed until the post-election period.<sup>1</sup>*

<sup>1</sup> Letter from Councillor Power to the Parliamentary Crime and Misconduct Committee dated 23 May 2006, page 3. Councillor Power made complaints in similar terms in his subsequent correspondence to me. See Appendix 1 at pages 3 (last 2 paras), 4, 5, 6 (paras 1-3 inclusive), 8 (paras 1-3 inclusive and part of 5), 9 (second last para), 12 (paras 3-6 inclusive) and 13 (paras 2 and 3) and Appendix 3 at pages 1 (paras 5 and 6) and 2 (paras 1-4).

The background to this part of the complaint is that the CMC had gathered numerous press clippings making reference to the conduct of a number of candidates for the election in funding their election campaigns. These reports referred to a trust fund containing money donated by developers which was being used to fund the election campaigns of certain candidates. The issue of whether the authors of these press reports should be called to give evidence was raised for debate during the public hearings of the Inquiry.<sup>2</sup>

The stance taken by the Chairperson dispensed with the need to call the various journalists. However there was no unfairness or bias shown against any party by the ruling since, in cases where the various witnesses accepted that they had made the reported comments, the issue of conflict of evidence could not arise. Where, on the other hand, the witnesses wished to explain that the comments although made had been taken out of context or had been given in response to a question or questions other than those quoted in the article, then that fact or explanation was referred to in the CMC report. Furthermore, where any witness denied making the comment, the article purportedly quoting the witness had no probative value in the absence of sworn evidence to support the claim.

By adopting this approach, it was not necessary to examine and cross-examine the journalists. The CMC report then went on to summarise the evidence concerning the topics canvassed in the media reports and drew its own conclusions from that evidence. I have not discerned any flaw in the reasoning process applied by the CMC in coming to its conclusions on these issues and simply add that, on one view, those conclusions are supported by the balance of the evidence presented to the Inquiry. This is not a case where it could be said that the conclusions reached were not open on the totality of the evidence before the Inquiry.

It should be borne in mind that the thrust of the concerns raised by the CMC about the conduct of Councillor Power and others related to their failure, upon questioning, to openly disclose to the media the existence and purpose of the trust fund which contained money donated by various developers. In final submissions to the Inquiry, Councillor Power's legal representatives remarked:

*It is perhaps regrettable, as submitted by Counsel Assisting (at page 33), that some of the participants were apparently unable to distinguish between giving no information to the media and giving false information. However, that is not a criticism that can be levelled at Power. His statements to the press, however guarded, were always truthful.<sup>3</sup>*

The CMC concluded that it was no answer to claim that Councillor Power had not been untruthful. The real issue, according to the CMC, was whether Councillor Power had misled the voting public through his responses to the media.

These matters concerning Councillor Power were dealt with in the CMC report at pages 47 to 49. The report provides extracts of various media articles and in each case quotes from the explanations Councillor Power gave in evidence at the Inquiry or refers in summary form to that evidence. The section dealing with the first article quoted, namely the Gold Coast Bulletin of 20 February 2004 at page 4, illustrates the method employed as follows:

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<sup>2</sup> See by way of example pages 2372-2378 of the transcript of the public hearings of the CMC Inquiry into the 2004 Gold Coast City Council Election. (T2372-2378)

<sup>3</sup> Exhibit 337 – para 8.



*GOLD COAST BULLETIN – Friday 20 February 2004:*

***Planning boss forms faction with plan to rule civic roost  
Power play to control council***

*...The Bulletin has been told Cr Power has attracted as much as \$500,000 in funding from developers to spend on candidates sympathetic to the incumbent councillors' policy views. But Cr Power yesterday dismissed the claims as 'conspiracy theories' and said he would welcome any funding to help his own campaign... "I have got enough trouble paying for my own campaign without worrying about other people's... Trying to help candidates in other areas never goes down well with the community, that's why I don't get involved in campaigning for other candidates..."*

Councillor Power said the quotes were accurate but that he was quoted out of the context of the question posed. He took objection to the question referring to a 'slush fund', which he took to mean political bribery. He said he answered the question truthfully and directly, stating:

*I would have answered a question if they had said, "Are you providing funds from a trust fund?" then I would have answered it directly, then they would have got the answer they were after."<sup>4</sup>*

Councillor Power was asked by the media about a suggestion that as much as \$500,000 had been raised to support candidates, which he said was wrong. Asked why he did not say the amount that had been raised, he said, "They didn't ask."<sup>5</sup>

Other examples follow in the report at pages 48 and 49 before the final paragraph expresses conclusions in respect of Councillor Power's conduct as follows:

*However Power might try to justify his statements to the media about his involvement in the fund to support new candidates, they were, on any reasonable analysis, false or misleading. His explanations were unconvincing.*

*In the Commission's view, the import of Power's evidence is that he would have answered the questions posed truthfully only if the reporters had already known the precise amounts involved and the details of the structure and operations of the trust fund."<sup>6</sup>*

In my view, the conclusions expressed do not evidence unfairness or bias and, on a fair reading of the evidence, were clearly open.

***The allegation that: "Mr Needham, and the Commission, have relentlessly attempted to shield from all scrutiny and criticism the author and contents of the much publicised "dossier" which started the whole process."***

This component of Councillor Power's complaint is expressed as follows:

*...Mr Needham, and the Commission, have relentlessly attempted to shield from all scrutiny and criticism the author and contents of the much publicised "dossier" which started the whole process. Ironically, whilst the central criticism of the report is directed at the failure of candidates to be entirely frank with journalists, Mr Needham makes no mention of the fact that the once much heralded "dossier" of Councillor Young was effectively abandoned by*

<sup>4</sup> T2474.

<sup>5</sup> T2474.

<sup>6</sup> CMC Report: Independence, Influence and Integrity in Local Government, A CMC Inquiry into the 2004 Gold Coast City Council Election, page 49.

*the CMC in evidence at the Inquiry, because virtually the whole of its contents are demonstrably untrue.<sup>7</sup>*

On 23 July 2005, the CMC received a 230-page bundle of material from the Honourable Desley Boyle MP (Minister for Environment, Local Government, Planning and Women) concerning the conduct of some candidates and others during the Gold Coast City Council election held on 27 March 2004. This material, referred to as “the dossier”, was supplied by Councillor Young. The dossier was only part of the background material which formed the basis for the CMC’s decision to conduct its public hearings. The dossier was never tendered into evidence.

Although Councillor Power asserts that following receipt by the CMC of the dossier there was a public announcement that it would investigate corruption and electoral bribery in the Gold Coast City Council, I have been unable to verify that any such announcement was made in respect of this matter. The terms of reference formulated and published by the CMC to govern the conduct of its public hearings (see page 2 of the CMC report) do refer to the need to investigate electoral bribery with respect to the election in March 2004 but, there is no reference to corruption at all.

The balance of the material provided to the CMC upon which it concluded that it was necessary to hold public hearings, consisted of the contents of the media articles referred to above which drew attention to the conduct of some of the candidates, the complaints from private citizens and Councillors calling for an investigation into the election and other material which set out the events leading up to the dismissal of the Tweed Shire Council in May 2005.<sup>8</sup>

Councillor Power believes the reason why the dossier was never tendered was that it was concluded by the CMC that the assertions made in the dossier were without foundation and that the document was essentially disowned and abandoned by the Inquiry. To evaluate this assertion it is necessary to refer to portions of the proceedings during the public hearings.

Counsel Assisting remarked, just prior to calling Councillor Young to the witness stand:

*Mr Chairman, before calling the next witness, who is Mr Young, I should say something about the way in which I intend to present this evidence. I do not intend to tender Mr Young’s letter to the Minister of the 8 July 2005 for several reasons. Some of the matters raised by Mr Young have been examined by the Commission and there is no present intention to pursue them.*

*Also, some matters are already the subject of direct evidence at these hearings and Mr Young’s statements do not, in our judgement, advance that evidence. The same is true in relation to transcripts of records of interview conducted between Commission Investigators and Mr Young. Those interviews were conducted on 4 August 2005 and 6 September 2005. Hopefully this will shorten the evidence and what I intend to do is to ask Mr Young to give oral evidence in relation to the matters of possible significance.*

*I should add that if there is other relevant evidence in Mr Young’s statement or in the transcripts of interview to which I have referred, in the opinion of either witnesses or their legal representatives, then they are welcome to invite – to state that in their view there is no (sic) relevance in them and to ask that those particular – in so far as they are relevant that they be tendered.<sup>9</sup>*

<sup>7</sup> Letter from Councillor Power to the Parliamentary Crime and Misconduct Committee dated 23 May 2006, page 4. A further complaint concerning the same issue is made in Appendix 1, page 8 para 4.

<sup>8</sup> CMC Report, page xix “Summary – Findings and recommendations”.

<sup>9</sup> T1531-1532.

Almost immediately following that statement by Counsel Assisting, the following exchanges occurred:

*Mr Nyst: Sir, can I just rise at this point and say this? There have been a lot of things said by Mr Young in the documents, both in the letter to the Minister and in records of interview, that on my instructions are just clearly untrue, incorrect; whether they're lies or not could be a matter that could be explored, but that (sic) have been the basis and the source of a lot of trouble that has brought us all here. And it may be important to explore this issue of the extent to which Mr Young is either an intentionally misleading person or just a person who doesn't understand the facts, or simply shoots from the hip without caring one way or the other. It may be important to explore some of those issues by reference to some of the documents that have been referred to.*

*Chairman: I would refute part of the premise of your statement there, Mr Nyst, in that you said that there's a number of those things in Mr Young's dossier, to use the term that has been used, has caused a lot of trouble that has brought us all here.*

*I mentioned yesterday that this Inquiry was not based upon chapter and verse of what was set out in any dossier from this witness or from any other particular person. This Inquiry does not take all those matters and assume them to be fact and work from them. Those matters have been looked at by Counsel Assisting; Counsel Assisting is then leading in evidence before this hearing the matters upon which its intended to place any form of reliance, any form of investigation to see whether there is something in the statement or not.*

*I see no point in opening up a whole lot of other issues. As I understand it that dossier has not been made public; it certainly hasn't by the Commission, and we've asked people to whom we've given it to treat it confidentially. It has not been made public. I see no reason to allow you to raise matters only to attempt then to refute those matters.*

*Mr Nyst: No.*

*Chairman: It does seem – I'm required to conduct this hearing as expeditiously as I can and I see no point in, as I say, raising a whole lot of matters. Mr Young's dossier was sent to the Minister for her information. It sets out matters upon which Mr Young has perhaps suspicions, might be the best way of putting it.*

*I see nothing wrong in his doing that to the Minister but I see no point in raising them so they can be dealt with in the press and perhaps cause a lot of trouble to your client and other people when the Counsel Assisting is not intending to place any reliance upon them in evidence before this Commission...*<sup>10</sup>

Later, in respect of the same issue, the following exchanges occurred:

*Mr Radcliff: Well, I repeat what I said on the last occasion and that is that there is no proceedings that my client has instigated at this point in time. But in so far as that document is concerned, it does raise a number of issues that need to be ventilated. We'll deal with it as it comes.*

*Chairman: Deal with it as it comes but it – you might see that Counsel Assisting is not putting that document into evidence.*

*Mr Radcliff: Therefore, it may be appropriate that we invite you to make a ruling in respect of its content as to whether it is relevant at all to these proceedings.*

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<sup>10</sup> T1532-1533.

*Chairman: Well, we'll (sic) not putting it in evidence so it will not be relevant. It will not be part of the evidence and, as not being part of the evidence, it will not be able to be relied upon in any way in any report that comes out of this hearing.<sup>11</sup>*

Those passages in the evidence are significant in the present context for two reasons. They reveal the reason why the document was not being tendered and, more significantly perhaps, that the parties had been given access to it before Councillor Young was called to give evidence. In other words, the parties were able to make legitimate forensic use of that material. The transcript of the lengthy cross-examination of Councillor Young is full of references to the contents of the so-called "dossier".<sup>12</sup> As the statement of Counsel Assisting indicates, the parties were invited to request that parts of that material be tendered into evidence if they thought it relevant.

The CMC was embarked upon an investigative hearing into the conduct of certain councillors and candidates in respect of the Gold Coast City Council election in 2004. The dossier supplied by Councillor Young was only part of the material upon which the investigation was initiated. Councillor Young's credibility was not directly in issue at all and even if it had been, the parties, notably Councillor Power, had access to the material from Councillor Young and had the opportunity, subject to issues of relevance, of cross-examining him concerning his views. As referred to above, that opportunity was frequently taken.

It was apparent during the hearings that much of what Councillor Young could relate concerning the background events was hearsay. Councillor Young was entitled to express his concerns, including his suspicions about certain conduct of other candidates, to the Minister and the Minister was entitled to refer those concerns, outlined in the dossier, to the CMC for its attention and assessment.

However it was not Councillor Young's views that were of critical importance in the overall assessment of the events; it was the view of the Commission, formed upon the totality of the evidence presented at its public hearings, which mattered. In this context, the CMC's failure to criticise Councillor Young in relation to any of the contents of his "dossier" is incapable of demonstrating bias, unfairness or preferential treatment.

**The allegation that: "...Councillor Young has been forgiven his clearly demonstrated breaches of the reporting provisions of the Local Government Act."**

Councillor Power seeks to reinforce his complaint by referring to the CMC's treatment of the evidence concerning Councillor Young's breaches of his obligations under the *Local Government Act 1993* to report the details of his election funding.<sup>13</sup> The report deals with these matters in relation to Councillor Young at pages 81-83.

The first such matter mentioned in the CMC's report relates to an alleged breach by Councillor Young of section 436(2) of the *Local Government Act* in providing a return containing false or misleading particulars. Councillor Young had, on 5 April 2004, disclosed a gift of \$3,000 from Cater Corporation supposedly received on 2 March 2004. On 20 May 2004 Councillor Young lodged an amended return changing the amount from \$3,000 to \$5,000. In his final return, lodged on 3 July 2004, Councillor Young confirmed the correct amount of \$5,000 and again repeated the receipt date of the money as being 2 March 2004.

<sup>11</sup> T1534.

<sup>12</sup> See by way of example T1587-1590, 1668, 1679, 1684, 1702, 1707-1708, 1711, 1723, 1729, 1750, and 1756-1759.

<sup>13</sup> Letter from Councillor Power to the Parliamentary Crime and Misconduct Committee dated 23 May 2006, page 5.

On 10 May 2005, after Councillor Young became aware that he was under investigation over his register of interests, he further amended his return to reflect the correct date of the \$5,000 gift as 20 February 2004 rather than 2 March 2004. Councillor Young had apparently written to the donor of the gift, Cater Corporation, to ascertain the correct amount and it was their reply that alerted Councillor Young to the error in the date.

It is clear then, on any view of the evidence, that Councillor Young voluntarily disclosed an amount and date of the donation and amended those details as soon as he became aware of the errors. The errors themselves had no sinister significance given that a not insubstantial amount had been declared as having been received. In these circumstances, the conclusion by the CMC that this matter did not warrant further action seems entirely reasonable. It was clearly a decision open to the CMC in the circumstances.

The second allegation concerned Councillor Young failing to update his register of interests. The terms of this complaint were further ventilated by Council Power in his correspondence to me of 8 September 2006 as follows:

*Page 81 under "Peter Young's Return and Register of Interests". Here is the most glaring example of the Commission and the Commissioner's bias in these matters. The only individual to have a verified and admitted breach of the Local Government Act with regard to returns has not been recommended for prosecution. The reason for this is stated on page 83 where it says "in the July 2004 newsletter Young stated that Gardens on Linfield, a retirement community wholly-owned by a trust controlled by Cater Corporation would sponsor the cost of the newsletter for the following 12 months. It therefore appears that Young's failure to update the register was not an attempt on his part to conceal the information from disclosure. Indeed, in his Divisional newsletter he explained the reasons for accepting the financial assistance, arguably a wider publication occurred that (sic) would have been achieved by updating the register."*

*This is a false statement by the Commission. The July 2004 Newsletter in fact did not state that Gardens on Linfield would be providing the funds. The July 2004 newsletter stated that a developer would be providing the funds, no name was mentioned and the Commission in stating this has misled the Parliament.<sup>14</sup>*

Regrettably, the complaint is factually inaccurate.

I have reviewed the evidence on this topic and have specifically read exhibit 235 (a summary of the allegations made by Councillor Power against Councillor Young in relation to Councillor Young's Register of Interests). Furthermore, I have also read a copy of the July 2004 Local News, quoted as part of exhibit 235 which was tendered into evidence at the public hearings of the Inquiry. That publication contains the following disclosure by Councillor Young;

*Last month, regrettably, I could not afford to publish this second non-censored page. Along with the email edition of the newsletter I advised people of this financial constraint, and expressed my hope to be able to reinstate this second page in the future.*

*Within 24 hours I received an email about this. It said "We believe that our Division ought to be informed by information that you provide on the second page and therefore Gardens on Linfield will sponsor this cost for the next 12 months." Wow – what an offer!*

*I thought about this long and hard. Gardens on Linfield is a development at Helensvale providing residential and care facilities for retirees and those with more specific nursing*

<sup>14</sup> Appendix 1, page 14.

*needs. It is a development. It is owned by a developer. Accepting their offer represents a possible conflict of interest. It provides an opportunity for criticism of me and my accountability and independence.*

*So, what was my decision? You're reading it. I have accepted the offer – graciously I hope. I have indicated to the developer that he knows and I know and now all of you know this does not provide any special benefit of any kind to him.*

The conclusions reached by the CMC<sup>15</sup> that, in light of the disclosure by Councillor Young in the July 2004 Local News, his failure to disclose the sponsorship in his Register of Interests was not an attempt to conceal that information, appears to be entirely justified. In those circumstances, the CMC was satisfied that the matter should not be referred for consideration of prosecution proceedings under section 49 of the *Crime and Misconduct Act*. That conclusion was entirely rational and well supported by the evidence. I find it difficult to comprehend how Councillor Power's complaint in this respect could be so wildly inaccurate.

Councillor Power points out in support of his complaint about bias and unfair treatment, that no other councillors were afforded "*the benefit of the doubt*" on this issue. This statement is also factually incorrect.

The submissions of Counsel Assisting<sup>16</sup> draw attention to concerns over the potentially false and misleading nature of the return lodged by Councillor Greg Betts - the successful candidate for Division 12. However, the CMC declined to take any further action, citing the circumstances disclosed in the evidence together with a consideration of the submissions made on behalf of Councillor Betts.<sup>17</sup> The CMC analysis of the evidence and its conclusions are contained in the report at pages 67 to 71.

This is important since it tends to indicate that the CMC was not, as alleged, displaying favouritism to one party over another. The point is reinforced by the CMC's decision not to take any action in respect of Mayor Clarke.

*In the Commission's view, unsolicited campaigning, positive or negative, is not capable of amounting to a gift to a candidate if it is done without the candidate's knowledge. For it to constitute a gift, there would have to be an element of acceptance on the part of the candidate. Even if a candidate was aware of the campaigns, it would not be possible for the candidate to quantify the benefit in the absence of information being provided about what the campaign cost. Section 427 requires a candidate to give a return for gifts 'received'. It is implicit that the benefit be accepted in some way by the candidate. That is also implied in the wording of section 428. Here, there is no evidence that the activities of Stephens or the LVA were solicited or accepted by Clarke.*

*Stephens' actions in towing the sign would seem to be 'volunteer labour' and so no return will be necessary. If the LVA had received gifts in the prescribed amount in order to conduct its campaign, it might be necessary for it to provide a third-party return under section 430. However, the evidence does not point to any obligation on Clarke to submit a return for those gifts. The Commission is satisfied that this is not a matter that should be referred for consideration of prosecution proceedings under section 49 of the CM Act.<sup>18</sup>*

The analysis is logical and the conclusions open on the evidence.

<sup>15</sup> CMC Report, page 83.

<sup>16</sup> Closing submissions of Counsel Assisting to the CMC Inquiry, pages 45-48.

<sup>17</sup> Exhibit 340 to the CMC Inquiry.

<sup>18</sup> CMC Report, pages 80-81.

It seems to me that these are important examples of the even-handedness of the CMC in the carrying out of its Inquiry pursuant to its terms of reference.

**The allegation that: *The CMC Chairperson exhibited double standards and bias during the Inquiry.***

Councillor Power further complains:

*The double standards exhibited by Mr Needham are seen quite clearly in his attack on the Mayor and on me for our public criticism of Councillor Young, whilst ignoring the regular press conferences and other public statements of Councillors Young and Crichlow publishing the "corrupt power bloc" assertion during the course of the Inquiry.<sup>19</sup>*

The CMC's response to this part of the complaint indicates that the event being referred to was the occasion when Councillor Power suggested outside the Inquiry, that councillors who had complained to the CMC could be the subject of adverse action by the council at the conclusion of the Inquiry. Similar sentiments were apparently expressed by Mayor Clarke shortly after those reported by Councillor Power.

The comments, not surprisingly, were taken very seriously by the CMC which, after all, had a responsibility to protect persons who provide information to it and the *Crime and Misconduct Act* makes it an offence to threaten injury or detriment to, or to intimidate or harass, a person because the person has provided information to the CMC. At the time this occurred, Councillor Power, through his Counsel Mr Temby QC, made it plain that he regretted having made the statements.<sup>20</sup>

It should be noted that the CMC only has the ability to deal with inappropriate commentary about its proceedings where that commentary amounts to a contempt of the Commission or constitutes an offence of the type referred to above. Absent those considerations, the CMC has no ability, nor should it have, to contain public debate about its activities.

Nevertheless, on the same day of the public hearings (15 December 2005), Counsel Assisting disassociated himself from remarks apparently made publicly by Councillor Crichlow outside the Inquiry. Councillor Crichlow asserted, incorrectly, that Counsel Assisting would be making certain recommendations to the Inquiry.<sup>21</sup> Mr Needham endorsed the implied criticism of Councillor Crichlow by Counsel Assisting and made it plain that Counsel Assisting was not proposing to make any recommendations, but simply submissions for consideration by the Commission before it finally reported.<sup>22</sup>

These passages do not, in my view, reveal any biased or unfair approach to its task by the CMC.

**The complaint that: *"[The CMC's] report adopts none of the observations or comments of any counsel other than Counsel Assisting the Inquiry."***

Councillor Power maintains that further evidence of bias is apparent in the report of the CMC where it fails to adopt any comments or submissions of any counsel other than Counsel Assisting. Again, the statement is factually incorrect as is set out in some detail in the CMC response.

<sup>19</sup> Letter from Councillor Power to the Parliamentary Crime and Misconduct Committee dated 23 May 2006, page 6. The same issue is also raised in Appendix 1, page 2 para 5.

<sup>20</sup> T2540.

<sup>21</sup> Exhibit 328 to the CMC Inquiry, (transcript of radio interview 15 December 2005).

<sup>22</sup> See T2541.

At various parts of the report, the CMC comments upon arguments raised by the witnesses or their legal representatives and then goes on to explain the basis upon which the CMC conclusions have been formed. The point is best illustrated by the analysis of the evidence, concerning whether a trust fund had been created and, if so, what obligations flow from that.<sup>23</sup> Reference was made to an advice from Mr Jackson QC, which had been obtained by the CMC on this issue.

It was open to the CMC to prefer the opinion of Mr Jackson QC to that of the Local Government Association of Queensland ("the LGAQ") and others. The exercise of that choice by the CMC, without more, cannot establish bias or anything remotely approaching bias.

**The complaint that: *"The Commission ... chose for its own reasons to paint this entirely lawful behaviour as a "corruption of the electoral process"..."***

Councillor Power complains about the references in the CMC report to the "*corruption of the electoral process*" as being a totally inappropriate reference to what was, in Councillor Power's view, entirely lawful behaviour by the candidates and councillors concerned.<sup>24</sup>

It is apparent however, when the report is read as a whole and in context, that what is meant by "*corruption of the electoral process*" is the failure of the parties to fully disclose to the voters the source of their campaign funds prior to the election. True it is, as Councillor Power points out, that there is no legal requirement to make such disclosure until after the election has been held. However, when the media sought to confirm rumours about the source of campaign funding, the published responses of the various candidates became an integral part of the "*electoral process*". This was the information in the public domain at the time of the election and presumably formed part of the factual background in which Gold Coast residents cast their votes.

It is a matter of individual judgement as to whether, in these circumstances, the CMC was justified in using the strong language it did to describe the net affect of this process. This cannot in my view be assessed in a vacuum. As mentioned earlier, the CMC were aware of the background material concerning the circumstances which ultimately led to the dismissal of the Tweed Shire Council in May 2005. The CMC may legitimately have thought that a strong response to the conduct revealed in the evidence at its Inquiry was clearly warranted. On the material available to me, such a strong view was open. Again, in context, it does not provide any evidence of unfair treatment or bias.

### ***Further allegations of bias***

In support of his assertion that the CMC failed to treat him fairly and, indeed, displayed bias in its favourable treatment of others, Councillor Power drew attention to the fact that he had informed CMC investigators that many of the complaints concerning his conduct were initiated by what he referred to as "serial complainants" whose complaints have all been routinely dismissed in the past.<sup>25</sup>

Councillor Power also points out that, despite having brought to the attention of CMC investigators the questionable conduct of other candidates, nothing was done to investigate those complaints.

By way of example, Councillor Power refers to the conduct of Mr John Wayne, the candidate who opposed him in Division 2, in the campaign leading up to the election on 24 March 2004. The

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<sup>23</sup> CMC Report, pages 63-67.

<sup>24</sup> Letter from Councillor Power to the Parliamentary Crime and Misconduct Committee dated 23 May 2006, page 2.

<sup>25</sup> Appendix 1, page 1 para 3 and page 3 para 2.



complaint, in part, concerns certain false and misleading statements published by Mr Wayne in a local newsletter distributed as part of his campaign. There is no doubt that the statements published were false and misleading since Mr Wayne acknowledged as much with a written apology signed on 30 June 2004 following the election.

No doubt these statements were upsetting and frustrating for Councillor Power but they were not such that could have legitimately been the subject of investigation and evidence at the public inquiry. The inquiry was constrained in the way it conducted its proceedings by its terms of reference. The relevant term of reference, 1(a)(i) provided:

*1. To investigate:*

- (a) cases of alleged or suspected official misconduct by councillors of the Gold Coast City Council concerning:*
  - (i) false or misleading statements of candidates for the Gold Coast City Council election in March 2004 with respect to details of any association with other candidates or entities...*<sup>26</sup>

Clearly, this term of reference permitted the CMC to inquire into the conduct of “councillors” with respect to false or misleading statements concerning any associations with other candidates or entities. It did not permit a wide ranging inquiry into allegedly false or misleading statements generally.

Councillor Power in his complaint went on to draw attention to what he refers to as “a false return” lodged by Mr Wayne after the election.<sup>27</sup>

This complaint refers to the apparently inaccurate declaration regarding the cost of a light aircraft towing an election banner for two days during the campaign. Whilst undoubtedly Councillor Power would have wished to see Mr Wayne, a complainant against him, publicly investigated at the inquiry, the reality is that the inquiry process was necessarily confined to the central issues that arose for determination under its terms of reference or at least to issues closely related to such matters.

More fundamentally, this allegation from Councillor Power related to assistance provided to Mr Wayne by Mr Tony Stephens, one of the proprietors of the Darlington Park Raceway.

A similar complaint had been made against Mayor Clarke in respect of assistance Mr Stephens had given to him during the campaign. The CMC report notes<sup>28</sup> that, as Mr Stephens is deceased, the issue could not be further investigated. Obviously the same considerations would have applied to the allegation concerning Mr Wayne and Mr Stephens. There is no substance in this allegation.

**The allegation that: *the CMC protects frivolous and vexatious complainants.***

Councillor Power complains that the “*protection of frivolous and vexatious complainants is institutionalised and reaffirmed on page 174 of the final report.*”<sup>29</sup>

This is a reference to the section of the report which deals with the submissions from the LGAQ concerning vexatious complaints.<sup>30</sup>

<sup>26</sup> CMC Report, page 2.

<sup>27</sup> Appendix 1, page 1 para 3.

<sup>28</sup> CMC Report, page 80.

<sup>29</sup> Appendix 1, page 1 para 2.

The LGAQ had, in its submissions, drawn attention to the problem of reputations being damaged by vexatious complaints initiated by those with political motivation. The LGAQ suggested that this difficulty could be reduced or at least better managed by the imposition of a sanction such as reimbursement to the investigative body of the cost of conducting an investigation into frivolous or vexatious complaints.

The CMC, in response, drew attention to the availability of prosecution action in relation to false or vexatious complaints pursuant to sections 216 and 217 of the *Crime and Misconduct Act* and to the practice of writing to candidates in the lead up to the last two local government elections, urging them not to involve the CMC in attacks on the reputations of other candidates.

Importantly, in the present context, the CMC also referred to the duty of Chief Executive Officers to inform the CMC when there is a suspicion that a complaint involves or could involve official misconduct. It was noted that the CMC had no control over complainants and no power to prevent complainants publicising the details of their complaints.

Whether the CMC analysis is correct or not, it displays an appreciation of the critical issues involved in dealing with frivolous and vexatious complaints and, in my view, does not betray a bias towards any particular class of complainants at the expense of other such complainants.

***The criticism of the CMC's reliance upon the inquiry conducted by Professor Daly into the Tweed Shire Council***

This is a matter that requires specific comment. In his letter to me of 8 September 2006, Councillor Power criticised the references by the CMC in its report to the inquiry undertaken by Professor Daly into the Tweed Shire Council election of 2004 which resulted in that Council being dismissed by the New South Wales State Government. Councillor Power is critical of the CMC since:

*There is no mention through the Report of subsequent inquiries by both the New South Wales Department of Local Government, the Independent Commission against Corruption in New South Wales and the New South Wales Electoral Commission finding that there were no grounds for the Tweed Shire sacking and, indeed, each of those reports has totally discredited the report by Professor Daly, a fact not mentioned by Commissioner Needham in his report.<sup>31</sup>*

I have conducted extensive research in an effort to identify the inquiries and reports to which Councillor Power referred. Detailed searches of the websites for the NSW Department of Local Government, ICAC and the NSW Electoral Commission have revealed no reports of inquiries dealing with the sacking of the Tweed Shire Council and certainly no reports even remotely critical of Professor Daly's report.<sup>32</sup>

The Department of Local Government Annual Reports for 2004-05 and 2005-06 refer positively to the actions taken in response to Professor Daly's recommendations. The ICAC publication "Corruption Matters – Focus on Local Government" features an article entitled "Update on the Tweed Shire Council inquiry" - again, not the least critical of Professor Daly's inquiry.<sup>33</sup> Furthermore, a Senior Corruption Prevention Officer (Local Government) from ICAC has

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<sup>30</sup> CMC Report, pages 174 -175.

<sup>31</sup> Appendix 1, page 2 (last para), page 8 (2<sup>nd</sup> last para), and 15 (2<sup>nd</sup> para).

<sup>32</sup> Similar results were obtained from searches of the websites for the Australian Electoral Commission and the New South Wales Department of Planning.

<sup>33</sup> ICAC "Corruption Matters" Issue Number 26, November 2005.

confirmed that ICAC has not published any report critical of Professor Daly's report and a Senior Investigations Officer of the NSW Department of Local Government and Officer Assisting the Tweed Shire Council Inquiry has described the notion of a departmental report discrediting Professor Daly's report as laughable.

On the basis of these inquiries I am satisfied that Councillor Power is mistaken in his assertion.

**The allegation that: the CMC report misrepresents the evidence in relation to the letter of 28 June 2004 written by Mr Barden.**

Councillor Power complains:

*Page 46, the third last paragraph, the Commissioner states: "Acting on Power's advice, Barden drafted a letter of 28 June 2004 asking Hickey Lawyers to put in a return as trustee to the account, but not to reveal the names of the donors or the candidates who received the funding." This is a complete misrepresentation of the evidence given by Mr Barden who, in fact, only stated that I had told him that he may need to put in a return. At no time did I discuss the issue of revelation of the names of donors or the candidates who received funding.<sup>34</sup>*

Unfortunately, it is Councillor Power who has misrepresented the facts – again.

During questioning by Counsel Assisting at the Inquiry, Mr Barden gave the following evidence:

*Well, now, can I ask you to go to a letter, a copy of which is in your file, from you to Hickey? – Yep.*

*Of the 28 June 2004, and it's in these terms, "Following information received from David Power. Please could you issue the return as to trustees for the account. Please provide who the disbursements went to but please do not disclose the donors or the clients. Signed on behalf of the Lionel Barden common sense trust fund"? – Yeh.*

*Now, did you send that letter to Mr Hickey? – I don't know.*

*Well, you've got a copy of it in your records? – Yes, it was in – you – I was asked to provide records for the – you know, all the disclosure. I went through my – all my records and my files and this was on my computer.*

*Right? – Now, there was a real – what I tried to do was I was going to submit – I asked to David what was the – the actual situation with the submission because I – I didn't know at that time what the submission was...*

*Why did you ask him? – Because I thought that he would have a better understanding of asking people within Council within a legal position of what we had to submit. I had had (sic) heard from different people we had to submit different things...*

*All right? – In – in following conversations within a day or two of that, and it was in – within 24 hours, I then understood that – that the instruction was that we had to supply all the names of all the donors...*

*But I'm interested in knowing the circumstances in which this letter came to be prepared and any conversation that you had with Mr Power about it. You indicate that this is information that you have received from Mr Power? – Right.*

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<sup>34</sup> Appendix 1, page 12 (second para).

*So insofar as what you request in the letter that you prepared of Mr Hickey, that was as a result of information you received from David Power? – Well, basically---*

*Now, do you understand the question that I'm asking? – I do and I'll answer the question. The fact is I believed that the – the best people to answer this would have been Council legal team and rather than -- I didn't know them well enough. – I asked David would he find out the exact position of what we needed.*

*Well, he must have gone away and come back and told you the information that you included in this letter of request to Mr Hickey before you prepared the letter, otherwise you wouldn't have put it in the letter? – Oh and I - and I don't – I don't deny that.<sup>35</sup>*

The above passages extracted from evidence at the public inquiry provide the clearest material upon which the CMC was justified in reaching the conclusions it did at page 46 of its final report.

Accordingly, there is no substance in this allegation either.

### ***General complaints by Councillor Power***

In his last correspondence to me, Councillor Power again raised the issue of the CMC's failure to allow the journalists whose articles were referred to at the public inquiry to be cross-examined by the various parties. I have already dealt with this issue earlier in this report.

However, in the same correspondence, Councillor Power went on to make a specific complaint about a transcript of a tape recording given to the CMC by Councillors Crichlow and Sarroff.<sup>36</sup>

In essence this complaint is that the transcript does not appear to entirely match the tape recording of the conversations. Councillor Power's concern about the matter is that the CMC ignored the fact that there may have been what Councillor Power refers to as some doctoring of the tape at its inquiry.

However what is relevant to note is that Counsel Assisting informed the parties at the inquiry that the CMC was not seeking to rely upon the contents of the tape or transcript to reflect or provide any basis for adverse comment or findings against any of the parties. In that context the tape and transcript became an irrelevancy, a fact which was apparently accepted by all parties at the inquiry since no one raised any submissions to the contrary.<sup>37</sup>

Councillor Power makes a number of complaints concerning the way in which the CMC report uses what is said to be inflammatory language in expressing its views.<sup>38</sup>

Councillor Power also challenges the validity of some of the conclusions reached by the CMC in its report.<sup>39</sup>

Councillor Power is also critical of the conclusions reached in the report concerning issues of conflict of interest.<sup>40</sup>

<sup>35</sup> Transcript T1136-1137.

<sup>36</sup> Appendix 3, page 2.

<sup>37</sup> T2360 -2361.

<sup>38</sup> Appendix 1, page 2 (paras 2-4 inclusive).

<sup>39</sup> Ibid. page 3 (paras 3-5 inclusive), 9 (paras 2, 3 and 5), 10, 11, 12 (1<sup>st</sup> para), and 13 (paras 4 and 5).

<sup>40</sup> Ibid. page 6 para 4 – end of page 7 and page 15 paras 2 and 3.

I have reviewed the material relevant to the conflict of interest issue in particular and indicate that the conclusions reached by the CMC were fairly open upon the evidence before the inquiry. I stress again that the issue for consideration here is not whether history will reflect those conclusions as being correct, but rather, whether they reflect a view reasonably open on the material.

Councillor Power is undoubtedly entitled to express his views on what amounts to a conflict of interest and how that issue might be best managed in the context of the reality of running a local Council. Similarly, absent evidence of a lack of bona fides, the CMC is also entitled to express a view.

With respect to these general matters, I do not intend to further descend to the detail of the allegations other than to observe that I have had regard to the terms of the complaint when assessing whether the actions of the CMC were appropriate in all circumstances.

## CONCLUSION

Having reviewed all of the material and endeavoured to distil from Councillor Power's complaints the separate issues he raises, I am firmly of the view that the actions of the Commission were appropriate in all the circumstances.

Pursuant to the terms of reference I further advise the Committee that, upon an examination of the CMC Inquiry report, relevant transcripts, submissions and other material I considered appropriate, there are no concerns raised by Councillor Power that I have not been able to adequately consider.

# **APPENDIX 1**

## FACSIMILE



Gold Coast City Council

Date: 11 September 2006

Number of pages including cover sheet: 21

To: Office of the Parliamentary Crime  
and Misconduct Commissioner

Phone No:

Fax No: 3234 0268

From: Donna Gates

Pa To Councillor

Phone No: (07) 5582 8227

Fax No: (07)

REMARKS: ☐ Urgent ☐ For your review ☐ Reply ASAP ☐ Please comment

M R Kunde  
Principal Legal Officer  
Parliamentary Crime & Misconduct Commissioner

Attached please draft letter to the Commissioner. My apologies for the delay - the document is being edited today and a final copy will be forwarded forthwith.

Thank you for your patience in this matter.

DAVID POWER  
Deputy Mayor

If you do not receive all of this transmission please telephone (07) 5582 8227

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**GOLD COAST CITY COUNCIL****Councillor David Power****DEPUTY MAYOR**

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8 September 2006

Mr A J MacSporran SC  
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**DRAFT**

Dear Mr MacSporran

**CRIME & MISCONDUCT INVESTIGATION INTO 2004 GOLD COAST CITY COUNCIL ELECTION**

Further to your letter of 1/9/2006, I would like to bring the following matters to your attention from the Crime and Misconduct Commission Inquiry into the 2004 Gold Coast City Council elections.

First and foremost, the title itself is misleading, as I and other individuals who were investigated by the CMC brought matters to the attention of investigators regarding the conduct of other candidates that have, as of yet, not been investigated and have apparently been completely ignored. Further I brought to the attention of Detective Ken Bemi that many of the complaints were from serial complainants who have reported me on at least four occasions that I am personally aware of. All of these complaints were dismissed. The protection of frivolous and vexatious complainants is institutionalised and reaffirmed on page 174 of the final report.

The Inquiry focussed only on certain individuals and refused to investigate complaints such as the conduct of Division 2 candidate, Mr John Wayne, who published under his own hand, false and misleading statements. Further, once those statements were published and Mr Wayne was notified that his comments were false and misleading, he proceeded to publish them again, refusing to withdraw or apologise until after the Election and then refusing to acknowledge publicly that he had continued, after being notified, to publish the false statements. Please see attachments.

The CMC has been notified that Mr Wayne lodged an electoral return, indicating donation for a light aircraft towing a banner for two days. Mr Wayne registered the cost of this at \$1,000.00. Clearly this is a false return as it would be impossible to hire a light aircraft for two days to tow a banner at the paltry sum of \$1,000. To the best of my knowledge, CMC investigators have chosen to ignore this as Mr Wayne was one of the complainants regarding myself and other candidates and, as has been shown in their treatment of Cr Peter Young, the CMC refuses to pursue anyone that they perceive or designate as a whistle-blower, even if those individuals may have a case to answer.

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With your forbearance, I will address the matters as they are presented in the final report to the Parliament, as this easiest and most legible form of address.

In the opening paragraph of the Foreward, the Commissioner has used inflammatory language and totally misrepresented in a deliberate manner the statement by my Solicitor, Mr Nyst, during the Inquiry. The point that Mr Nyst was making was that on the Gold Coast, development is big business, unlike Brisbane where national and multi-national companies have their headquarters. There was never any suggestion during the course of the Inquiry that the CMC did not understand the way that things are done on the Gold Coast. This is complete misrepresentation of what was an attempt to explain the nature of business on the Gold Coast in comparison to the capital of the State.

The Commissioner in the third last paragraph on Page v stated, "In the Commission's view, what happened in this matter could not legitimately be categorised as an ordinary political process unless the Gold Coast is to be treated as another country". This is indicative of the complete bias with which the Commissioner approached this matter.

The raising of funds from the business community into a central fund is a normal political process undertaken at all levels of government. Indeed, Pine Rivers Shire experienced the same situation at the 2000 Election, as did other local authorities. The Commissioner states also on Page vi of the Foreward "there were occasions during this Inquiry when an ordinary observer could have been forgiven for thinking they had fallen through a hole, not just into a foreign country, but into a wonderland". This inflammatory language was not only unnecessary, but also glossed over the Commissioner's and Counsel Assisting's attitude towards the English language and their attempt to reinterpret it as they see fit.

It is interesting to note that the only two individuals who were criticised in the Foreward for making comments during the course of the Inquiry were myself and the Mayor. Crs Crichlow, Young and Sarroff, who were consistently making comments during the course of the Inquiry with regards to its conduct, were not chastised in any manner for making comments predetermining the outcome and calling for Council's sacking. Indeed, evidence was led at the Inquiry regarding comments by Cr Crichlow on Radio Station 4BC who referred to her as their "brown paper bag reporter". This consistent protection of individuals, whose standards have, over 10 years, been recorded in the media as being less than ethical and certainly, in many cases, not compliant with the Local Government Act, is once again a demonstration of the Commission's preference to protect whistle-blowers at the expense of ethical standards.

In the Summary Findings and Recommendations and the section entitled "Events that Led to the Inquiry", the Commissioner refers to the 2004 Tweed Shire Council Elections. The Commissioner refers on a number of occasions throughout the Report to the Inquiry undertaken by Professor Daly into the Tweed Shire. There is no mention through the Report of subsequent inquiries by both the New South Wales Department of Local Government, the Independent Commission against Corruption in New South Wales and the New South Wales Electoral Commission finding that there were no grounds for the Tweed Shire sacking and, indeed, each of those reports has totally discredited the report by Professor Daly, a fact not mentioned by Commissioner Needham in his report. Further Mr Needham has not mentioned that Professor Daly sat on a number of inquiries in New South Wales, in most cases recommending dismissal of the Council under investigation.

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On Page xix, "Summary Findings and Recommendations", the Inquiry's terms of reference are listed. Within that section the third dot point is a requirement to look at returns of election gifts with respect to the Gold Coast City Council Election of March 2004. As I have mentioned previously, it was brought to the Commission's attention that Mr John Wayne, a candidate in Division 2, provided a declaration which, at face value, appears to have severe deficiencies. At no time was this canvassed during the course of the Inquiry and, once again, one can only assume because Mr Wayne was one of the complainants to the CMC.

Within the Inquiry's Terms of Reference, the issue of misleading voters is clearly indicated on Page xix. Councillors offered to provide evidence to investigators with regard to the conduct of other candidates during the Election process who, under their own hand, produced material that was in breach of the Act. The Commission did not at any time investigate these matters. Candidates promising moratoriums on development, reductions in rates and other matters that are unlawful under the Integrated Planning Act and the Local Government Act.

On Page xx in the section entitled "What the Inquiry Revealed in General", in the third last paragraph, the Commissioner has totally misrepresented the term "independent" candidates. An independent candidate by any commonly accepted definition is one who is not bound to a party or a set of policies dictating their vote or their philosophical position to any one subject. To suggest that because funding came from a central fund indicates candidates would not be independent in their vote is not only false, but a complete departure from the commonly accepted term of independence.

The Commissioner goes on to state, "if elected, the candidates would be consciously or unconsciously beholden to Power or Robbins for that funding during their four year terms. If they harboured ambitions of running for a further term they would be aware that their chances of receiving funding through Power and Robbins at the next election would depend on their still being viewed by Power and Robbins as like-minded candidates." No evidence was taken on this matter at all during the Inquiry. In fact, if a Counsel Assisting or the Commissioner had bothered to ask, at the time of the Election, Cr Robbins had made it very clear that the 2004 Election was to be her last. I had also indicated to a number of people at that time that it was highly unlikely I would run again as a Councillor for the City. This places the Commissioner's comments into the realm of creative writing.

Further, no sitting Councillor was funded by the Trust. Therefore, for these candidates to be funded in a similar fashion at the 2008 Election would mean a complete departure from the practice undertaken at the 2004 Election, which was to assist first-time candidates. This conclusion is both presumptuous and convenient in an attempt to justify the departure from the normally accepted political term of independence.

The Section goes further to say that "considerable efforts were put into hiding these circumstances from the public". This can be easily disproved from the very newspaper articles upon which the Commissioner has placed so much weight.

It further says that "in the Commission's view, the hiding of this situation from the public through the deceit and misinformation outlined in this Report, must have adversely affected the integrity of the electoral process". At no time did the Commission inquire into the distribution and redistribution of the papers so heavily

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relied on. Indeed, given that less than 7% of residents across the City as a whole read any newspaper, let alone the two publications relied upon, and further that only two candidates out of the five were elected, this conclusion can have no statistical or factual basis and can only be described as a convenient conclusion to justify the re-interpretation of the English language, as happened on a number of occasions during the course of the Inquiry, and in the production of the Final Report.

Page xxi, Part (a) entitled "Origin of the Idea to Fund a Group of Selected Candidates" - in Section 6 the Commissioner states: "In the Commission's view it was inappropriate for sitting Councillors such as Power and Robbins to undertake these roles in circumstances where the support provided to candidates was not to be made public before the Election and was in fact falsely denied." This is a false statement by the Commissioner as there was no false denial of supporting candidates. This was stated quite clearly during evidence but was rejected by the Commissioner without any contrary views being tested.

Further, to suggest that it is inappropriate for sitting Councillors to undertake such roles, ignores similar roles undertaken by Premier Peter Beattie and Prime Minister John Howard, who in the weeks preceding the delivery of the Report to the Parliament, both hosted dinners on the Gold Coast at many thousands of dollars a head to raise money for central distribution to candidates. The sheer hypocrisy of this statement and the refusal to recognise that this is a normal political process at all levels, indicates that the CMC has stepped outside of its role and is engaging in political commentary.

The section entitled, "Meetings at Quadrant and Candidates' Campaigns", Page xxi. Section 10 states, "The Commission is satisfied that Power intended that there should not be any public acknowledgement of the connection between the candidates through funding and shared Quadrant services". All evidence that was heard during the Inquiry was to the contrary and in fact candidates were told very clearly to be truthful to the media and answer media questions precisely. At no time were they directed or requested, either overtly or covertly, to avoid public acknowledgement of the common funding.

The questions consistently asked by journalists were about funding from a "developer slush fund." Firstly, candidates were unaware who had donated as was heard in evidence so could not answer as to whether they were developers or not. Secondly I invite you to look up the definition of "slush fund", in the Oxford Australian Dictionary. In addition, as was heard in evidence and not disputed by the Commissioner, was that other industry groups besides the development sector were approached. At the time of answering the questions, the answers were accurate and precise replies to the questions posed.

On Page xxii of the same section, the Commissioner states, "that candidates understood that there was to be no public acknowledgement of the Common Sense Candidate Resource". For candidates to understand this, then some form of telepathy must have been entered into, as there was never any discussion or indication that that course of action should be taken. It is interesting to note on Section 12 of the same page, that the Commissioner has conveniently left out the statement that I gave during cross-examination, which was reinforced by other candidates, that nobody cared how they voted or what the result was of votes, so long as they conducted themselves with dignity and respect and did not attack their fellow-councillors.

This was reiterated in evidence on a number of occasions, yet obviously completely dismissed by the Commissioner. Further, the evidence of voting patterns was delivered en masse to the Commission, and by this statement, was clearly ignored. The voting patterns requested by Mayor Clarke, indicates that when "divisions" have been called within Council and votes recorded, there is no solid pattern - once again going to the heart of the term independent and the Commissioner's misuse of it.

It is of further interest to note that a group of candidates entitled "The Virgin Army" by the Gold Coast Bulletin, stated that they were a group of like-minded candidates with common policies and views on certain issues. At no time in their literature as individuals did they explain this, constantly referring to themselves as "independents". Yet at no time did the Commissioner call any of these candidates, once again on the basis that many of these candidates were complainants and therefore protected by the Commission as whistle-blowers.

On Page xxlii of the Report, Section 19, the Commissioner states that "Power's way of dealing with this perception was to attempt to conceal his and Robbins' involvement in the Fund through arranging for businessman Lionel Barden to put his name to the Fund. Again, the Commissioner has totally ignored evidence placed before the Inquiry. Not only were there press articles where Cr Robbins and Mr Ray stated prior to the Election that Cr Robbins and I were involved in raising funds for candidates, but the fact that I had undertaken a one on one interview only a matter of weeks after the Election that went into greater detail on the subject was completely ignored.

The use of the inflammatory word "concealed" is an attempt by the Commissioner to bolster the incorrect and biased reporting undertaken by two journalists for the Gold Coast Bulletin and the Gold Coast Sun. At no time was there an attempt to conceal the involvement of Cr Robbins and myself, as was demonstrated in the articles mentioned above. Further, in Section 22 the Commissioner states: "The appointment of Barden as the client for Hickey Lawyers and Quadrant Advertising was a cynical exercise designed to make it appear that he had exercised control, but in reality he had not. Once again, a false statement by the Commissioner.

In fact, during the time that Mr Barden had control of the fund, he had absolute control of distribution and reconciliation of the accounts. Further, evidence was entered that after Mr Barden's agreement to take over control of the account, he and I did not speak until some time after the Election. This evidence was given not just at the Inquiry, but during my recent Trial in the Brisbane Magistrate's Court. The Commissioner has failed to explain how Cr Robbins and I would have been exercising control over an account in another individual's name where at Law the only person authorised to make disbursements is the account holder. He has also failed to explain how we would have given those directions when, at no time did we speak with Mr Barden until some six weeks after the Election. In point of fact, I was quite surprised during the course of the Inquiry to learn that Mr Barden had gone to the extent of auditing the Quadrant Account, which Cr Robbins and I had not done during our term as signatories.

On Page xxiii, under the heading "Secrecy" - Section 23, the Commissioner states, "The evidence supports a conclusion that the operation of a fund created to support selected candidates and the involvement of Power and Robbins in that Fund was intended to be kept secret and would not have become public if not for

the media interest and this Inquiry". Once again, a completely false and misleading statement by the Commissioner.

The fact of the matter is that ample statements were given to the media and used on many occasions inappropriately. Further, it is hard to imagine that a fund raising effort that was known of by at least 1500-2000 individuals could possibly have remained a secret if that was the intention. The word had been passed through Chambers of Commerce, the UDIA, the Marine Industry and various other industry groups that fundraising was being undertaken for a centralised account. This was entered into evidence and never challenged. How the Commissioner can suggest with such a wide-ranging attempt to collect funds was (a) secretive and (b) concealed, is a bizarre notion in itself. Indeed, the media was first alerted to the collection of funds because one of the individuals approached was discussing it at a function in Surfers Paradise openly with anyone prepared to listen. It was from this function that the media was advised of the "nefarious plot" that I was trying "to take over Council". Hardly what one would consider being a secret.

In Section 25 on Page xxiv, the Commissioner states, "there is at present no obligation under the LGA for candidates to disclose campaign donations before the election. This does not however give the candidates a mandate to blatantly lie about the sources of their donations when asked. The candidates have always have declined to provide the information saying it would be provided after the election as legally required". I would invite you to review statements by the Counsel Assisting during the course of the Inquiry where during evidence this issue of pre-poll disclosure was discussed. Counsel Assisting made it very clear that not providing an answer was, in his opinion, deceitful and misleading and that the community had a right to know. The Commissioner himself expresses the same philosophy in the Final Report contradicting the above quote. Perhaps the Commission could make up its mind on this matter. To the best of my knowledge, no candidate blatantly lied and indeed the evidence presented with regards to the articles continually referred to by the Commissioner and the Counsel Assisting were never tested.

Page xxv, under the heading "Personal Interest and Public Duty" - Section 32 - the Commissioner states, "the Commission considers that the statements made by some Councillors during the Inquiry reflect a fundamental lack of understanding of what constitutes a conflict of interest in connection with their work as Councillors. This stance gives undue weight to their personal views about whether a conflict exists and ignores the apprehension that a reasonable observer might have about whether they can impartially carry out their public responsibilities."

The term "reasonable observer" was used regularly during the Inquiry. The Commissioner and the Counsel Assisting when I placed the question to them during the Inquiry, could would not define a "reasonable observer". For instance, is a reasonable observer one of the individuals who contacted me during the course of the Inquiry concerned that Mr Needham, as the legal representative for a developer who acted against Gold Coast City Council in a landmark case some three or four years ago, may have a conflict of interest? Their reasoning was that the case was a vitally important case to protect the floodplain for the Gold Coast City. Mr Needham, on losing that case for his client, may have in the reasonable observer's opinion, an axe to grind with Gold Coast City for having lost such an important case. Whilst not casting any aspersions on Mr Needham's character or his ability to separate these issues, this goes to the heart of how far we go with conflicts of interest.

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Further, as advised to the Commissioner at the time of my evidence, I have two separate pieces of legal advice - one from Minter Ellison and one from Mr Stephen Fynes-Clinton with regard to conflicts of interest. My understanding of the definitions within the Act is based on these two pieces of legal advice, which are identical and reflect the manner in which I have always dealt with conflicts of interest. The Commissioner's view is not only naïve, but fails to reflect the very local nature of Councils and their dealings with every day people on a regular basis.

I refer you now to Section 33 of the same page, where the Commissioner states: "The Commission considers that the obvious way for Councillors to avoid having to grapple with the difficult issue of perceived conflicts of interest would be to refuse donations from those likely to have business before Council in the first place". This shows the rank naivety and lack of knowledge of the Commissioner and the Commission on both the Act and what Councils do. The definition of business before Council can be anything from a dog licence to a late rates payment, a sign approval, a parking fine etc., etc. The Commissioner's statements would therefore indicate that in a Council of Gold Coast City's size, it would be inappropriate to take donations from any one of the 500,000 residents who currently reside in this City. Further by definition and simple logic a Councillor is deemed to have declared any potential conflict of interest by completing the Register of Electoral Gifts.

If you take it further to its logical conclusion, this would include the potential five million visitors to the City every year who may have an issue that arises with Council. The Commission has further ignored evidence during my testimony where I stated that donations are not the key factor in winning elections that, in fact, booth workers are far more important because if they are not in place on election day with 'How to Vote' cards, you cannot possibly win. Using my own Division as an example, some 96 to 115 booth workers, many of whom do not give donations but simply give their time and their faith, could at any time have business with Council. Is it therefore practical for a Councillor to exclude themselves from the consideration of something that may affect the lives of these people, be it their involvement with a sporting club, Rotary Club, a business or their own properties.

The statement reflects a philosophical and moral position of the Commissioner and not the practical realities of running a local authority of the size and complexity of the Gold Coast City, nor the Local Government Act as it currently stands. It begs the question, "Would the Minister for Mines and Energy exclude him or herself from considering a mining lease just because mining companies have donated to their particular political party"? The Commissioner in expressing this view is, in my opinion, acting against the Constitution as the right to vote and universal suffrage also implies the right to engage in the political process. This has been reflected in comments most recently by the Premier and by the Minister for Local Government when the Commissioner had the audacity to criticise the Government for not fully adopting their recommendations.

The Premier's own statement indicated that the Government has to deal in practicalities and the real world and the Commission's recommendations were not workable.

This criticism in itself and the lack of respect shown by the Commission for the elected representatives of the Parliament of Queensland shows a complete disregard for the separation of powers and their place as public servants.

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I refer you to Page 1, Chapter 1, Introduction - "Events that Led to the Inquiry". In paragraph three the Commissioner refers to articles in the Gold Coast Bulletin, the Gold Coast Sun and the Courier Mail. The Commissioner upon request from my legal representatives, refused to call the journalists involved in these articles for examination. The Commissioner went on to state during that request that, as the evidence would be untested, he would be putting little or no weight in it.

Completely disregarding his own statement and assurance to the legal representatives, he has placed almost total weight in these false, misleading and often completely fabricated articles. He further disregarded evidence that Ms Alice Jones of the Gold Coast Bulletin has a personal relationship with Cr Dawn Crichlow and that, indeed, Ms Jones' mother is one of Cr Crichlow's closest friends. Further evidence was presented that Cr Crichlow was a guest at Ms Jones' wedding. This in itself must cast into doubt any article claiming conspiracy theories when it was clear that an attempt was being undertaken to protect Cr Crichlow from the valid and legal political strategy being mounted against her.

The Commissioner did not bother to take evidence on the journalist for the Gold Coast Sun, Mr Murray Hubbard. Had he done so, he would have found that Mr Hubbard is currently threatened with defamation action by the Chief Executive Officer of this Council for a series of scurrilous articles regarding Council's insurance policies. He would have further found that approximately four years ago, Mr Hubbard was warned off by a senior editor of the Gold Coast Sun from continuing to write derogatory and defamatory articles regarding me. Mr Hubbard had exposed the Gold Coast Sun to an action based on malicious intent with a series of articles that lasted approximately four years. The Commissioner's refusal to call these journalists and have them tested on the stand for their bias and to subsequently completely ignore his own ruling that he would not be placing weight on the untested articles, must call into question all of his assumptions and conclusions on the matter of public disclosure as nothing more than self-justification.

The Commissioner also refers to the "Dossier" provided by Cr Young. The Commissioner refused to allow this Dossier to be tested, despite it including statements that indicated "explicit or implicit understanding" with developers that they would get preferential treatment for contributing to campaigns. The Dossier was publicly distributed by Cr Young and no recourse was afforded to those defamed to test the accusations. Once again an example of the Commission protecting their so-called whistle blower.

On Pages 1 and 2 he continues to refer to the Tweed Shire Council hearings and fails to advise the Parliament the fact that the Daly Report had been totally discredited by subsequent inquiries. On Page 5, the Commissioner refers to statements made in the Shepherdson Report about the role of the CMC Inquiry. The opening line is "the purpose of this inquiry was not to determine guilt". It is interesting to note that without the support of the cross examination of journalists, the detailed examination of the statements and their context that were printed in the paper, the Commissioner has determined that individuals are guilty of making false statements.

Page 16 of the Report, the last paragraph in the Section entitled "Cr's Power and Robbins" once again refers to the Commission's view it is inappropriate for sitting councillors to be involved in supporting candidates.



During the course of the Inquiry the Commission heard on a number of occasions that Councillors Crichtlow, Sarroff and Young had also been involved in supporting candidates. Indeed, Cr Young had assisted in recruiting and providing advice and Council documents to assist in the campaign of Mr John Wayne, the candidate standing in Division 2. The Commissioner has failed to acknowledge this, once again protecting the so-called whistle-blowers. This again goes to support the bias nature of the Inquiry and the fact that it was not an inquiry into the 2004 Gold Coast City Election, but an inquiry which failed to live up to its terms of reference and the broad scale nature of the questions which needed to be asked of all candidates, not a select few for the benefit of a scalp to hang on the CMC wall.

Page 16 under the section entitled "Mr Brian Ray". The second paragraph states, "in the Commission's view however, it can be inferred that Ray's views were based on what was discussed at those meetings as he took part at the request of Power and Robbins, the emails arguably reflect what he was told by them about what they hoped to achieve". Once again, all evidence pointed to the contrary. It should be noted that Mr Ray was the only individual who reached the conclusions that are being referred to in the Commissioner's statement here. All evidence was overwhelming to the contrary, but the Commissioner has chosen to rely on the emails of a deceased gentleman who could not be tested under oath. Further, there is no reference in the Commissioner's comments that at no time did I or Cr Robbins see the emails being referred to and therefore we were not in a position to disabuse Mr Ray either personally or in writing of the views he expressed in those emails.

On Page 19 under the title "Meeting of 16 December 2003 at Quadrant" the last paragraph under the title "The Agenda", the Commissioner states: "Power claims there was no discussion at all about the Agenda at the meeting except for a private conversation between him and Morgan. The Commissioner rejects this claim in view of the evidence summarised as follows". The evidence as summarised by the Commission is trite and fails to outline the evidence from every individual attending that meeting which was overwhelming that there was no Agenda followed, there was no discussion on the document produced by Morgan and, indeed, only reflected the same issues that every other candidate was addressing in their election material.

Page 21 on paragraphs 2 and 3, once again refer to the so-called agreed media position and false denials, once again based on newspaper reports that the Commissioner refused to have tested by calling the reporters involved. In paragraph 4 the Commissioner states: "The Commission is satisfied that Power and Robbins always intended that there should be no public acknowledgement of the group's funding arrangements and that this was discussed at some stage with the Group. There is no evidence. Indeed, unless there was some form of telepathic transmission, the Commissioner has, without the benefit of contrary evidence, made a conclusion based on his own prejudices.

Page 21 under the heading of "General Discussions" you will note a reference on the final paragraph with regards to voting. This is the true meaning of the word independence within the political context, it has nothing to do with funding. The Commissioner has chosen to totally ignore this, even though it was reinforced by all attendees at the meeting. The final paragraph under the same heading on Page 22 states, "although none of this suggests that the candidates at the meeting intended

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to actively support each other's campaigns, and certainly not openly support each other's campaigns, it does suggest a collegiate atmosphere of shared interests and shared goals". This is no different from the actions and the opinions expressed at any other election by any other candidates, both publicly and privately.

On Page 23 under "Discussions about Funding" the Commissioner refers to the issue of independence in the last paragraph. Once again, the appearance and actual conduct of independence is through the voting process in Council, not through the funding of election campaigns. This misrepresentation of the term independence, and what it is commonly accepted to be by any reasonable person in the public, is a clear intent to distort the terminology and discredit the individuals involved.

On Page 25 in the second paragraph, the Commissioner refers to "substantial amounts of funding by development interests not being declared by any candidate". He fails to mention, however, that all funds received during the declaration period were declared in a third party return. Therefore, it can be concluded by any reasonable person that the funds can be traced back to use for the election for specific candidates and from specific donors. Such a claim and the manner in which it has been described within the paragraph gives the impression there was an attempt to hide these funds, when clearly this was not the case.

Further on Page 25, the Commissioner's comments with regard to the group of candidates states: "It is unlikely that the commonality of interests required by the section existed in this case." The Commissioner is contradicting himself; on the one hand accusing candidates of not being independent due to funding, yet acknowledging the fact that independence exists in the treatment of interests rather than the commonality of the fund. In a subsequent paragraph he continues, "in fact the loyalty of the selected candidates was not to each other it was rather more to the people who were raising the funds and providing them with those funds, Power and Robbins". Once again this completely ignores the voting patterns as presented to the Commission. Indeed evidence can be provided that at no time did Cr Robbins or myself ask for the only two successful candidates to vote in any particular way on any subject. Again, the Commissioner seems to be relying on the issue of telepathy to (a) reach this conclusion and (b) for these messages to be conveyed between the so-called conspirators.

On Page 35 the Commissioner states, "there is evidence that Power exercised control over budget allocations for candidates not just individual draws". In an email from Roxanne Scott to Morgan of 27 January 2004, Scott stated, "David has given me a tentative figure for a campaign budget. Have you heard anything definite yet?" At no time was I asked during examination as to what this issue meant. In fact, Ms Scott asked how much I thought a campaign would cost to run in her electorate. At no time did I suggest to any candidate the amount that we would be able to provide through fund raising. This conclusion by the Commissioner is both unsupported by evidence and untested. In fact one email indicated that I had given incorrect figure to Hickeys for a draw to candidates and that the correct figure was Cr Robbins'. This in itself should at least raise the prospect that Cr Robbins was exercising the greater control over allocations and balances of the fund.

Further on the same page in the last paragraph, the Commissioner starts the final paragraph with "despite his own campaign commitments Power also continued to be involved in fund raising for new candidates during February 2004". Once again, at no time during the course of the Inquiry was I asked as to the amount of time

spent on this exercise. In fact the total amount of time spent across three months would probably have totalled no more than eight hours. The Commissioner has attempted through his comments to make it look as though an enormous amount of time and energy was spent on collecting and distributing funds. If we look further down that paragraph, we will once again see evidence which dismisses the claim of secrecy and deceit in evidence by Mr Hailey where he stated "Power told him he was openly canvassing all development companies who had interests on the Gold Coast and that he was campaigning on the basis of his reputation as a common sense and approachable councillor". The term 'openly canvassing' is a clear indication from an independent witness that there was no attempt at secrecy in this matter whatsoever.

On Page 37, second paragraph, the Commissioner states, "in view of the pressure that Power was under to raise funds and his subsequent knowledge of Fish's intention to fund Pforr and Rowe directly his evidence he did not arrange this meeting with Fish to obtain funding for Pforr and Rowe is rejected". Once again the Commissioner has failed to bring to the attention of the Parliament the fact that Brian Rowe was a personal friend of Mr Fish's, Mr Fish's children attended the School at which Mr Rowe was Principal. Further it fails to acknowledge, that Mr Pforr was also a prominent figure at the same School, with his children attending and Mr Pforr as rowing coach for the school.

The evidence given to the Inquiry was that Hope Island is a major development front on the Gold Coast, bordering Divisions 2 and 5. Mr Rowe being the candidate for Division 5 would have, if he were successful, enormous impacts on traffic movements in his Division from Division 3 being the Hope Island area, once those developments were operational. Indeed, between Hope Island, Oxenford, Coomera and Upper Coomera, there were at the time over 14,000 allotments under construction. With Mr Fish being the principal owner of a significant portion of property in the Hope Island Canal area, it was my intention as stated in evidence, to provide some sort of understanding by the candidates of the problems that faced us. All evidence received by the Commission with regard to that meeting indicated that funding was not discussed in any way, nor was it asked for. The rejection of this premise has no basis in fact, no basis in evidence and once again demonstrates the Commissioner's biased view and attempt to reconstruct the reality of the situation.

On Page 38, paragraph three, the Commissioner states that "there are many factors that show that he was only regarded as a figurehead", referring to Mr Barden. Once again the Commissioner has failed to place facts before the Parliament and has chosen to ignore relevant information that discounts this bizarre theory. Firstly, Mr Barden's involvement in checking Quadrant invoices in dot point four was in fact more than Cr Robbins and I had done. Further, at that point of the campaign it was clearly demonstrated all other campaign components would have been dealt with through the initial payments to candidates. It should also be noted that some of the funds paid directly to candidates were then paid to Quadrant by those candidates for services rendered. The Commissioner's intention in these statements is to infer that Cr Robbins and I continued to exercise control over the distribution of funds. This is completely incorrect and would have been unlawful given Mr Barden was the signatory for the account.

Dot Point 2 references Mr Morgan with regards to further funding and donors. This was not a matter denied at any time and in fact clearly and openly stated that I had continued to try and lobby for funds from prospective donors. This in no way

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links to the reconciliation of accounts, the advice of payments, or indeed even being advised of the specific amounts that donors had paid. These are all separate issues to the inferences made by Mr Needham from the fact that Cr Robbins and I continued to solicit funds.

Page 46, the third last paragraph, the Commissioner states: "Acting on Power's advice, Barden drafted a letter of 28 June 2004 asking Hickey Lawyers to put in a return as trustee to the Account, but not to reveal the names of the donors or the candidates who received the funding." This is a complete misrepresentation of the evidence given by Mr Barden who, in fact, only stated that I had told him that he may need to put in a return. At no time did I discuss the issue of revelation of the names of donors or the candidates who received funding. Once again, the Commissioner and the Counsel-Assisting failed to ask my recollection of this issue whilst giving evidence and at no time did I suggest he should do anything other than inquire about the requirements for a third party return.

I refer you now to Page 47 under the heading "False or Misleading Statements to the Media". The Commissioner states: "the Commission is satisfied there were a number of false or misleading statements made to the media in this matter and a concerted effort to conceal the existence of a group of candidates being funded from a common developer-backed fund. These statements are consistently put forward in Morgan's Draft Agenda, etc. etc." I would suggest perusal of this document, though not discussed, will demonstrate that at no time did it indicate a position of denial or deceit. This is a leap of faith without supporting evidence.

It is here I refer you to my previous statements regarding the Commissioner's refusal to place journalists on the stand to be tested with regard to their accuracy and bias. In fact, I again refer you to the Commissioner's own statement that he would not be relying on these articles as they were untested. He has clearly stepped away from that ruling and has made arbitrary decision that the articles are correct, are within context and were not designed to protect, in particular, Cr Dawn Crichlow, by a personal family friend, being Ms Alice Jones. During evidence, I referred the Commissioner to his own comments regarding "slush funds" where he equated them to "a brown paper bag". The Commissioner corrected me and made comment that he did not do that.

This is an incorrect statement by the Commissioner, either because he had forgotten he had done so, or because he realised that his statement was a real and true interpretation of the term "slush fund".

Whilst I cannot comment on quotes by others within the media, I refer you to the Commissioner's comments on Page 49, second last paragraph: "However Power might try to justify his statements to the media about his involvement in the funds to support new candidates, they were on any reasonable analysis false or misleading. His explanations were unconvincing." The Commissioner has clearly tried to reinterpret the English language to the benefit of his own outcomes. My answers were specific and very focussed on the questions asked of me. The Commissioner cannot reasonably reach these conclusions without having tested the journalists and reviewed their previous behaviour with regard to their articles on Council. Further examination of those articles, will find that I told the journalists on every occasion that I was giving advice to business as to which candidates were worthy of support.

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These were the exact words that were used and the Commissioner's constant referral to the conclusions that a reasonable person would reach on some of these issues start to come into sharp focus. I would invite any investigator to approach anyone in the street, ask them their interpretation of those words and you will find on every occasion that they will interpret as business providing financial support to candidates. There was no attempt to hide, through the use of those very specific words, my involvement in raising funds for candidates and, for that matter, specific candidates.

The Commissioner has chosen to ignore the evidence given by a series of witnesses that both the Gold Coast Sun and the Gold Coast Bulletin as News Limited publications have little credibility in the community for accurate news reporting. One of the reasons Ms Jones was shifted from her position as Council reporter, was that the majority of Councillors were refusing to speak to her due to her lack of objectivity and accuracy in reporting. I would invite you to review the whole of the transcript as well as all of the articles in their entirety and the context of my answers given to the Commission. I find the Commissioner's conclusions, the fact that he had ignored his own ruling and indeed disregarded his own interpretation of a "slush fund" to be both worrying and a breach of public trust. The Commissioner has based all of his conclusions with regards to public deceit and misleading statements on these articles and has spent very little time concentrating on material published by the candidates themselves.

I also refer you once again to the Commissioner's failure to investigate the circulation of these papers, the fact that only two out of five candidates were elected and the verifiable malevolence of the two principal reporters being Alice Jones and Murray Hubbard with regard to previous and, I must say, subsequent articles regarding Council and Councillors.

In Chapter Six, Page 53, under the heading "Negative Campaigns" the Commissioner states, "although evidence was given that negative campaigns were conducted against sitting Councillors Peter Young and Dawn Crichtlow, no candidate included the costs of these negative campaigns in their returns." Once again, a statement by the Commissioner that is not backed up by the Local Government Act. If these campaigns are conducted by a third party, it is not the responsibility of a candidate to declare those negative campaigns. The Commissioner is clearly trying to provide the impression that the candidates acted in an inappropriate fashion. Whilst his conclusion states that it was not the candidate's responsibility, the opening paragraph leaves individuals reading this tainted report with a perception of untoward behaviour.

On Page 56 under "Consideration of the Third Party Return of Hickey Lawyers", whilst not directly affecting me as an individual, I draw your attention to the second last paragraph regarding the Chief Executive Officer, Mr Dale Dickson and City Solicitor, Mr David Montgomery. Counsel Assisting, without giving these gentlemen right of recall, suggested that both approached the third party returns with a casual attitude on Council's part. The Council has no role to play in these matters and, in fact, it shows a complete disregard for the scale and reality of the roles undertaken by the two gentlemen mentioned. May I suggest respectfully that perhaps a discussion with these gentlemen with regard to the context of these statements by the Commissioner and the Counsel Assisting would bring into sharp relief the lack of understanding the Commission and the Commissioner has of what local government does and its responsibilities under the Act with regard to an election.

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Page 81 under "Peter Young's Return and Register of Interests". Here is the most glaring example of the Commission and the Commissioner's bias in these matters. The only individual to have a verified and admitted breach of the Local Government Act with regard to returns has not been recommended for prosecution. The reason for this is stated on Page 83 where it says "in the July 2004 newsletter Young stated that Gardens on Linfield, a retirement community wholly-owned by a trust controlled by Cater Corporation would sponsor the cost of the newsletter for the following 12 months. It therefore appears that Young's failure to update the Register was not an attempt on his part to conceal the information from disclosure. Indeed, in his Divisional newsletter he explained the reasons for accepting the financial assistance, arguably a wider publication occurred that would have been achieved by updating the Register".

This is a false statement by the Commission. The July 2004 Newsletter in fact did not state that Gardens on Linfield would be providing the funds. The July 2004 newsletter stated that a developer would be providing the funds, no name was mentioned and the Commission in stating this has misled the Parliament. With regard to the wider publication, the Local Newsletter is distributed along with brochures for retail outlets. In fact the vast majority of the population does not read this publication as it is regularly thrown out as refuse with the other bulk mailouts that occur.

Further Cr Young did not correct his failure to declare the contributions by Cater Corporation until he became aware that a complaint had been lodged. It is interesting to note that Cr Young has a regular habit of failing to accurately declare things and simply writing it off as being too busy or forgetful. Whilst other candidates referred by the Commission for possible prosecution over declaration breaches declared correct amounts and pointed to the solicitors or the fund from which those amounts were derived, the Commission has decided that even though Cr Young failed to declare a significant amount and then failed to declare a series of payments from the same developer over an extended period of time, that this was acceptable.

In a further complaint against Cr Young regarding the vote on a matter in which he was an appellant, the CMC has also accepted his lapse of memory as an excuse. There is no more glaring example of the CMC's bias in handling these matters when you consider that the CMC has recommended I be considered for further prosecution regarding failure to lodge a return when legal arguments were presented by the LGAQ and others that I had no responsibility to lodge a third party return. The CMC has rejected this, yet failed to recommend prosecution of a councillor who has repeatedly failed to declare donations from the same developer except upon receipt of intelligence that he had been reported for failing to make that declaration.

For the CMC to provide a report to Parliament that he had declared that Gardens on Linfield were providing him with financial support is further evidence that the CMC has either failed to investigate this matter properly or deliberately tried to protect a whistle-blower who is in breach of the Act.

If you require a copy of the Newsletter referred to, I would be more than happy to furnish this as it does not state who the donor is.

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I refer you to Chapter 9, Page 93, "Personal Interests and Public Duty". In the last paragraph on Page 94, the Commissioner refers to Crs Young and Crichlow "taking an ultimate view with regard to conflict of interest". It is interesting to note that I am fully aware that in the previous term of Council, both Crs Young and Crichlow voted on matters that involved electoral supporters and at no time declared a conflict of interest. The position presented to the Commission by both councillors was one of political expediency knowing full well that it would gain some public traction, even though their position was not legally sound nor practical in its application. Evidence of those voting patterns can also be provide should you wish, that once again show that the Commission was prepared to accept anything their so-called whistle-blowers were prepared to dish out in the hope that it would provide them with a scalp.

Once again, in the final paragraph, the Commissioner refers to Professor Daly's report into the Tweed Shire Council, which has now been totally discredited. On Page 95, under "Fundamental Lack of Understanding" the Commissioner refers to the Integrity Commissioner, Mr Gary Crook QC and his interpretation of "conflict of interest". I suggest Mr Crook should perhaps pay more attention to the Local Government Act, as the test is very clear and unequivocally supported by all experts in the Local Government Act.

Firstly, an individual must determine within their own mind whether a conflict exists. Secondly, they must then determine that if a conflict exists, whether they can place the public interest above the private interest. Should they not be able to determine within their own mind that they can place the public interest above the private interest, they must declare the conflict of interest and vacate the room. There is no requirement in the Act for declaration of a conflict of interest on the basis of perception. There is no requirement in the Local Government Act nor any right for another individual, be they a so called "reasonable observer" or another councillor, to make the determination that a conflict of interest exists. This is unequivocal and unchallengeable and I offer you my two separate legal advices that have been previously mentioned for your perusal. The Commission's view of what constitutes a conflict of interest and how it should be dealt with essentially makes local government unworkable and indeed in some smaller local authorities would make it impossible to gain a quorum for decision-making. I would invite you to speak to the LGAQ on this matter as they are far more experienced than Queensland's Integrity Commissioner or the Crime and Misconduct Commission.

The Commissioner in his report chose not to put my extended explanation in as part of his Report, which better reflects the Local Government Act.

Commissioner, I beg your indulgence with regard to this complaint. I realise the matter has been drawn out, but as Parliament has now been dissolved for the Election and it is unlikely that the Parliamentary Committee will be able to review this matter for some months, I will be taking the opportunity to place further material before you including specific references to the transcripts and specific extracts.

Finally, I will be drawing one matter to your attention with regard to a telephone call that I received from someone connected with the Commission that casts grave doubt on the behaviour of the Commission. Unfortunately I believe I am not in a position to do so at this point until the verdict is rendered on the charges proffered against me by the CMC. It is interesting to note, however, that much of what I

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have presented to you bears relevance to the charges laid against me, in particular, the re-interpretation of the English language. The distraction preventing me providing you with a full and detailed outline of my complaint has been caused due to the trial and the preparation for same.

I further bring to your attention that in discussions with other local authorities around the State, you may well be receiving a series of complaints with regard to the CMC behaviour and in particular their interference with the daily operations of Councils, exposing them to compensation claims from developers. Mayor Ron Clarke is currently gathering information for your attention with regard to live development files which were kept by the CMC for extended periods even after investigations had been completed. This caused significant delays and resulted in Council failing to meet its statutory obligations to the point where one developer wrote to the Minister and to the Commissioner threatening a damages claim against both should his file not be released. This information will be provided in due course and as I have stated previously, I believe other councils are now considering the same action due to the behaviour of officers of the CMC.

There are matters that have been brought to my attention regarding the conduct of Detective Inspector John Lewis during the course of investigations into the charges laid against me and currently under consideration by the Court which are both disturbing and questionable. These matters I will address after a verdict is rendered however they involve the attempted manipulation of statements to provide a more definitive yet misleading case to the Court.

Thank you for your consideration in these matters. I will endeavour to provide you any further information you require. The Commissioner's refusal to deal with the poor reporting particularly by the Courier Mail and The Australian during the course of the inquiry is a clear example not only of media manipulation of real comments and events but also the Commission's willingness to use the media to convict when they can't. I am quite prepared to send you copies of the "hate mail" that I have received on the basis of half-baked media articles indicating corruption and bribery, a clear example of relying on sections of the media for our information and judgements of matters as important as this.

I thank you for your time.

Yours faithfully

**DAVID POWER***Councillor Division 2 & Deputy Mayor*



25 2<sup>nd</sup> Avenue  
Palm Beach

Mr Power

I've never met you, but if  
there anyone who loves themselves  
it's you. It's a pity there's not  
enough Power to blow you  
off your high horse.

The C.M.C. told you  
to resign, the local Government  
Minister told you to resign,  
the people in recent poll  
told you to resign, you must  
have the bulk of an elephant.

The Mayor of Gold Coast  
- never, - your corrupt &  
dishonest.

J. J. Cunningham's

# Gold Coast City Council Elections March 27th

## DIVISION 2 RESIDENTS

Our rapidly growing area needs some common sense

The current Div 2 Councillor has held his position for 13 years.  
Are you happy with what you see around you?

**FACT:** The current Division 2 Councillor argued against Council providing public transport facilities in our area. I believe it is a vital necessity.

**FACT:** The current Division 2 Councillor is approving more development, even before facilities and services have been planned. My belief is that it should be the other way around.

**FACT:** The current Division 2 Councillor wants to reduce the parking spaces developers *should provide*, to allow & force people to catch the bus. But where are the buses? I believe we need both options, better public transport and adequate parking.

**FACT:** The current Division 2 Councillor (also Chair of the Planning North Committee), is directly responsible for many of the bad development decisions in our area.

Now ratepayers are having to buy back huge tracts of land from developers, to provide decent parks and sports fields. Ratepayers are also having to buy back private land to improve road access to the Marine Precinct in Coomera. This should have been anticipated. I am committed to getting it right in the first place and saving your dollars.

**FACT:** The current Division 2 Councillor accepts substandard parks and tiny financial contributions from developers in new estates. I believe playground and recreational areas are a priority.

**FACT:** The current Division 2 Councillor voted for and was instrumental in the push for huge pay increases and business class air travel for Councillors.

Councillors should be serving the people's interests, not their own.

**FACT:** The current Division 2 Councillor believes that "the communities objections are absolutely irrelevant"

I believe the input of the community is absolutely necessary.

**FACT:** The current Division 2 Councillor fought against increased rates concessions for pensioners.

I believe the older members of our community have more than contributed to our city and therefore should be treated with the utmost respect.

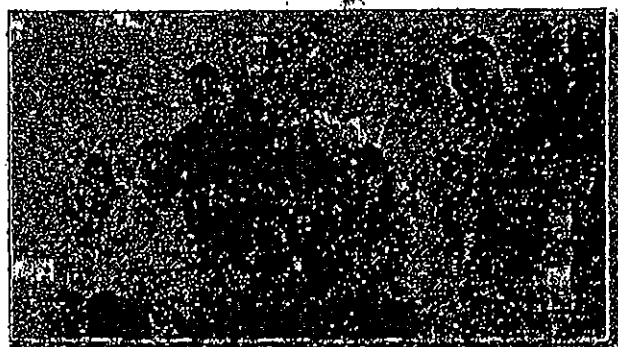
Another 4 years of 'Power-tripping' would be a disaster!  
You deserve better. I will listen to you and represent YOUR interests.

Call me...  
with any issues or  
concerns you have in our  
area. I intend to remain  
accessible & look  
forward to speaking  
with you soon...  
at home: 5529 8362  
at office: 5532 2700  
fax: 5532 2400  
or mobile 0419 68 3131  
email: jvwdesign@austarnet.com.au



"I have spent 30 years  
working on the Gold  
Coast solving problems  
for a myriad of different  
businesses.

I will apply my skills to  
local issues and work  
towards positive  
outcomes for all".



"It is council decisions that will affect our children's future."

**Vote [1] JOHN WAYNE for Division 2... Trust in the name!**

Information sourced from Gold Coast Bulletin, Gold Coast Sun and GCCC archives

Authorised by Elizabeth Wayne - 45 Cresthill Dve, Wongawallan

In the March 2004 Local Newsletter for Division 2, I published an advertisement supporting my campaign to be elected as a local government Councillor for Division 2. The advertisement was titled '*Division 2 Residents -- Our rapidly growing area needs some common sense*'.

My advertisement contained various statements regarding Councillor Power and the performance of his role as the councillor for Division 2.

At the time I published the advertisement, I believed the statements to be correct. However, it was brought to my attention prior to the election that errors may have existed in my advertisement.

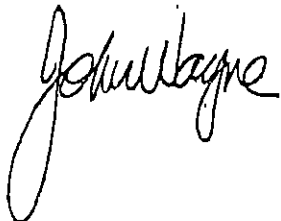
I now understand the true case to be the following:

1. Councillor Power did not argue against Council providing public transport facilities in Division 2. Rather, in 2000 Cr Power argued against a particular model proposed by Councillor Peter Young.
2. Councillor Power did not and does not personally approve developments. Further, Councillor Power is not directly responsible for development decisions. Under the *Integrated Planning Act* a Councillor does not have the capacity to personally approve developments. This is the function of the Council not an individual Councillor (who only holds one vote). Also, if a development application is one that must be approved because it complies with the State's *Integrated Planning Act* and other laws, and the Council receives professional advice from its officers that the Council does not have a proper legal basis to refuse it, refusal of the application may involve the Council in costly court actions to the detriment of ratepayers. Therefore I accept that on occasions individual Councillors vote to approve developments which they personally may not favour, but which the Council is legally obliged to approve.
3. I have been informed that services and facilities for developments were planned for up to 10 years in advance of approvals of developments.
4. Councillor Power is not responsible for and does not have the capacity to accept parks and financial contributions from developers of new estates.
5. Councillor Power did not vote for a pay increase for councillors. Rather, he voted against the removal of the additional remuneration provided to committee chairpersons.

I apologise for any offence or distress the erroneous statements contained in my advertisement may have caused Councillor Power.

Dated: 30 June 2004

Signed:



John Wayne.

# Watch out council

by Alice Jones  
council reporter

IT started as a battle over rising rates, angry ratepayers meeting regularly to push for change. In regard to how Gold Coast residents are charged.

But now this grassroots movement has bigger plans to change the way the Gold Coast City Council operates and thinks.

Eight candidates, dubbed the Virgin Army because of their lack of previous council experience, are taking on some of the most powerful and entrenched councillors.

It is not an official ticket, but the group has realised they are like-minded on many issues.

Their professional alliance has built over the past year at the regular meetings of the Concerned Ratepayers Group, of which they are all members.

The candidates are running in eight of the city's 14 divisions and by March they hope to field candidates across the entire city.

Linda Brown, who will contest Division 11 against Cr Jan Crow, and who has been instrumental in organising the group, says they offer the change so many residents want.

"We are all individual people but we have all got the same fundamental beliefs," said Mrs Brown.

"We think we can do a better job than the present council."

"What I like about this group is there's a lot of young people. There's a good mixture."

Mrs Brown's first encounter with the council was early in 2002 when she addressed councillors about her own rating situation.

Holding back tears, she told the council that the steep rise in rates meant that she and her husband could be forced from their Miami dream home.

Her presentation was received with little reaction by the council and the growing community discontent led to a public meeting.

More than 400 people crammed into the Alford Waterways Hall and so the Concerned Ratepayers Group was formed.

Since then the group has continued to meet and the issues it is concerned about have grown.

"I can honestly say the Concerned Ratepayers Group is now quite a forceful group," said Mrs Brown.

"We are aligned with quite a few bigger groups: Friends of Burleigh, Independent Businesses, Checco, the Peninsula Association."

"We have been focusing only on rates but now we have got people coming to us with all sorts of different problems."

"I can see this group becoming bigger, becoming like a centralised information centre for ratepayers."

"As a new set of councillors we would all work together as a team. We're all of the same mind-set. This is what we need."

"At the moment they're doing their own thing. They're fighting about who's going to pay. They're not looking at the big picture."

"They're so run by the bureaucrats, our councillors have become our ministers."

## CASE FILES - Who are the candidates

### Division 11 Wayne Skutumpah

A 54-year-old computer engineer who worked around the world as an advisor to overseas governments and departments. He has lived on the Gold Coast for 11 years, initially at Osnford and now at Labrador. He has experience in management and working with other cultures. He wants to see more participation in the city council and wants to take control away from the bureaucrats and return it to the people with life experience.

### Division 11 Linda Brown

Works in administration for Conrad, a public and health organisation on the Gold Coast and with the company for the past 18 years. She lives at Miami and was initially concerned simply with making the city's rating system fairer. But community pressure has encouraged her to run for council. She says the Irish blood in her means she will not back away from a fight. She wants to ensure that the city's infrastructure and services keep pace with the rapid growth in the Gold Coast. She is on the wrong side of 55.

### Division 7 Don Magin

A 54-year-old lighting designer who runs a Bundell-based company. He is the son of a former alderman, Neville Magin, and wants to bring back the panache and style of Sir Bruce Small's era. He is passionate about Gold Coast parks and wants to improve the traffic and parking issues in Burrows Paradise. His campaign motto is 'back to basics' and says he has no political or personal affiliations.

### Division 11 Irene Waring

A trained beauty therapist who nursed her husband through cancer and later became a palliative care specialist. The 64-year-old mother has lived on the Gold Coast since 1978 and has spent the last 10 years at Burleigh Heads. Until recently she was the president of the Friends of Burleigh group.

### Division 9 Guy Jones

A former police officer and bodyguard to the stars. Guy now works as a community officer for the Aboriginal and Torres Strait Islander Commission. Guy helps Aboriginal children stay in school and later, enabling them to find jobs. The program has been the most successful of its kind in Queensland. The 40-year-old father of two says all the 40-year-old father of two says all the candidates affiliated with the Concerned Ratepayers Group are common-sense people with wide life experience.

### Division 11 Dr Karen Cohen

Curriculum Valley, women's doctor who has been involved in a very public fight with the city council over the last year when she refused to run her small practice from home was refused. She will go head-to-head at the ballot box with Cr Sue Robbins, who was the key objector to Dr Cohen's proposal. Dr Cohen, 40, is a mother of two who began her public life aged 17 when she travelled to America for a year as a youth ambassador. Her medical career has taken her to Papua New Guinea and Canberra. She moved to the Gold Coast in 1997 and has been here since.

"This city is just growing so fast. I don't think anybody has been able to keep up."

"It's just out of control."

"Someone needs to say pull the reins in. It's becoming not a very nice place to live."

"You can't stop people moving here but you need to have some plans in place, not a bandaid."

Guy Jones, who will take on Cr

Ted Shepherd in Division 9, said he was impressed with Mrs Brown and with the direction the CIT group had taken since its first meeting.

The Aboriginal and Torres Strait Islander Commission community worker, who also used to work as a policeman and as a bodyguard to stars such as Elton John, Luke Perry and Patrick Swayze, said the candidates wanted to take a

common-sense approach to council.

"From that first meeting with all the members I realised they're all people who have common sense. They're just people who are concerned the council has gone haywire," said Mr Jones.

"It has concerned them that much that they wanted to do something."

"What they're saying is very loud to a certain sort of him."

"I don't think we're running as a ticket."

"We're all individual people with individual issues, common-sense people taking this seriously."

"I think I have got life experience to negotiate with fellow councillors and the community."

Labrador computer engineer Wayne Skutumpah, who will run for Division 4, has worked as a consultant to governments at home and abroad since the 1970s.

He has seen how good management can work and believes it is time for a new breed of councillors on the Gold Coast.

"I don't see any fragmentation in the council," he said.

"Some councillors have a lot going for them. Peter Young, Dawn Clechlow. At least she gets up and does things, says things. It's not a bureaucrat."

"Government should not have bureaucracy. It should have people with experience in many areas."

"With the rates, I see it should be a fair system for everybody."

"I like to see equality in things."

"I see that the councillors work for their own little area."

"They're not working for the Gold Coast as a whole and that I think is what detracts from this place."

Dr Karen Cohen had never considered running for council until earlier this year, when she lost her fight with the council to run a part-time women's clinic from her rural home.

Her experience with the council made her determined to change the system.

"It was just an absolute eye-opener," she said.

"I never realised how much power council decisions had over your everyday life."

"I figured I could do better."

"We (the Concerned Ratepayers Group) are like minded people who get a lot of support from one another, who feel there's a better way of doing things."

"If we have the numbers in council we could really make a difference and get a more fair and equitable way of doing things, by community groups more than up service."

Irene Waring, who until recently was president of the powerful Friends of Burleigh Group, said she was also excited about being aligned with a fresh group of council hopefuls.

Her work within the community, both through the Friends of Burleigh and her paid work in palliative care, has made her realise residents want a change.

"Will it be not forming a bloc, the people who are involved are very similar in their way of thinking," said Mrs Waring.

"We're fairly alike in our thinking about what we would like to see done on the Gold Coast. People want change. They're fed up with what's happening. Their views are being represented. There may be a ratepayer's revolt at the polls, maybe a few people knocked out."

## Nats target Dunkley

THE National Party is head-hunting former Sydney Swans defender Andrew Dunkley.

The 35-year-old dour, but ever-reliable, full-back is being pursued to stand in the Federal Victorian seat of McMillin.

Dunkley is the second AFL footballer this month whose name has been linked to federal politics.

The Liberal Party has sounded out veteran Adelaide Crow Nigel Stuart to stand in a South Australian seat at next year's Federal Election.

This is despite Stuart, 34, having committed to play next season with the Crows.

Dunkley, born in Warragul, now lives in Yarram, in Gippsland, where he runs a beef farm. He is married with three young children.

Yesterday, he declined to comment but through his mother said he "just wants a peaceful life".

"That's why he came back here," she said.

"Maybe those things will change next year."

## Sunscreen protection warning

SUN lovers are falling to slip, slop and slap properly and are getting only a third of the protection they need, new research warns.

The study, in the *Medical Journal of Australia*, says consumers are falling short of the sun protection factor stated on sunscreen lotions, because they are not applying the cream properly.

Researchers and Dr Stephen Taylor said there was a significant difference between the SPF advertised on a cream, and the level of protection achieved.

"For both cosmetic as well as economic reasons, sunscreen users are unlikely to be willing to apply sunscreen at the (required) rate," said Dr Taylor.

"Most people apply only enough to achieve an SPF of about a third, or even a quarter, of the level advised."

The Cancer Council of Victoria's SunSmart minkier Julie Harbord said people needed to apply one teaspoon of cream to each limb to achieve the SPF stated on the label.

She said the best way to protect against the summer sun was to:

- avoid direct sunlight between 11am and 3pm
- wear a wide-brimmed hat which covers ears, neck and shoulders
- wear sunglasses
- apply about one teaspoon of sun lotion on each exposed limb and
- reapply cream every two hours.

## Invasion fines lifted

HOOLIGANS who invade the MCC arena now face \$6000 fines.

The increased penalty, up from \$1000, was enforced during this year's AFL season, but is designed specifically to curb unruly and disruptive cricket crowds.

Supt Mick Williams said police would not tolerate drunken and lewd behaviour during the Boxing Day Test between Australia and India.

"People who come in with the intention of disrupting play and other spectators will be immediately evicted from the ground," said Supt Williams.

"Once they're out they won't be coming back in."

A bumper crowd of about 70,000 is expected to pack into the reduced-capacity stadium today for the first day of the all-important Third Test.

The Indians lead the four-match series 1-0, so Australia must win the last two Tests to win the series.

## **APPENDIX 2**



# GOLD COAST CITY COUNCIL

Councillor David Power

DEPUTY MAYOR



Address all correspondence to Gold Coast City Council PO Box 5042 Gold Coast MC Qld 9729 Australia  
Tel (07) 5582 8227 Fax (07) 5582 8263 Mobile 0414 180 003 Email [dpower@goldcoast.qld.gov.au](mailto:dpower@goldcoast.qld.gov.au)



20 November 2006

Mr A J MacSporran SC  
Parliamentary Crime and Misconduct Commissioner  
Office of the Parliamentary Crime  
& Misconduct Commissioner  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Sir

I refer to your request for further information regarding my complaint of inappropriate conduct by the CMC.

Please find enclosed a copy of Record of Interview with Mrs Donna Gates as Attachment A, the Statement of Witness prepared from the Record of Interview as Attachment B and an amended Statement of Witness as corrected and signed by Mrs Gates as Attachment C.

You will note the changes made to the Statement of Witness by Mrs Gates to more truly reflect the Record of Interview. These changes were necessary due to the Draft Statement of Witness not reflecting the true outcome of the Record of Interview.


You will note in particular, changes to Page 7 of 8 in the Statement of Witness when compared to Page 9 of 19 in the Record of Interview. Here, in my opinion, was a clear and unequivocal attempt by Detective Inspector Lewis to manipulate the statement of the witness to provide a more assertive outcome in assistance of their case. Had it not been for Mrs Gates' diligence in comparing the two documents, a statement would have been placed before the Court that was not a true and accurate reflection of the actual Record of Interview. This, of course, could be put down to incompetence, however, such a blatant alteration I believe can only be interpreted as an attempt to bolster a poorly conceived prosecution.

I am also advised that a statement provided to a relief secretary, Mrs Roselyn Bennett, who was working my office at the time of the incidents being investigated, was also manipulated. Mrs Bennett advised Detective Inspector Lewis that she had full access to Mrs Gates' computer, yet the draft statement provided to her indicated that she did not. Mrs Bennett pointed out this misrepresentation to Detective Inspector Lewis, yet no effort to alter the document was made in spite of the fact that the inaccuracies were highlighted. Whilst this statement was not used in the Prosecution against me, it once again lends weight to a clear practice

of manipulating or adjusting records of interview when producing draft statements for witnesses to sign.

I trust this assists you in your investigations. Should you have further queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a series of loops and a final flourish.

**DAVID POWER**  
*Councillor Division 2 & Deputy Mayor*

Exhibit/Ref. No.

**RECORD OF INTERVIEW**

**TAPE NO:** 1 (of 2)

**DATE:** 29/06/2006

**PLACE:** SOUTHPORT

**TIME COMMENCED:** 0909 HRS

**TIME CONCLUDED:**

**INTERVIEWEE:** DONNA GATES

**INTERVIEWER/S:** DETECTIVE INSPECTOR JOHN LEWIS

**LEGAL OFFICER:** DANIEL BOYLE

**RE:** OPERATION GRAND

**FILE NUMBER:** MI-05-2482

Complainant:  
Subject(s): OPERATION GRAND  
Investigator: DETECTIVE INSPECTOR JOHN LEWIS  
Statement Of: DONNA GATES  
Legal Officer: DANIEL BOYLE  
File Number: MI-05-2482  
Directory : E:\\#CLIENT FILES A-Z\\GATES, DONNA\\GATES DONNA TP1 OF 2 29 06 06.DOC



COPY TAPE 1 OF 2 - RECORD OF INTERVIEW BETWEEN DETECTIVE INSPECTOR JOHN LEWIS & DONNA GATES AT SOUTHPORT ON 29 JUNE 2006. ALSO PRESENT DETECTIVE INSPECTOR KEN BEMI.

LEGAL OFFICER: DANIEL BOYLE

RE: OPERATION GRAND

JL = JOHN LEWIS

KB = KEN BEMI

DG = DONNA GATES

NT = NICHOLAS TOBIN

- 1 JL Today is Thursday the ah twenty-ninth of June tow thousand and six. The time is now (0)  
2 nine (0) nine am (09.09am) in the offices of ah McMillen Solicitors, ten (10) Short Street,  
3 Southport. Interview with ah Donna Gates and Detective Inspector John Lewis. Now for  
4 the purposes of the tape I'll just have everyone identify themselves, I'll start. Ah my name  
5 is John Edward Lewis, I'm a Detective Inspector of police, registered number three zero  
6 three three (3033) assigned to the Misconduct Investigations area of the Crime and  
7 Misconduct Commission – Ken  
8  
9 KB My full name is Kenneth William Bemi B-E-M-I, I'm a Detective Inspector of police  
10 registered number five eight six six (5866) currently performing the duties in the Crime  
11 arm of the Crime and Misconduct Commission in Brisbane  
12  
13 JL Donna  
14  
15 DG My name is Donna Gates um the purpose of the interview I guess is as personal assistant  
16 for Gold Coast City Council allocated to um Councillor David Power, Deputy Mayor of  
17 the city  
18  
19 JL Thank you  
20  
21 NT My name's Nicholas Tobin, I'm ah employed at McMillen Criminal Law as ah a law  
22 clerk and ah simply here as an observer  
23  
24 JL Thank you. Okay Donna I'll just ah show you a copy of a notice ah Notice To Discover  
25 under the Crime and Misconduct Act two thousand and one (2001) section seventy-five  
26 (s75) and just ah confirm that you have been served with a notice a a true copy of that  
27 notice previously  
28  
29 DG Yes I have received the notice  
30

Complainant:  
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31 JL Okay and have you taken advice on the notice and you understand what's required?  
32  
33 DG I do  
34  
35 JL Okay um the notice does state I'll I'll read it ah it requires you to give an oral statement  
36 of the information under oath in respect of the matters specified in Schedule A to the  
37 notice and relevant to a misconduct investigation. Now we've ah we've arrived here and  
38 there's no Justice of the Peace available so um what we'll do is we'll take your um  
39 statement um as a form of interview and (ui) typed up and made into a a formal statement  
40 later and we'll have you swear it on oath then  
41  
42 DG That's fine  
43  
44 JL Okay you understand that?  
45  
46 DG I do  
47  
48 JL Now just with the schedule ah the notice requires that ah you give evidence of the staffing  
49 of Councillor David Power's divisional office during the period first of March (1<sup>st</sup> of  
50 March) and thirtieth of April (30<sup>th</sup> of April) two thousand and four (2004). Your role  
51 with Councillor David Power's divisional office during the same period, the handling of  
52 emails addressed to Councillor David Power through your ah email address of  
53 dgates@goldcoast.qld.gov.au during that period and any communication you had with  
54 Councillor David Power in relation to campaign funding for the two thousand and four  
55 Gold Coast City Council election. Do you understand all that?  
56  
57 DG I do  
58  
59 JL Now for the um purpose of the interview um I just want to run through some of your ah  
60 personal particulars um and your full name?  
61  
62 DG Is Donna Gates  
63  
64 JL No middle name?  
65  
66 DG No middle name  
67  
68 JL Okay and ah your date and place of birth?  
69  
70 DG Twelfth of the seventh nineteen fifty-five (12/07/1955) Melbourne  
71  
72 JL And your current address?  
73  
74 DG Number two, Garden Grove, Carrara, four two one one (4211)

Complainant:  
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75  
76 JL And ah are you married, single?  
77  
78 DG Married with one twenty-one year old son  
79  
80 JL Okay thank you now we'll just go through your employment with the Gold Coast City  
81 Council as ah how long have you been employed by the council?  
82  
83 DG Ten years  
84  
85 JL Okay and do you remember the date you commenced with the council?  
86  
87 DG The third of January ninety-six ('96)  
88  
89 JL Okay and you've stated your current position as the personal assistant to the Deputy  
90 Mayor, Councillor David Power?  
91  
92 DG That's correct  
93  
94 JL Now how long have you um been in that position?  
95  
96 DG Approximately three years  
97  
98 JL Do you remember the date that you commenced there?  
99  
100 DG I don't  
101  
102 JL And you still hold that position?  
103  
104 DG Yes I do  
105  
106 JL So the title is Personal Assistant?  
107  
108 DG Yes  
109  
110 JL Can you just give us a an outline of your role as a Personal Assistant?  
111  
112 DG To provide a secretarial service for Councillor Power um my main role involves taking  
113 calls from the community um the the electorate um and dealing with their complaints or  
114 assisting them in how in any way that I can to resolve any issues that they have  
115  
116 JL Does your role include ah dealing with correspondence ah forwarded to Councillor  
117 Power?  
118

Complainant:  
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119 DG It does  
120  
121 JL And ah and ah typing of letters and forwarding letters on his behalf?  
122  
123 DG Yes it does  
124  
125 JL Okay so um can you just outline your ah say day to day duties, what time you would  
126 commence work  
127  
128 DG I start work at about seven thirty (7.30) each day and finish about five (5.00) um I just  
129 take the calls as they come, we issue what's called councillor requests um as as the um  
130 enquiries come to the office, open the mail ah draft up responses where necessary and ah  
131 just normal secretarial practice  
132  
133 JL Okay so you keep a um schedule at meetings?  
  
135 DG I keep his calendar, yes  
136  
137 JL Alright and who is your immediate supervisor?  
138  
139 DG Sarah Falconer  
140  
141 JL And what role ah what ah position (ui)  
142  
143 DG Sarah Falconer is the um I I'm not quite sure of her title there's been some changes  
144 recently but she's ah the community relations co-ordinator or something of that nature for  
145 council and that involves most customer service staff and all councillors' PA's  
146  
147 JL Alright now do you have an assistant?  
148  
149 DG No not at not on a regular basis, however, at the time in question there were two  
additional staff members helping in the office  
  
151  
152 NT (ui)  
153  
154 JL Okay we'll just suspend the interview there, I'll keep the tape running (ui)  
155  
156 NT (ui) put the phones on hold (ui)  
157  
158 JL Okay  
159  
160 (Background noise – phones ringing)  
161  
162 (Background noise – NT takes phone call)

Complainant:	OPERATION GRAND
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163  
164 NT Pardon me for that  
165  
166 JL Okay not a problem um I'll just check the time is now um nine sixteen (9.16)  
167  
168 KB Nine eighteen (9.18)  
169  
170 JL Nine eighteen (9.18) okay we'll go with that nine eighteen so Donna there was no  
171 conversation between us ah  
172  
173 DG No conversation  
174  
175 JL Okay thank you um we're talking about ah assistance that you might have had at during  
176 this particular period  
177  
178 3 DG Yes  
179  
180 JL (ui)  
181  
182 DG Ah I checked the records and there was um assistance provided by a lady named Cheryl  
183 Murray  
184  
185 JL Mm  
186  
187 DG On four occasions in March of two thousand and four (2004)  
188  
189 JL (ui)  
190  
191 DG I have asked for a copy of the timesheets of another woman who was helping me  
192 regularly on a weekly basis. I don't know exactly how many days a week but perhaps  
193 two or three and her name was Roslyn Bennett ah council can't provide me with her  
194 timesheets until Friday  
195  
196 JL Okay so did you check the timesheets with ah Cheryl on (ui)  
197  
198 DG No I have a copy there of (ui) roster that was (ui) but they're not that's not actual  
199 timesheets but that was provided to me  
200  
201 JL Alright now during this period that um Cheryl may have assisted you or or did assist you  
202  
203 DG Yes  
204  
205 JL What would her role be, would she operate under your direction?  
206

Complainant:	OPERATION GRAND
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207 DG Ah basically yes  
208  
209 JL So what type of tasks or task would you assign to her?  
210  
211 DG Perhaps checking completed requests and printing them off and um anything I needed  
212 assistance with if I was under pressure, anything to do with the role, these are highly  
213 qualified women that are equal to um my status in the organisation and they were um able  
214 to do anything I could do  
215  
216 JL Okay so would that be the same for Roslyn?  
217  
218 DG Yes  
219  
220 JL Okay any other staff that might assist?  
221  
222 DG Not that I can not that I'm aware of  
223  
224 JL Alright now in relation to your office, do you have an email address?  
225  
226 DG I do  
227  
228 JL What is that email address?  
229  
230 DG dgates@goldcoast.qld.gov.au  
231  
232 JL And what would be the purpose of your email address? Is that like in relation to yourself  
233 and in relation to any other member of council  
234  
235 DG As a councillor's PA I suppose we get a hundred emails a day um residents gain access to  
236 councillor's PA's emails addresses and they often approach directly for assistance um I  
237 guess the councillors give our email address out to um lessen their workload somewhat  
238  
239 JL So is there a community directory of emails that the community can um?  
240  
241 DG Yes there is and some of the councillors use their Personal Assistant's email address and  
242 some use their own email address  
243  
244 JL Alright so  
245  
246 DG Depends on their computer literacy really  
247  
248 JL Okay um so in relation to your email address would um would it be for your personal  
249 matters as well?  
250

Complainant:	
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251 DG Yes

252

253 JL Okay and um also for official matters for

254

255 DG When I say yes about personal emails I suppose somewhere in the policy there exists that

256 we are not to use the email for personal purposes. I don't know, I haven't read that

257 particular part of the policy

258

259 JL Okay so um (ui) but as you're saying that ah if someone wanted to communicate to you

260 directly they could do it by email dgates@

261

262 DG Yes

263

264 JL Ah goldcoast or if they wanted to communicate something to or from Councillor Power

265

266 DG He has his own email address

267

268 JL But he can use yours?

269

270 DG Ah

271

272 JL Or have you (ui)

273

274 DG He could direct, have people direct emails to me

275

276 JL Yep or he could have you email somebody on his behalf?

277

278 DG He could

279

280 JL Okay, does he do that?

281

282 DG He does

283

284 JL Okay um can he access your email?

285

286 DG No

287

288 JL Alright, can anyone else access your email?

289

290 DG Those ladies can – when when you say when I say he can't access it, he has no

291 permissions from me to access my email um those ladies do have permissions from me to

292 access my email

293

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294 JL Mm so your workstation is it um in Councillor Power's office or in a common area or  
 295 outside  
 296  
 297 DG Adjacent to  
 298  
 299 JL Adjacent to and you have your own computer workstation?  
 300  
 301 DG Yes  
 302  
 303 JL And um is that um protected in any way with ah passwords or anything to  
 304  
 305 DG Yes yes  
 306  
 307 JL Okay so um can you just go through the routine if you were coming in in the morning and  
 308 you were to um start work for the day, what routine would you use with your computer?  
 309  
 310 DG I would simply log on and use my password to access it  
 311  
 312 JL Okay now if you're away from your workstation would you log off or leave the computer  
 313 open  
 314  
 315 DG (ui) I would leave it open  
 316  
 317 JL Okay so then anybody can access  
 318  
 319 DG Yes  
 320  
 321 JL Okay  
 322  
 323 DG I think after ten minutes or so there's a lock automatically comes on  
 324  
 325 JL Mm ah so apart from ah Cheryl and Robyn who had authority  
 326  
 327 DG Ros  
 328  
 329 JL Ros was it sorry Ros I've got Roslyn Ros um did anyone else have ah authority to access  
 330 your email?  
 331  
 332 DG No  
 333  
 334 JL (Coughs) do you know of anybody (ui)  
 335  
 336 DG Well when I say um no, not that I'm aware of um we have a set of relief procedures that  
 337 are available and that um are provided to council so that if we get hit by a train or

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338           whatever um they can access the the computer and those relief procedures um there's a  
339           copy in my office ah and all of my logons are within those procedures  
340  
341   JL       Alright (coughs) now um does Councillor Power have an email address?  
342  
343   DG       Yes  
344  
345   JL       And and what would that address be?  
346  
347   DG       dpower@goldcoast.qld.gov.au  
348  
349   JL       Now um would you have access to that email address?  
350  
351   DG       No  
352  
353   JL       Um who has access to that email address as far as you're aware?  
354  
355   DG       Councillor Power  
356  
357   JL       And um it's the same thing, he would have to log in with a password  
358  
359   DG       Yes  
360  
361   JL       To access his email account  
362  
363   DG       You may notice I hesitated there, it's because I have on occasions needed to access his  
364           email to have someone from the helpdesk fix something and there have been occasions  
365           where I have been aware of his password and I have accessed his email in order to have  
366           something fixed or or whatever  
367  
368   JL       Okay  
369  
370   DG       But as a rule we it's against council policy to swap passwords  
371  
372   JL       Okay so um ah Councillor Power never sort of said go into my email and respond to  
373           whatever's there?  
374  
375   DG       No  
376  
377   JL       Alright okay  
378  
379   KB       Have you ever sent an email out on Councillor Power's computer using his email facility  
380           there on his behalf?  
381

Complainant:	
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382 DG I don't know, I don't know, I may have I I don't know  
383  
384 JL Alright (coughs) can you just ah describe ah the routine um for handling of emails so say  
385 for example if something was forwarded to you at dgates ah @goldcoast um what would  
386 ah the procedure be with that email?  
387  
388 DG We have no set practice um it may be handled in a variety of ways, I may deal with it  
389 myself, I may um forward it to an appropriate person if if it was not something I could  
390 deal with um I may print it off and distribute a copy  
391  
392 JL To who?  
393  
394 DG To whoever the person was that um needed to act on it  
395  
396 JL If in the instance that someone forwarded an email to your email address at  
397 dgates@goldcoast and it was clearly addressed to David Power like Dear David, Hi  
398 David or whatever  
399  
400 DG Right  
401  
402 JL What would you do with that type of email?  
403  
404 DG Well I'd either forward it or print it off  
405  
406 JL Okay so forward it like from your email to his email address?  
407  
408 DG I would be more likely to make a copy of it by print  
409  
410 JL Mm hm  
411  
412 DG And put it in the in-tray. That's what my normal  
413  
414 JL Okay  
415  
416 DG Procedure would be but sometimes I forward them  
417  
418 JL Alright  
419  
420 DG Sometimes I delete them if they're irrelevant to me  
421  
422 JL And how would you delete them?  
423  
424 DG Just push the cross and they're gone  
425

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426 JL Okay um are you aware of um there there's a means of of permanent permanently  
 427 deleting an email?  
 428  
 429 DG No  
 430  
 431 JL No alright  
 432  
 433 DG I believe council has records that go back eight years that keeps all of our emails  
 434  
 435 JL Alright okay now I just want to while we're on emails, go through some specific emails if  
 436 I can  
 437  
 438 DG Okay  
 439  
 440 JL And um just ah get your reaction to them if ah this might take a little bit of mucking  
 441 around because I've got to locate the emails myself (coughs) (ui) I might start with – what  
 442 I'm looking at here is ah a series of documents that were forwarded to the Commission in  
 443 the course of its um public hearings  
 444  
 445 DG Right  
 446  
 447 JL And um these were made available from um a number of sources, some were addressed  
 448 within the hearings and ah some weren't um (paper shuffling) I'm all over the shop here  
 449 (ui) what I'll try and do is go (ui) a chronological order so that you're not confusing, so  
 450 the first one I'm referring to is the twenty-(ui) first of January two thousand and four  
 451 (2004) and it's an email forwarded from ah HickeyA@hickeylawyers.com.au, as I said  
 452 the date is the twenty-first of January two thousand and four at nine-thirty am (9.30am)  
 453 and it's addressed to dpower@goldcoast.qld.gov.au . Can I just ask you to look at that  
 454 and just tell me in the normal course of your business procedures would you deal with  
 455 that email or where it would go to, what would happen to it?  
 456  
 457 / DG I've never seen that  
 458  
 459 JL You've never seen that?  
 460  
 461 DG No. That looks to me like it's come from directly from Councillor Power's um email. I  
 462 haven't seen that  
 463  
 464 JL Okay so in the event, the normal course of (ui) that was um if it went to Councillor  
 465 Power's email account you wouldn't see it  
 466  
 467 DG No  
 468  
 469 JL Would you be asked to maintain a file of that type of thing?

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470  
 471 DG No  
 472  
 473 JL Not (ui)  
 474  
 475 DG You need to understand that election information is to be kept out of the office. We are  
 476 employed by council, we are not employed to assist with election material  
 477  
 478 JL Okay no well thanks for that um yeah I was going to qualify that but ah you're there  
 479 personally as an employee of council  
 480  
 481 DG That's right  
 482  
 483 JL For the councillors on council business  
 484  
 485 DG Yes  
 486  
 487 JL And (coughs) excuse me, during an election their own campaign or or whatever is  
 488 private business  
 489  
 490 DG That's right  
 491  
 492 JL (ui) there to attend to it  
 493  
 494 DG Yep  
 495  
 496 JL Okay thank you (coughs) you haven't got a glass of water or (ui)  
 497  
 498 KB Ah yeah sure (ui)  
 499  
 500 JL (Coughs)  
 501  
 502 KB Donna, you right?  
 503  
 504 DG Fine thanks  
 505  
 506 KB (ui)  
 507  
 508 JL (Coughs)  
 509  
 510 (Pause)  
 511  
 512 JL Thanks  
 513

Complainant:	OPERATION GRAND
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514 KB No worries

515

516 JL That tickle in my throat wasn't going to go too far (ui). Okay the next email is one

517 that was um forwarded from um dpower um once again, and the date was ah the

518 twenty-second of of January two thousand and four (2004) at one fifty-five pm

519 (1.55pm) as I said from dpower@goldcoast.qld.gov.au, once again, to

520 HickeyA@hickeylawyers.com.au and it says sorry Tony, my (ui) email had the (ui)

521 figures wrong, Sue has given (ui) the correct ones. Can you tell me ah anything about

522 that one?

523

524 DG No

525

526 JL So once again that's come from um Mr Power's own email address?

527

528 DG It appears so

529

530 JL And um and as far as you're aware that it would only come from him?

531

532 DG Yes

533

534 JL Okay now accessing emails, you can do it from any workstation that you log on to, it's

535 not

536

537 DG Yes

538

539 JL It's the standard stuff (ui) okay so if you were aware in in another office and you log

540 on to the computer you can still get into

541

542 DG Yes

543

544 JL Each other's email or into your own email. Okay the next one is um to Councillor

545 Power at um dpower@goldcoast.qld.gov.au, it's ah dated the twenty-first, twenty-

546 third of January but there's not time, the date appears to be handwritten now can you

547 just tell me if you have any knowledge of that email?

548

549 DG No

550

551 JL Okay just to read part of the text to identify it Dear Councillor Robinson, Councillor

552 Power to disperse funds from our trust account unfortunately etc, so as far as you're

553 concerned, that would have gone direct to Mr Power's email account?

554

555 DG Yes

556

557 JL And he he's either accessed it or somebody else has but you're not aware of that?

Complainant:	OPERATION GRAND
Subject(s):	DETECTIVE INSPECTOR JOHN LEWIS
Investigator:	DONNA GATES
Statement Of:	DANIEL BOYLE
Legal Officer:	MI-05-2482
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558  
559 DG That's right  
560  
561 JL Okay (pause) now if I just um the next email is ah well the the memorandum states  
562 email transmission up the top, the memorandum is dated the twenty-eighth of January  
563 two thousand and four (2004). It's to Councillor Sue Robbins um with an email  
564 address of [srobbins@goldcoast.qld.gov.au](mailto:srobbins@goldcoast.qld.gov.au). A copy to Councillor David Power and  
565 Brian Ray, it's from Tony Hickey Lawyers with an email address of  
566 [HickeyA@hickeylawyers.com.au](mailto:HickeyA@hickeylawyers.com.au). Now I'll just ask you firstly, have you any  
567 knowledge of that at all?  
568  
569 DG No  
570  
571 JL Now just to identify that email it ah is re campaign funds and it states in part I now  
572 hold in my trust account sufficient funds to make the (ui) authorised payments etc.  
573 Now can you tell me um in your experience, would that memorandum come as an  
574 attachment or is it possible to email ah a document in (ui)  
575  
576 DG I have no idea I have not seen that and I don't know  
577  
578 JL You don't know? Okay. (Pause) The next email is from ah David Power or Power  
579 David at [dpower@goldcoast.qld.gov.au](mailto:dpower@goldcoast.qld.gov.au), it's dated the second of March two thousand  
580 and four (2004) at ten thirty-six am (10.36am) address to  
581 [HickeyA@hickeylawyers.com.au](mailto:HickeyA@hickeylawyers.com.au) it reads in part, Tony I have got an I have got Chris  
582 Morgan getting very edgy about funding etc. Can you just have a look at that and tell  
583 me if you have any knowledge of that email.  
584  
585 DG No  
586  
587 JL Thank you. There's a series of emails now coming up that um are probably more  
588 relevant okay and I'll refer to an email, once again, it's a memorandum ah at the top of  
589 the um page it indicates it's an email transmission, the date is the tenth of March two  
590 thousand and four (2004), addressed to Councillor David Power Gold Coast City  
591 Council. The email is [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au). It was also copied to Mr Brian  
592 Ray um the it is from Tony Hickey, Hickey Lawyers email address of  
593 [HickeyA@hickeylawyers.com.au](mailto:HickeyA@hickeylawyers.com.au) reference campaign funds. The text reads in part,  
594 David, further to our telephone conversation this morning, I confirm the following.  
595 Can I just ask you to have a look at that and tell me if you ah have any knowledge of  
596 that email?  
597  
598 DG I don't remember it at all, I don't recall it  
599

Complainant:  
Subject(s): OPERATION GRAND  
Investigator: DETECTIVE INSPECTOR JOHN LEWIS  
Statement Of: DONNA GATES  
Legal Officer: DANIEL BOYLE  
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600 JL Thank you now in the event of um a memorandum or an email of that type, um  
601 obviously addressed to Councillor Power but address um forwarded to your email  
602 account, what would be the procedures you'd adopt in that instance?  
603  
604 DG I can't tell you that I I that has nothing to do with my role at council and that's where  
605 my difficulty would arise and I don't know whether I would have forwarded it to  
606 Councillor Power, printed it off or deleted it. It's nothing to do with my role  
607  
608 JL Would you delete it without showing it to him or forwarding it on um seeing that it is  
609 obviously addressed to him?  
610  
611 DG Well it's unlikely but I may have presumed that he got a copy of that. I don't recall  
612 that at all. It's unlikely I would delete something without showing him.  
613  
614 JL Because (ui) obviously although it's it's um not council business, it's addressed to  
615 him um so  
616  
617 DG I can't tell you what I did with it because I don't remember it but there's three options,  
618 I could have printed it and given him a copy a hardcopy, I could have forwarded it to  
619 his email address. I don't ever recall seeing a transmission that looks like that with a  
620 letterhead or that email transmission up the top  
621  
622 JL No neither have I (ui)  
623  
624 DG I I don't recall ever seeing that  
625  
626 JL And and the advice I have, it's most likely to um be received as an attachment to an  
627 email and in this format for office purposes that like forwarded you know like  
628 sometimes that (ui) stamped faxed and this one's email transmission so  
629  
630 DG I'm sorry I don't know  
631  
632 JL No that's fine um if if you can't remember I can't ah but we'll just go through them  
633 just in case  
634  
635 DG Yeah sure sure  
636  
637 JL There is one that ah sparks your memory (ui) um the next one is ah dated the tenth of  
638 March, once again, it's a memorandum with email transmission at the head of the um  
639 paper. To Councillor David Power, Gold Coast City Council, email address  
640 dgates@goldcoast.qld.gov.au , copy to Brian Ray from Mr Tony Hickey, Hickey  
641 Lawyers, email address [HickeyA@hickeylawyers.com.au](mailto:HickeyA@hickeylawyers.com.au) re Lionel Barden campaign  
642 fund. It reads in part Sandy received a call this afternoon from Greg Phillips advising

Complainant:  
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643 that a donation of two twenty thousand (ui) Sandy's part of the text so it reads Sandy  
644 (ui). Okay can you tell me (ui) about that one?  
645  
646 DG I can't I'm sorry, I'm wondering if this these are the way they keep their records  
647 because I don't ever recall getting an email that looks that has a logo on it. I don't  
648 know. It wouldn't be, I don't remember it  
649  
650 JL Okay now say you've received an email um which it says see attached or something  
651 similar ah  
652  
653 DG Yeah  
654  
655 JL Um memorandum for David or for David's information, whatever, (ui) like I could  
656 come up with any number of combinations and there's an obvious attachment, would  
657 you open the attachment?  
658  
659 DG Yes  
660  
661 JL And what would you do then?  
662  
663 DG I'd print the attachment  
664  
665 JL You'd print the attachment okay um if say for example and (ui)  
666  
667 DG Mm  
668  
669 JL (ui) um you'd opened up the attachment and it was a memorandum of the type we've  
670 been discussing here for the last two or three emails  
671  
672 DG I would probably print the attachment, the difficulty I have is that I'm not supposed to  
673 deal with any of this information and so I can't remember what I did  
674  
675 JL Mm  
676  
677 DG Or how I handled it  
678  
679 JL Okay say if like I know you can't remember but um in the event that this continues to  
680 happen, what would you be what would be your duty then (ui) okay you're getting all  
681 this ah sort of obvious non-council business addressed to your email for Councillor  
682 Power, what redress do you have?  
683  
684 DG Probably to say that um I shouldn't be receiving this information  
685  
686 JL Did you have cause to say that?

Complainant:	OPERATION GRAND
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687  
688 DG I don't recall saying that  
689  
690 JL Alright okay on to the next one. Okay similar thing, email transmission, it's a  
691 memorandum style dated the fifteenth of March to Councillor David Power, Gold  
692 Coast City Council, email address of [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au), copy to Mr Brian  
693 Ray from Tony Hickey, Hickey Lawyers email address  
694 [HickeyA@hickeylawyers.com.au](mailto:HickeyA@hickeylawyers.com.au) re Lionel Barden campaign fund (ui) received a  
695 donation of ten thousand dollars into our trust account today from Villaworld Limited.  
696 Can you tell me anything about that?  
697  
698 DG I can't I'm sorry I I I just don't remember them but it's not unusual, I get a huge  
699 volume of emails  
700  
701 JL Once again, similar type of ah transmission, memorandum this one is dated the  
702 twenty-fourth of March, to Councillor David Power, Gold Coast City Council, email  
703 address of [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au) ah Mr Brian Ray an email address from Tony  
704 Hickey, Hickey Lawyers [HickeyA@hickeylawyers.com.au](mailto:HickeyA@hickeylawyers.com.au) re Lionel Barden campaign  
705 fund. (ui) received today the sum of ten thousand dollars from, once again, can you  
706 tell me anything about that?  
707  
708 DG I can't I'm sorry  
709  
710 JL Alright and the last one from this particular batch is um once again similar, it's an  
711 email transmission memorandum style obviously from Hickey Lawyers, it's dated the  
712 seventh of April addressed to Councillor David Power, Gold Coast City Council,  
713 email address of [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au) um copy to Brian Ray oh no this is  
714 address to Brian Ray as well, from Tony Hickey, Hickey Lawyers  
715 [HickeyA@hickeylawyers.com.au](mailto:HickeyA@hickeylawyers.com.au) re Lionel Barden campaign fund, gentlemen, we've  
716 received today the sum of, once again  
717  
718 DG Sorry don't know  
719  
720 JL Don't know okay, I'll just put that to one side and we'll just ah do you know Tony  
721 Hickey?  
722  
723 DG I do  
724  
725 JL Anthony William Hickey from Hickey Lawyers?  
726  
727 DG I do  
728  
729 JL How do you know him?  
730

Complainant:	OPERATION GRAND
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731 DG I first met Tony socially um a number of years ago he was a very good friend of my  
732 next door neighbour  
733  
734 JL Alright okay, did ah I I'll come to that later um do you know Christopher Morgan?  
735  
736 DG I have had telephone conversations with him and perhaps I have met him once, I'm  
737 not sure  
738  
739 JL Okay from Quadrant?  
740  
741 DG That's right  
742  
743 JL Okay alright um I just have to try and find these things – they're in different ah  
744 accounts. Just shown you an email, getting back to the standard form of email now  
745 from ah it's from Chris Morgan, it's dated Tuesday the ninth of March two thousand  
746 and four (2004) at six twenty pm (6.20pm) it's addressed to Councillor David Power  
747 dpower@goldcoast.gov.au also addressed to Sue Robbins at her council email  
748 address, copy to Lionel at innovationsshowcase.net and the subject is candidate  
749 expenditure spreadsheet summaries. Can I just get you to have a look at that?  
750  
751 DG Never seen it  
752  
753 JL And the thing is we're back to this is Councillor Power's personal (ui) email address,  
754 personal email account so it's not necessary that you would have seen it?  
755  
756 DG That's right  
757  
758 JL And seeing it's council business you wouldn't have been required to file it, respond to  
759 it or  
760  
761 DG No  
762  
763 JL Okay  
764  
765 DG If I were directed by Councillor Power to take action on it I would  
766  
767 JL Yes okay  
768  
769 DG But  
770  
771 JL And what would you do after that?  
772  
773 DG Nothing  
774

Complainant:	OPERATION GRAND
Subject(s):	DETECTIVE INSPECTOR JOHN LEWIS
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775 JL Nothing. Okay. Just have a look at this one um there's several parts here um we'll go  
776 down to the bottom of the page, the original message is from Sandra Wild. Do you  
777 know Sandra?  
778  
779 DG I know who Sandra is, I have not met Sandra  
780  
781 JL And and who do you know her to be?  
782  
783 DG Tony Hickey's personal assistant  
784  
785 JL Okay it's from Sandra Wild um mail address is WildS@hickeylawyers.com.au (ui) on  
786 behalf of Anthony William Hickey. It's to Kelly Standing and it's copied to Brian  
787 Ray but it's also copied to dgates@goldcoast.qld.gov.au subject of the Lionel Barden  
788 campaign fund, attention Mr Chris Morgan. Okay but I'll mention all the emails, I'll  
789 give you the chance to read it and um and then um in response Chris Morgan has um  
790 replied on the fifteenth of March two thousand and four (2004) at five fifty-eight pm  
791 (5.58pm) addressed to Lionel Barden lionel@innovationsshowcase.net. To Brian  
792 Ray, to Councillor David Power davles d-a-v-l-e-s @optusnet.com.au um can you  
793 have a look at that, see if you remember that at all  
794  
795 DG No I don't  
796  
797 JL Okay do you recognise the email address of davles d-a-v-l-e-s @optusnet.com.au?  
798  
799 DG Yes I do  
800  
801 JL Who's email address is that?  
802  
803 DG Councillor Power's  
804  
805 JL Okay but you can't tell me anything about that  
806  
807 DG No  
808  
809 JL Email at all?  
810  
811 DG No I can't I'm sorry  
812  
813 JL Okay that's all the emails I have to show you I'll just um to reiterate and and to make  
814 quite clear that I've understood what you're saying. In the event that someone has  
815 received by you at the email address of dgates um @ goldcoast.qld.gov.au, that is  
816 obviously address to (ui) Councillor Power um you would either forward it on  
817  
818 DG Yeah

Complainant:	OPERATION GRAND
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819  
820 JL Print it off and leave a copy  
821  
822 DG Yes  
823  
824 JL What in his tray, in-tray  
825  
826 DG In-tray  
827  
828 JL Or you would delete it?  
829  
830 DG Yes  
831  
832 JL Now under what circumstances would you delete it?  
833  
834 DG I would delete it if I thought he had a copy um or if it if it had nothing to do with my  
835 work processes sometimes I would delete them  
836  
837 JL Okay now in the event that ah you looked at a what would bring your attention to the  
838 fact that it had been forwarded to you and him and that he had a copy and therefore  
839 you could  
840  
841 DG Well obviously both email addresses would be on it  
842  
843 JL Yeah but do you agree that all the ones I've shown you, there's only one email  
844 address?  
845  
846 DG I do agree that that's the case, yes  
847  
848 JL Okay so  
849  
850 DG The likelihood would be that I would print it off and leave it in the in-tray  
851  
852 JL Yeah and particularly seeing that they're um for want of a better description I suppose  
853 they're personal matters not council matters  
854  
855 DG I would either forward it to him or print it off and put it in the in-tray  
856  
857 JL Okay thank you um would you at any time forward anything to his private email  
858 address, that [davles@optusnet.com](mailto:davles@optusnet.com)?  
859  
860 DG I have done  
861  
862 JL You have done?

Complainant:	OPERATION GRAND
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863  
864 DG I have  
865  
866 JL And what under what circumstances would you forward something to  
867 dpower@goldcoast.qld.gov.au or alternatively davles@?  
868  
869 DG I would only ever send it to the private email address on his instruction  
870  
871 JL Okay and and you've done that?  
872  
873 DG I have done that  
874  
875 JL Can you tell me what type of things you would do that for?  
876  
877 DG Ah if he hasn't been in the office before we do have access to webmail now so that we  
878 can access our email addresses from anywhere but I don't think we always had that  
879 and on those occasions when he was not in the office I forwarded council information  
880 to him at that other address  
881  
882 JL Alright um I'm just trying to think back, I don't think there's anything more I need to  
883 discuss with the um with the emails I think we're pretty right there um  
884  
885 KB You received emails from persons requesting they be forwarded to Councillor Power,  
886 you would in every case forward those emails to Councillor Power or print a hardcopy  
887 out, you'd you'd convey the contents of that email to Councillor Power on all  
888 occasions?  
889  
890 DG If I was requested to do so, yes  
891  
892 KB And just um something you mentioned before about if something happened to you  
893 when people need to know your password the email that contained the procedures  
894  
895 DG Yes  
896  
897 KB I think that's what you said um who would have access to those procedures?  
898  
899 DG Well those procedures, any anyone who relieves in my office knows where those  
900 procedures are and there is also a copy of those procedures on file with my supervisor  
901  
902 KB And do those procedures contain your password?  
903  
904 DG They do  
905

Complainant:	OPERATION GRAND
Subject(s):	DETECTIVE INSPECTOR JOHN LEWIS
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906 JL Thanks mate okay um the last part of the notice um calls for any communication you  
907 had with Councillor David Power in relation to campaign funding for the two  
908 thousand and four (2004) Gold Coast City Council election  
909  
910 DG Yes  
911  
912 JL Can you ah outline any discussion that you had?  
913  
914 DG It's very very difficult for me to remember um I do recall taking phone calls and  
915 passing on messages but they were always very vague ah in as much as they would be  
916 calls from um people saying either that they were in need of funding or um  
917 occasionally someone from the business community might phone and say they wish to  
918 discuss um the opportunity of making funding available  
919  
920 JL And what would you do then?  
921  
922 DG I would simply type a very brief message and pass it to Councillor Power  
923  
924 JL And  
925  
926 DG I mean I wasn't involved in the funding discussions at all, the only conversation it  
927 would only have been a conversation that I had which I I don't recall, specific  
928 conversations but I would have during the run up to the election passed messages to  
929 him  
930  
931 JL And how would you pass those messages?  
932  
933 DG Ah I I would either tell him  
934  
935 JL Right  
936  
937 DG Or um type up a a document that indicated that he needed to return a call  
938  
939 JL And would that document be an email or would it be a  
940  
941 DG No it would be a telephone record  
942  
943 JL Telephone record  
944  
945 DG Record of a telephone call  
946  
947 JL And that would be printed off hardcopy?  
948  
949 DG Yes

Complainant:	
Subject(s):	OPERATION GRAND
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950  
 951 JL And um put on his desk  
 952  
 953 DG Yes  
 954  
 955 JL If he wasn't there  
 956  
 957 DG In his in-tray  
 958  
 959 JL Or if he was there you would say that so and so was on the phone  
 960  
 961 DG Yes  
 962  
 963 JL And forward the phone  
 964  
 965 DG Yes  
 966  
 967 JL Alright um like you're probably well aware anyone living on the coast is probably  
 968 well aware of the um Crime and Misconduct's Commission's um investigation into  
 969 the Gold Coast City Council elections of two thousand and four (2004) and  
 970 allegations um primarily of of um funding and ah the conspiracy between different  
 971 candidates and all those ah things. Are you aware of what  
 972  
 973 DG Totally  
 974  
 975 JL Yep okay um have you any knowledge of um the elections of any councillor's  
 976 involvement that you  
 977  
 978 (TAPE ENDS)

JAH/I-Document2

Complainant:	OPERATION GRAND
Subject(s):	DETECTIVE INSPECTOR JOHN LEWIS
Investigator:	DONNA GATES
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## RECORD OF INTERVIEW

**TAPE NO:** 2 (of 2)

**DATE:** 29/06/2006

**PLACE:** SOUTHPORT

**TIME COMMENCED:**

**TIME CONCLUDED:** 1028 HRS

**INTERVIEWEE:** DONNA GATES

**INTERVIEWER/S:** DETECTIVE INSPECTOR JOHN LEWIS

**LEGAL OFFICER:** DANIEL BOYLE

**RE:** OPERATION GRAND

**FILE NUMBER:** MI-05-2482

Complainant:	OPERATION GRAND
Subject(s):	DETECTIVE INSPECTOR JOHN LEWIS
Investigator:	DONNA GATES
Statement Of:	DANIEL BOYLE
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COPY TAPE 2 OF 2 - RECORD OF INTERVIEW BETWEEN DETECTIVE INSPECTOR  
JOHN LEWIS AND DONNA GATES AT SOUTHPORT ON 29 JUNE 2006. ALSO  
PRESENT DETECTIVE INSPECTOR KEN BEMI.

LEGAL OFFICER: DANIEL BOYLE

RE: OPERATION GRAND

JL = JOHN LEWIS

DG = DONNA GATES

KB = KEN BEMI

NT = NICHOLAS TOBIN

1 JL My you beaut Seiko's given up the ghost um we were discussing um you know your  
2 knowledge of any councillors activities in the lead up to the to the election on the twenty-  
3 seventh of March two thousand and four (2004) and in in so far as the ah Commission's  
4 interest in um (ui) what do we call it um misconduct or ah unethical conduct during the  
5 elections, are you aware of anything that you believe that the Commission would be um  
6 have an interest in, like obviously ah  
7  
8 DG No I was aware that um Councillor Robbins and Councillor Power  
9  
10 (Phone rings)  
11  
12 DG Were involved in getting support from the (ui) for funding  
13  
14 JL And how are you aware of that?  
15  
16 DG I was aware of that because Councillor Robbins told me  
17  
18 JL And when did she tell you that?  
19  
20 DG She would have told me that in December and I can specifically remember that the and  
21 it's one of the few things I can remember because it was not normal for Councillor  
22 Robbins to um ask me to do something for her  
23  
24 JL What did she ask you to do?  
25  
26 DG She asked me to type um an approval for the transfer of funds  
27  
28 JL And ah  
29

Complainant:	OPERATION GRAND
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30 DG And I asked her about it and she told me that ah she and Councillor Power were trying to  
 31 get the well they were working with the business community um to get some sensible  
 32 representation on Gold Coast City Council  
 33  
 34 JL Can you remember what the form of um like the transfer of the funds to and from  
 35  
 36 DG I can I can remember the document she asked me to type, yes  
 37  
 38 JL Okay and ah what can you remember about that document?  
 39  
 40 DG That document authorised the transfer of funds to certain candidates and it was, I I put  
 41 Councillor Power's electronic signature which is another thing that I remember clearly  
 42 um because he was not in the office at the time which is why the whole incident stands in  
 43 my memory and I put both of their signatures, I put his electronic signature on it and I put  
 44 her name on it and I also recall I put it on Council Councillor Power's letterhead which  
 45 was probably inappropriate too but at the time I was not aware of really what was  
 46 happening  
 47  
 48 JL Alright um I might just show you um a series of letters that I have and ah just ask you if  
 49 you can recall anything about them. The documents I'm going through are um exhibits  
 50 tendered or documents tendered to the Commission of Inquiry by um Mr Hickey of  
 51 Hickey Lawyers um (ui) I can - I just um show you this, three emails, sorry there's three  
 52 memorandums, I believe that they were forwarded by fax. Now the first one um is a fax  
 53 from well it's signed Tony Hickey, Managing Partner, the address is the Corporate Centre  
 54 One, corner of Bundall Road and (ui) is it avenue?  
 55  
 56 KB Slater  
 57  
 58 JL Slater Avenue, Bundall um it's to facsimile double five double three eight two zero eight  
 59 (55338208). Do you recognise that number?  
 60  
 61 DG Sorry what's the number?  
 62  
 63 JL Double five double three eight two zero eight  
 64  
 65 DG No  
 66  
 67 JL And ah name is Councillor Sue Robbins, the date is the third of March and it says please  
 68 find enclosed authority for execution and return to my office  
 69  
 70 DG No  
 71  
 72 JL You don't  
 73

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74 DG I don't recall that  
75  
76 JL Next one is ah a very similar one ah dated the fourth of March to fax number double five  
77 eight two eight two six three (55828263)  
78  
79 DG That's my office fax number  
80  
81 JL That's your office fax number. This is the next day, fourth of March um do you recall  
82 that?  
83  
84 DG No  
85  
86 JL Please find enclosed authority for execution and return to my office. The next is a blank  
87 form trust, headed trust account authority addressed to (ui) Hickey Lawyers, sixth floor,  
88 Corporate Centre One, corner Bundall Road Slater Avenue, Bundall. Dear sirs re transfer  
89 of funds  
90  
91 DG I've never seen that document  
92  
93 JL Never seen that document. And the next one is a similar document that's  
94  
95 DG No  
96  
97 JL Been completed  
98  
99 DG No I didn't um do those (ui)  
100  
101 JL You didn't do those so  
102  
103 DG (ui)  
104  
105 JL It's not the one you're talking about?  
106  
107 DG No  
108  
109 JL Okay um there are some others here that authorise ah and they're on Gold Coast  
110 letterhead. I'll just  
111  
112 DG (ui)  
113  
114 JL Okay I'll just go through those. The first one is the twenty-fourth of December two  
115 thousand and three (2003) addressed to Mr Tony Hickey and  
116  
117 DG That's the one I mentioned to you that I

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118  
119 JL Okay  
120  
121 DG Put on David's letterhead at Sue's instruction  
122  
123 JL Okay so it's on ah as you mentioned it's on the Gold Coast City Council, Councillor  
124 David Power, Division Two Representative, on the letterhead, it's dated the twenty-  
125 fourth of December two thousand and three, addressed to Mr Tony Hickey, Hickey  
126 Lawyers, Post Office Box triple five nine (5559) Gold Coast Mail Centre, nine seven two  
127 six (9726), by facsimile double five seven four double one three zero (55741130) you, is  
128 that familiar to you?  
129  
130 DG Well it's not, no  
131  
132 JL No alright  
133  
134 DG But it's obviously Hickey Lawyers fax number  
135  
136 JL Okay. Dear Tony, we authorised a draw of up to seven thousand five hundred for  
137 campaign assistance for Division Five candidate Brian Rowe from the Commonsense,  
138 inverted commas Trust. Yours faithfully, David Power, Councillor Division Two, Sue  
139 Robbins, Councillor Division Fourteen  
140  
141 DG Councillor Robbins instructed me to do that and that's Councillor Power's electronic  
142 signature  
143  
144 JL Okay thank you so are you aware of Councillor Power that being brought to his attention  
145 by anybody?  
146  
147 DG No  
148  
149 JL Okay now in the event, that first document I showed you um ah the the fax forwarded to  
150 that your office there and find enclosed ah the trust account authority, that one there  
151  
152 DG Yes  
153  
154 JL If that had come to your office fax, what would be the procedures with that?  
155  
156 DG Whoever went to the fax machine next would have removed it and if it was for  
157 Councillor Power probably popped it in the in-tray  
158  
159 JL Okay so who would have access to that particular fax?  
160

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161 DG At the time um, we weren't in the same office situation that we're in now um probably  
 162 only the people, probably Ros or myself um it's all I can think at the moment  
 163  
 164 JL Okay now with all these um documents I've shown you and um like possibly to your  
 165 email address, would you most likely deal with that or was there a chance that Ros or um  
 166 was it Cheryl um  
 167  
 168 DG Ah well there's a chance Ros could have dealt with it. I don't think Cheryl was in the  
 169 office at the time of those emails. I think she was only in the office for four days in  
 170 March but Ros was a permanent part-time relief  
 171  
 172 JL Alright now there's one here dated the twenty-third of January two thousand and four  
 173 (2004), it's not on a letterhead and um it looks like it might have been faxed up the top  
 174 there is Ken Robbins. Do you know Ken Robbins?  
 175  
 176 DG I do know Ken Robbins  
 177  
 178 JL And who's Ken Robbins?  
 179  
 180 DG Ken Robbins is Councillor Sue, the late Councillor Sue Robbins husband  
 181  
 182 JL Alright, it's addressed to Tony Hickey, Hickey Lawyers, Post Office Box triple five nine  
 183 (5559), Gold Coast Mail Centre, nine seven two six (9726) by facsimile. Dear Tony, we  
 184 authorise the draw of the following, there's four names, four amounts but (ui) I'll just ask  
 185 you to have a look at the signatures at the bottom  
 186  
 187 DG Yes  
 188  
 189 JL Do you recognise the signatures?  
 190  
 191 DG I do  
 192  
 193 JL And ah in particular, would they be electronic or  
 194  
 195 DG No they look not to be electronic (ui)  
 196  
 197 JL (ui) the originals. Just asking your ah view in your um expertise as a admin ah officer,  
 198 that type of footer at the bottom, if you can see it it's  
 199  
 200 DG I can  
 201  
 202 JL Where would that type of thing come from, how would that be placed on a document?  
 203

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204 DG Ah that's a um a footer that automatically generates on a document as it's produced if you  
 205 have that parameter within your computer  
 206  
 207 JL Alright so what (ui) looking at there it's got um it's got a G and something  
 208  
 209 DG That's the drive  
 210  
 211 JL Okay Division Two slant Power slant Personal slant Selection and then Hickey Draw  
 212 Two document so would that be (ui)  
 213  
 214 DG That's the name of the document  
 215  
 216 JL Okay and does that indicate to you off who's computer or  
 217  
 218 DG It certainly does  
 219  
 220 JL And what's it say  
 221  
 222 DG My computer  
 223  
 224 JL Your computer?  
 225  
 226 DG Yes  
 227  
 228 JL Alright but you have no knowledge of this?  
 229  
 230 DG Yes (ui)  
 231  
 232 JL Oh sorry  
 233  
 234 DG I recall that that  
 235  
 236 JL Yeah what can you tell me about that?  
 237  
 238 DG I can tell you I have typed that  
 239  
 240 JL You've type it?  
 241  
 242 DG I have  
 243  
 244 JL Okay so that identifies your computer  
 245  
 246 DG It does  
 247

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248 JL You've typed it  
249  
250 DG Yes  
251  
252 JL Can you remember the signatures being placed on there?  
253  
254 DG Not specifically but I recognise the signatures  
255  
256 JL As David Power and Sue Robbins?  
257  
258 DG Yes  
259  
260 JL Okay and as I've mentioned that it appears to have been forwarded from a fax of Ken  
261 Robbins  
262  
263 DG I don't know about that  
264  
265 JL Yeah alright -- okay we'll go to one on the nineteenth of February two thousand and four  
266 (2004), it's addressed to Mr Tony Hickey, Hickey Lawyers, Post Office Box triple five  
267 nine (5559) Gold Coast Mail Centre, nine seven two six (9726), by facsimile, Dear Tony,  
268 we authorise the following immediate draws, there's four names, I'll just mention one, B  
269 Rowe just to identify the document, twenty thousand dollars. Further, we authorise the  
270 following funds to be held and paid as invoiced by Quadrant and first one there (ui) ten  
271 thousand  
272  
273 DG Yes  
274  
275 JL What can you tell me about that?  
276  
277 DG It looks like I typed it  
278  
279 JL You typed it?  
280  
281 DG I don't know for sure but it looks like I may have  
282  
283 JL Alright and um in the absence of any similar footer  
284  
285 DG Maybe I took it off, I don't know  
286  
287 JL Oh you can do that?  
288  
289 DG You can remove the footer, yes  
290  
291 JL Okay, why would one have it on and the other one you've taken it off?

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292  
293 DG I don't know  
294  
295 JL Alright (ui)  
296  
297 DG I don't know, I don't, I just don't know but it looks like I did that  
298  
299 JL Okay and it appears to be faxed from Quadrant  
300  
301 DG Yeah I don't know  
302  
303 JL So like would you type that on on somebody's instructions?  
304  
305 DG Yes obviously, I wouldn't  
306  
307 JL Yeah and who (ui)  
308  
309 DG Decide to do it myself  
310  
311 JL Who who instructed you?  
312  
313 DG I don't know I on on that one, I don't know. I know on the first one, I presume  
314 Councillor Power. I can't recall Councillor Robbins instructing me on that  
315  
316 JL Okay but she instructed you in relation to the transfer of the funds  
317  
318 DG The first one  
319  
320 JL The first one  
321  
322 DG Yes  
323  
324 JL Then there was the second one we discussed  
325  
326 DG Yes  
327  
328 JL That was you believe Councillor Power and this one here  
329  
330 DG I I presume Councillor Power on both of the subsequent ones  
331  
332 JL Okay  
333  
334 DG Because I don't specifically recall the instruction but I do recall the first instruction cause  
335 it was out of the ordinary

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336  
337 JL Alright and once again the signatures, are they electronic or most likely to have been  
338  
339 DG I think well I think they I think they appear like real signatures  
340  
341 JL Real signatures okay so that that wouldn't have been done in your presence?  
342  
343 DG The signing?  
344  
345 JL Yeah  
346  
347 DG No, I don't believe so  
348  
349 JL Alright okay so it's a matter of ah can you please type this up, you've done that and given  
350 it to  
  
352 DG Get rid of it  
353  
354 JL (ui) yeah whoever um instructed you to do that.  
355  
356 KB (Coughs)  
357  
358 JL I think that's about it. Can you remember any other similar documents you've typed like  
359 that?  
360  
361 DG No, I can't, I um I believe there were only two or three that that I was involved in doing  
362  
363 JL Okay um did you keep a copy of any of these documents?  
364  
365 DG On my hard drive  
366  
367 JL On your hard drive?  
368  
369 DG Yes  
370  
371 JL And um are you able to recover those documents?  
372  
373 DG Yes  
374  
375 JL Okay um the notice doesn't exactly ask you to produce them but ah are you willing to  
376 give them to the Commission?  
377  
378 DG Yes  
379

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380 JL Um and how would I get those?  
381  
382 DG I can give you copies, I can  
383  
384 JL I'd appreciate that  
385  
386 DG They won't be signed  
387  
388 JL No  
389  
390 DG Just a  
391  
392 JL No (ui)  
393  
394 DG There's the only one that will be signed is the one that I put Councillor Power's electronic  
; signature on  
396  
397 JL Alright it you you're aware of so the the Commission's um the public interest in this um  
398 funding of particular candidates and Councillor ah Power's role, Councillor Robbins' role  
399 um  
400  
401 DG How do you mean the public interest?  
402  
403 JL Well it the the the what I'm saying is that the public hearings that the public hearings that  
404 we're um that that were held, I mean ah ah it was an investigation into and I can't think of  
405 the terms of reference but there was ah specific terms of reference that they investigated  
406 um and ah (ui) got a copy of the report here but what what I want to ask you about is that  
407 you're aware that um Councillor Power has been ah action or proceedings have  
408 commenced against Councillor Power for misleading  
409  
410 DG I am  
1  
412 JL The Commission okay  
413  
414 DG I am  
415  
416 JL Um are you aware of any aspect of that?  
417  
418 DG No  
419  
420 JL (ui)  
421  
422 DG Not specifically  
423

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424 JL Okay  
425  
426 DG (ui)  
427  
428 JL Um well Councillor Power made provided a statement through his lawyers, through Nyst  
429 Lawyers that on face value um this false in material particular as they call them material  
430 particular and ah and it's alleged that that was done in an effort to mislead the  
431 Commission  
432  
433 DG Right  
434  
435 JL Now one of them deals with the set up of the (ui) Lionel Barden trust and the second  
436 allegation concerns the um receipt and dispersements of the funds both when it was under  
437 the authority of Power and Robbins and then again while it was transferred to um Lionel  
438 Barden trust  
439  
440 DG Right  
441  
442 JL Have you ah any knowledge of that?  
443  
444 DG I wasn't involved in any way  
445  
446 JL Alright  
447  
448 DG The only thing I recall doing was those three, two or three, I'm not quite sure how many I  
449 did but two or three I believe I may have typed  
450  
451 JL Okay  
452  
453 DG At the authorities and that's as much as I was involved  
454  
455 JL Alright um  
456  
457 DG I don't recall ever discussing it with Councillor Power  
458  
459 JL Okay now just ah in relation to the notice Ken, we might just finalise that part of it um  
460 before I go on. Is there anything that you want to address or is there anything that you  
461 want to bring to our notice, anything that ah, any queries that you want to make, you want  
462 us to clarify anything at all?  
463  
464 DG No I I'm concerned to tell you what you need to know  
465  
466 JL Yes okay thank you  
467

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468 DG I just, it's such a long time ago and it's very difficult to remember the specifics I'm sorry  
469  
470 JL Yeah it what we need to know from you is what you've told us is that um the the  
471 information that is contained in the exchange of emails, particularly those that um I've  
472 addressed that were through dgates um provide pretty damning evidence against  
473 Councillor Power in relation to the allegation (ui) proceedings that we've commenced on  
474 (ui) Commission  
475  
476 DG Right  
477  
478 JL Um in that ah they contradict what he said in his statement, that he didn't know what  
479 amounts were in the account and where the accounts went to, where where as you can see  
480 from the style of the accounts that ah (ui) memorandums that we showed you here it's  
481 been pointed out to him exactly how much is in the account, who's received from what  
482 and where it's been sent to so that's um our concerns with you is um trying to obtain um  
483 supportive evidence that it's most likely that these memorandums um were provided to  
484 Councillor Power and that he acted in a certain way on those  
485  
486 DG Right  
487  
488 JL Um  
489  
490 DG And I I can't tell you what he might or might not have done  
491  
492 JL No (ui) yeah  
493  
494 DG I don't I don't know  
495  
496 JL (ui) people can I mean say for example conversations, telephone conversations, different  
497 exchanges of emails and that type of thing so what we're after is okay, what you've told  
498 us, the procedures that (ui) come into the office um that um you know things forwarded  
499 either by facsimile, by email, there was a process and that they went through the doc ah to  
500 ah David Power  
501  
502 DG Mm  
503  
504 JL In in the course of of the um business. We would be interested in ah any of those  
505 documents ah that you have on your hard drive um and ah under the terms of notice I  
506 can't see where I can compel you to hand (ui) I'm just asking for them you know, how  
507 would you make those available to us?  
508  
509 DG Um deal through McMillen  
510  
511 NT Um we're happy to pass on any items that Donna provides (ui) we'll

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512  
513 KB Send them up to us perhaps at the Commission  
514  
515 NT Yeah yeah  
516  
517 JL Okay no that that'll be good I mean we we do have machinery of course to recover them  
518 if you don't  
519  
520 DG I know that now  
521  
522 JL (ui) yeah um now I'd have to say too flag to you at the moment is that the Mr Power's  
523 (ui) is set for ah the date in August around about the twentieth or something of August  
524  
525 DG It's the twenty-first to the twenty-third and on January the sixth or something this year I  
526 booked a trip to America with my whole family  
  
528 JL Okay so you're off to America? What dates (ui)  
529  
530 DG Well I'm booked to leave Australia on the fifteenth of August  
531  
532 JL Mm hm  
533  
534 DG Returning the twenty-fifth  
535  
536 JL Returning the twenty-fifth okay (ui) we ah not in the habit of ah destroying peoples well  
537 earned holidays but um given those dates, I will be talking to the Commission, because  
538 you have vital evidence to the Commission ah to for the proceedings  
539  
540 DG Right  
541  
542 JL So um you would be subpoenaed at some stage to come along and ah give evidence at the  
543 trial  
544  
545 DG I've paid for my husband and my son to leave here on the twenty-ninth of July and my  
546 (ui) son's partner and I (ui)  
547  
548 JL Alright like I said um I ah I'm not um  
549  
550 NT What what sorry what are the dates of the trial?  
551  
552 KB Twenty-first to the twenty-third of August  
553  
554 JL Yeah  
555

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556 NT And when (ui) set to return?  
557  
558 DG Twenty-fifth  
559  
560 NT What's the likelihood of the trial proceeding on that date not being um de-listed and re-  
561 listed for whatever reason?  
562  
563 JL Um  
564  
565 NT It's the first listing in the trial is it?  
566  
567 JL Yeah it's the first listing of the trial (ui) I'd say they're pretty firm dates, we got a a  
568 mention date um in about another four weeks but I'll go back to the um Commission now  
569 and ah I'll talk to our our ah Deputy Director and  
570  
571 DG (ui) date yesterday (ui) Wednesday the (ui)  
572  
573 JL Yes yeah that was only a mention date um and Mr Power didn't have to um ah attend it  
574 was just his lawyer and ah what they want is what we call a brief of evidence and that's  
575 part of us talking to you is um one, to continue the Commission's um investigations into  
576 the um into the Gold Coast City Council elections and also to um look at what additional  
577 evidence is there to support the proceedings against him for misleading the um  
578 misleading the Commission um have you been approached by anybody else for a  
579 statement?  
580  
581 DG No  
582  
583 JL You haven't been approached by Mr Nyst or anyone  
584  
585 DG No  
586  
587 JL From his office?  
588  
589 DG No  
590  
591 JL Alright  
592  
593 NT Given that the dates of the trial set are in well not even two months really, and ah given  
594 that the brief of evidence isn't yet completed, let alone served upon the defence, do you  
595 think that it might be likely that Donna's whole holiday might not be disturbed at this  
596 stage? I'll just from her point of view like she's obviously um in a position where she's  
597 paid for  
598

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599 JL Yeah look I I look I I can't make any promises but the thing is that you know like if if a  
600 witness isn't ah available I can't imagine like  
601  
602 NT I understand that part of the thing but I'm foreshadowing that given that the ah the the  
603 brief is not completed, then it has to be served and ah I imagine that that Nyst Lawyers  
604 would be wanting a good deal of time to to properly prepare in this matter if if the brief  
605 went are you able to say when it's likely that your brief will be ah (ui)  
606  
607 JL Ah look I can't see that it'd take me any longer than a a another couple of weeks, it's it's  
608 principally done  
609  
610 NT Okay  
611  
612 JL It's only tidying up these things and as you go through some of the material you might  
613 identify somebody else who you've got to go and speak to  
614  
615 NT Yep  
616  
617 JL Which is additional material but the say the bulk of the brief is ah just about completed  
618 but um (ui) sit tight, I'll I'll go back and see the Commission and um and ah  
619  
620 NT It's just that to me it seems a little (ui) trial dates have been set already without even a  
621 brief being supplied  
622  
623 JL Yes (ui) you know like it's going to take three days (ui) three day block and ah (ui)  
624  
625 NT How can they possibly know that if they don't have a brief and a list of witnesses (laughs)  
626  
627 JL Well when I say they don't have a brief we we've provided them with the the public  
628 hearings documents  
629  
630 NT Mm  
631  
632 JL To say well we'll be extracting material out of that, say for example that um um Chris  
633 Morgan attended the hearings, Tony Hickey attended the hearings um Mr Barden  
634 attended the hearings um and other people have been interviewed and and or attended the  
635 hearings so we just taking the material out of that preparing statements and then saying to  
636 these people well you know you'll you'll be subpoenaed, are you prepared to sign that or  
637 that (ui)  
638  
639 NT Mm  
640  
641 JL Um you know what you'll be ah  
642

Complainant:  
Subject(s): OPERATION GRAND  
Investigator: DETECTIVE INSPECTOR JOHN LEWIS  
Statement Of: DONNA GATES  
Legal Officer: DANIEL BOYLE  
File Number: MI-05-2482  
Directory: E:\#\CLIENT FILES A-Z\GATES, DONNA\GATES DONNA TP2 OF 2 29 06 06.DOC

643 NT I'm also surprised that it's only given three days of hearing, a hearing period of three days  
644 like I would have thought (ui)  
645  
646 JL The Magistrates Court in ah Brisbane won't set anything longer for three days um  
647  
648 NT Oh is this a committal proceeding?  
649  
650 JL No this this is a trial summary trial but they (ui)  
651  
652 NT Oh summary trial  
653  
654 JL It'll be part heard  
655  
656 KB (ui)  
657  
658 NT Oh beg your pardon it's a summary trial (ui)  
659  
660 JL Yeah and and that's what I'd imagine that um we could do in this instance is um ah and  
661 like our um we're being represented by Mr Tony Rafter um so all those things are going  
662 to be ah worked out but um (coughs) you know if ah  
663  
664 NT Is there any possibility or likelihood of telephone evidence being arranged? Obviously  
665 (ui) Nyst would have something to say about that oh would you (ui) as a prosecution have  
666 a (ui)  
667  
668 JL We we wouldn't object to it no no  
669  
670 NT (ui) Nyst  
671  
672 JL Mm yes so let's sit tight and work it out but um like  
673  
674 DG You wouldn't believe it would you, of all the dates that could have been chosen  
675  
676 NT Yeah I actually would believe it, it always seems to work out that way (laughs)  
677  
678 JL As a a police officer with ah thirty-two years, I can tell you that as soon as you take leave  
679 they set trial dates  
680  
681 DG (Laughs)  
682  
683 JL You can guarantee it, you can guarantee it but um look um you know the expense of  
684 cancelling holidays and all that sort of stuff (ui) I'd be very reluctant (ui) it'd have to be  
685 really really critical and that no other option I'm sure there'd be other options um I've  
686 known trials um to to ah be held over

Complainant:	OPERATION GRAND
Subject(s):	DETECTIVE INSPECTOR JOHN LEWIS
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Directory :	



687  
688 DG I mean I could (ui) even come back on the twenty-third like for the last day, that would  
689 only cut my holiday short by two days, I'm quite willing to do that if I can change that  
690 return flight but to come on the the twenty-first, that gives me only five days  
691  
692 JL Mm so where are you off to (ui) overseas?  
693  
694 DG Well my husband and son are driving across America and my son's partner and I were  
695 meeting them in Hawaii for ten days  
696  
697 JL Alright  
698  
699 DG On their way back  
700  
701 JL Okay (ui) leave it with me, I'll get back to you but if you can ah in the meantime if you're  
702 able to make a search of your computer hard drive and you've seen the form of  
703 documents that we're um interested in and ah really ah anything in relation to to the um  
704 councils elections particularly the funding of candidates not so much ah Councillor  
705 Power's personal (ui)  
706  
707 DG I'm sure that's all I did  
708  
709 JL Yeah  
710  
711 DG With regard to funding  
712  
713 JL Yeah  
714  
715 DG Those three documents  
716  
717 JL Alright  
718  
719 DG And I can remember clearly (ui) doing two of them myself  
720  
721 JL Okay and um like you say you don't keep a thousand emails over the years, you delete  
722 them as soon as they're irrelevant or you've (ui)  
723  
724 DG From my I have to keep deleting mine cause my system doesn't work once they build up  
725 so I don't have, I've looked, I have nothing on my computer  
726  
727 JL Okay  
728  
729 DG Other than those copies that we mentioned  
730

Complainant:  
Subject(s): OPERATION GRAND  
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731 JL Alright that's it you're happy with that?  
732  
733 NT Yep (ui)  
734  
735 JL Okay well we'll suspend (ui) terminate the interview now at what time is it?  
736  
737 KB Twenty-eight, ten twenty-eight (10.28)  
738  
739 JL Ten twenty-eight (10.28)

JAH/I-Document3

Complainant:  
Subject(s):  
Investigator:  
Statement Of:  
Legal Officer:  
File Number:  
Directory :

OPERATION GRAND  
DETECTIVE INSPECTOR JOHN LEWIS  
DONNA GATES  
DANIEL BOYLE  
MI-05-2482  
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## CRIME AND MISCONDUCT COMMISSION

STATEMENT OF WITNESS

Statement No.

## STATEMENT OF

<b>Name of Witness</b> Donna Gates	<b>Date</b> [Enter Date]
<b>Address of Witness</b> 2 Garden Grove, Carrara. Qld 4211	<b>Age</b> 51 years
<b>Occupation of Witness</b> Personal Assistant	<b>Telephone Nos.</b> <b>Home:</b> [Witness' Home Ph] <b>Business:</b> [Witness' Work Ph]

Donna Gates states:

I am employed by the Gold Coast City Council as the Personal Assistant to the Deputy Mayor, Councillor David Power. I have been employed with the Council for 10 years, commencing on the 3<sup>rd</sup> January 1996. I have been Councillor Power's PA for the past three years. My hours of work are usually between 7:30am and 5:00pm.

My role is to provide a secretarial service which mainly involves taking calls from the community and dealing with complaints or assisting callers to resolve any issues they have. My role also involves maintaining Councillor Power's calendar, the receipt of inward correspondence, drafting responses and typing letters and filing.

My immediate supervisor is the Community Relations Coordinator, Ms Sarah Falconer. I do not usually have any assistants or direct subordinates however I recall in March and April 2004 there were two additional staff members, Cheryl Murray and Roselyn Bennett who were assigned to assist me in the office during a busy period, about the time of the local government elections.

From Council time sheet records I am able to state that Cheryl assisted in the office on four occasions in March 2004. Time sheets are not available for Roselyn but I recall she may have assisted in the office two or three days a week but I cannot say for what period.

**Donna Gates**  
**WITNESS**

Cheryl and Roslyn were capable administration officers and performed any or all of the duties associated with the PA position. ~~If necessary they~~ Each had ~~my technical~~ permission to access my email account in the course of the performance of their duties.

I have a Council email account dgates@goldcoast.qld.gov.au. The purpose of the email system is to facilitate Council business. Councillors at times will advise residents and others of their PA's email address to direct their concerns to in order to lessen their workload. Councillor Power's email address is dpower@goldcoast.qld.gov.au. In effect people having personal or official business with Councillor Power can correspond directly to him or to me by email. I have forwarded emails on Councillor Power's behalf from my account. Councillor Power cannot access the computer network using my particulars however ~~I am~~ in the past I have been aware of his password allowing me to access the network on his behalf. I have done this to allow information technology staff to fix various problems.

Access to the Council's computer network is password protected. That is, when first logging on a user is required to enter a unique identity code, usually their ~~surname and initial~~ payroll number, and password. I usually do not log off or lock my workstation if I am away for short periods however it will automatically lock after 10 minutes if not in use.

~~My usual practice~~ I have no set practice in dealing with emails. ~~is to~~ I may deal with it myself if I am able to do so. ~~Otherwise I would~~ I may forward it onto an appropriate officer to deal with it. If it concerned or was required to be actioned by Councillor Power ~~I would most likely~~ may forward it to his email address or print off a hard copy and place it in his in-tray. If they appeared to be irrelevant ~~to me or my role~~ I would ~~may~~ delete them. If the email contained an attachment I would usually print off the attachment and place it in the in-tray of the intended recipient.

In any instance where an email was received at my address of dgates@goldcoast.com.au addressed to Councillor Power with a greeting such as "David, Hi David or Dear David" I would either forward it to his email address dpower@goldcoast.com.au or print off a hard copy to place in his in-tray. My usual practice is to print of a hard copy and place it in his in-tray. I would only delete emails forwarded for attention of Councillor Power received at my email address if I noted it was duplicated, that is, forwarded to both dgates@goldcoast.com.au and dpower@goldcoast.com.au ~~or if they were irrelevant to me or my~~

role.

I have been asked to forward an email to his personal email address of dayles@optusnet.com as times if he was to be away from the office but before Webnet technology was implemented allowing for external access to one's Council email account.

Electoral material or matters concerning a Councillor or candidates electoral campaigns are not the core business of Council and therefore I would not maintain a file of such matters.

Documents forwarded to the Council and Councillors by facsimile are were retrieved from the machine by various staff members and placed in the intended recipient's in-tray.

On the 29<sup>th</sup> June 2006 I was interviewed in the office of McMillan Solicitors, 10 Short Street, Southport by Detective Inspectors Lewis and Bemi from the Crime and Misconduct Commission. Mr Nicholas Tobin of McMillan Solicitors was also present.

During that interview Detective Inspector Lewis showed me a series of emails and memorandums. I have no recollection of receiving or dealing with any of the material shown to me.

Shown to me was a letter from Hickey Lawyers dated 10 March 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address hickeya@hickeylawyers.com.au; addressed to Councillor David Power, Gold Coast City Council, email address dgates@goldcoast.qld.gov.au; copied to Mr Brian Ray email address bray@raygroup.com.au. The letter reads in part:

*Re: CAMPAIGN FUNDS*

*David,*

*Further to our telephone conversation this morning I confirm the following:*

I do not recall this document.

Shown to me was a letter from Hickey Lawyers dated 10 March 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address hickeya@hickeylawyers.com.au; addressed to Councillor David Power, Gold Coast City Council, email address dgates@goldcoast.qld.gov.au; copied

to Mr Brian Ray email address bray@raygroup.com.au. The letter reads in part:

*Re: CAMPAIGN FUNDS*

*Sandy received a call this afternoon from Greg Phillips advising that a donation of \$20,000 will be made to this fund tomorrow.*

I do not recall this document.

Shown to me was a letter from Hickey Lawyers dated 15 March 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address hickeya@hickeylawyers.com.au; addressed to Councillor David Power, Gold Coast City Council, email address dgates@goldcoast.qld.gov.au; copied to Mr Brian Ray email address bray@raygroup.com.au. The letter read in part:

*RE: LIONEL BARDEN CAMPAIGN FUND*

*We advise that we received a donation of \$10,00 into our trust account today from Villa World Limited.*

I do not recall that document.

Shown to me was an email Sandra Wild on behalf of Anthony William Hickey dated 15 March 2004 headed addressed to infor@quadrant.com.au, copied to BRIAN RAY (bray@raygroup.com.au) and dgates@goldcoast.qld.gov.au; Subject: THE LIONEL BARDEN CAMPAIGN FUND – ATTENTION MR CHRIS MORGAN. This email read in part:

*Chris,*

*I have received your invoices which total \$60, 248.71*

I do not recall this document.

Shown to me was a letter from Hickey Lawyers dated 17 March 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address hickeya@hickeylawyers.com.au; addressed to Councillor David Power, Gold Coast City Council, email address dgates@goldcoast.qld.gov.au; copied to Mr Brian Ray email address bray@raygroup.com.au. The letter read in part:

*RE: LIONEL BARDEN CAMPAIGN FUND*

*Gentlemen,*

*I now provide an update. We received today \$10,000.00 from the Ingles Group. Please note....*

*The current balance that we hold is \$55,300.00.*

*However, I refer to my e mail of 15 March 2004 advising that we have invoices from Quadrant totalling \$60,248.71 and I am waiting for an authority as to what to pay.*

*Brian, in answer to your question, we do not have any funds from Nikiforides also no contribution has yet been made by the Coomera Group who David was speaking to.*

I ~~not~~ do not recall this document.

Shown to me was a letter from Hickey Lawyers dated 24 March 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address [hickeya@hickeylawyers.com.au](mailto:hickeya@hickeylawyers.com.au); addressed to Councillor David Power, Gold Coast City Council, email address [d gates@goldcoast.qld.gov.au](mailto:d gates@goldcoast.qld.gov.au); copied to Mr Brian Ray email address [bray@raygroup.com.au](mailto:bray@raygroup.com.au). The letter read in part:

*RE: LIONEL BARDEN CAMPAIGN FUND*

*Gentlemen,*

*We received today the sum of \$10,000.00 from Mr Con Nikiforides.*

*The current balance that we hold in our trust account is \$20,300.00.*

I do not recall this document.

Shown to me was a letter from Hickey Lawyers dated 7 April 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address [hickeya@hickeylawyers.com.au](mailto:hickeya@hickeylawyers.com.au); addressed to Councillor David Power, Gold Coast City Council, email address [d gates@goldcoast.qld.gov.au](mailto:d gates@goldcoast.qld.gov.au); copied to Mr Brian Ray email address [bray@raygroup.com.au](mailto:bray@raygroup.com.au). The letter read in part:

*RE" LIONEL BARDEN CAMPAIGN FUND*

*Gentlemen,*

*We received today the sum of \$10,000.00 from Stockland Development Pty Ltd.*

*The current balance that we hold in our trust account is \$10,300.00*

I do not recall this document.

Shown to me was a series of emails commencing with an email from Sandra Wild (<mailto:WildS@hickeylawyers.com.au>) on Behalf of Anthony William Hickey; Sent on 15 March 2004 3:56 PM; to Kelly Standing; copied to BRIAN RAY ([bray@raygroup.com.au](mailto:bray@raygroup.com.au)); [d gates@goldcoast.qld.gov.au](mailto:d gates@goldcoast.qld.gov.au); Subject: THE LIONEL BARDEN CAMPAIGN FUND – ATTENTION MR CHRIS MORGAN.

Chris,

*I have received your invoices.....*

There are responses from Kelly Standing on 15 March 2004 at 4:13 PM to Chris Morgan and from Chris Morgan that date at 5:58 PM to Lionel Barden ([lionel@innovationsshowcase.net](mailto:lionel@innovationsshowcase.net)); copied to [bray@raygroup.com.au](mailto:bray@raygroup.com.au); Cr David Power ([daveles@optusnet.com.au](mailto:daveles@optusnet.com.au)).

I do not recall this document.

I know Mr Tony Hickey of Hickey Lawyers having met him socially. I know Sandra Wild to be Mr Hickey's Personal Assistant.

I have had telephone conversations with Mr Chris Morgan of Quadrant but ~~have not~~ am not sure whether I have met him.

I do recall some documents I prepared concerning a fund involving Councillor Power and Robbins.

In December 2003 Councillor Robbins asked me to prepare a document approving the transfer of funds. She explained to me that she and Councillor Power were working with the business community to get some sensible representation on the Gold Coast City Council.

The document I prepared was on Councillor Power's official Council letterhead dated 24 December 2004 addressed to Mr Tony Hickey of Hickey Lawyers stating in part:

*Dear Tony,*

*We authorise a draw of up to \$7,500 for campaign assistance for Division 5 candidate, Brian Rowe from the "common sense" trust.*

I affixed Councillor Power's electronic signature to the document as he was not in the office at that time and left it with Councillor Robbins.

I identified a copy of this document to Detective Inspector Lewis.

**Now shown to me is exhibit number ..... I am able to identify as a true copy of that document.**

Shown to me is a letter dated 23 January 2004 addressed to Mr Tony Hickey of Hickey Lawyers, stating



in part:

*Dear Tony*

*We authorise a draw on the following*

*B Rowe* *\$7,500.00*

*G Pforr* *\$7,500.00*

*R Scott* *\$7,000.00*

*G Betts* *\$7,000.00*

*Yours faithfully*

I recognise Councillor Powers and Councillor Robbins actual signature on that document. The footnote identifies that the document was created by me on my Council computer workstation. I recall Councillor Power asking me to prepare this document.

I identified a copy of this document to Detective Inspector Lewis.

**Now shown to me is exhibit number ..... I am able to identify as a true copy of that document.**

I believe I also typed a similar letter dated 19 February 2004 addressed to Tony Hickey on instruction of Councillor Power although I cannot recall the specific instruction. It reads in part:

*Dear Tony*

*We authorise the following immediate draws:*

*B Rowe* *\$20,000.00*

*R Scott* *\$3,000.00*

*G Pforr* *\$5,000.00*

*G Betts* *\$5,000.00*

*Further, we authorise the following funds to be held and paid as invoiced by Quadrant.*

*R Scott* *\$10,000.00*

*G Pforr* *\$5,000.00*

*G Betts* *\$5,000.00*

I recognise Councillor Powers and Councillor Robbins actual signature on the document.

I identified a copy of this document to Detective Inspector Lewis.

**Now shown to me is exhibit number ..... I am able to identify as a true copy of that document.**

---

Donna Gates

WITNESS

I cannot recall seeing a facsimile from Hickey Lawyers dated 4 March 2004 concerning an "Authority for execution". The facsimile number 5582 8263 however is to my office at the Council.

I have no other knowledge of any document exchanges concerning Councillor Power and any trust fund.

**Justices Act 1886**

I acknowledge by virtue of section 110A(5)(c)(ii) of the Justices Act 1886 that:

- (1) This written statement by me dated [Enter Statement Date] and contained in the pages numbered 1 to 8 is true to the best of my knowledge and belief; and
- (2) I make it knowing that, if it were admitted as evidence, I may be liable to prosecution for stating anything that I know is false.

..... Signature

Signed at .....this.....day of.....

## CRIME AND MISCONDUCT COMMISSION

## STATEMENT OF WITNESS

Statement No.

STATEMENT OF

<b>Name of Witness</b> Donna Gates	<b>Date</b> 7 August 2006
<b>Address of Witness</b> 2 Garden Grove, Carrara. Qld 4211	<b>Age</b> 51 years
<b>Occupation of Witness</b> Personal Assistant	<b>Telephone Nos.</b> <b>Home:</b> 07 5579 8473 <b>Business:</b> 07 5582 8227

Donna Gates states:

I am employed by the Gold Coast City Council as the Personal Assistant to the Deputy Mayor, Councillor David Power. I have been employed with the Council for 10 years, commencing on the 3<sup>rd</sup> January 1996. I have been Councillor Power's PA for the past three years. My hours of work are usually between 7:30am and 5:00pm.

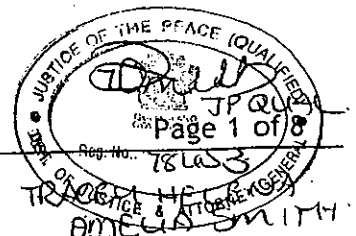
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From Council time sheet records I am able to state that Cheryl assisted in the office on four occasions in March 2004. Time sheets are not available for Roselyn but I recall she may have assisted in the office two or three days a week but I cannot say for what period.

*Donna Gates*

Donna Gates  
WITNESS



**CONTINUED STATEMENT OF: Donna Gates**

---

Cheryl and Roselyn were capable administration officers and performed any or all of the duties associated with the PA position. Each had technical permissions to access my email account in the course of the performance of their duties.

I have a Council email account dgates@goldcoast.qld.gov.au. The purpose of the email system is to facilitate Council business. Councillors at times will advise residents and others of their PA's email address to direct their concerns to in order to lessen their workload. Councillor Power's email address is dpower@goldcoast.qld.gov.au. In effect people having personal or official business with Councillor Power can correspond directly to him or to me by email. I have forwarded emails on Councillor Power's behalf from my account. Councillor Power cannot access the computer network using my particulars however in the past I have been aware of his password allowing me to access the network on his behalf. I have done this to allow information technology staff to fix various problems.

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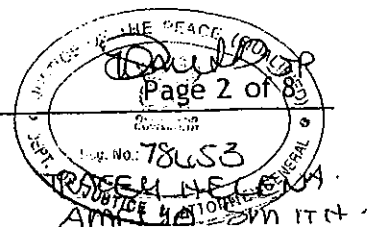
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In any instance where an email was received at my address of dgates@goldcoast.com.au addressed to Councillor Power with a greeting such as "David, Hi David or Dear David" I would either forward it to his email address dpower@goldcoast.com.au or print off a hard copy to place in his in-tray. My usual practice is to print off a hard copy and place it in his in-tray. I would only delete emails forwarded for attention of Councillor Power received at my email address if I noted it was duplicated, that is, forwarded to both dgates@goldcoast.com.au and dpower@goldcoast.com.au.

*Donna Gates*

Donna Gates

WITNESS



I have been asked to forward an email to his personal email address of [davles@optusnet.com](mailto:davles@optusnet.com) if he was away from the office before Webnet technology was implemented allowing for external access to one's Council email account.

Electoral material or matters concerning a Councillor or candidate's electoral campaigns are not the core business of Council and therefore I would not maintain a file of such matters.

Documents forwarded to the Council and Councillors by facsimile were retrieved from the machine by various staff members and placed in the intended recipient's in-tray.

On the 29<sup>th</sup> June 2006 I was interviewed in the office of McMillan Solicitors, 10 Short Street, Southport by Detective Inspectors Lewis and Beml from the Crime and Misconduct Commission. Mr Nicholas Tobin of McMillan Solicitors was also present.

During that interview Detective Inspector Lewis showed me a series of emails and memorandums. I have no recollection of receiving or dealing with any of the material shown to me.

Shown to me was a letter from Hickey Lawyers dated 10 March 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address [hickeya@hickeylawyers.com.au](mailto:hickeya@hickeylawyers.com.au); addressed to Councillor David Power, Gold Coast City Council, email address [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au); copied to Mr Brian Ray email address [bray@raygroup.com.au](mailto:bray@raygroup.com.au). The letter reads in part:

*Re: CAMPAIGN FUNDS*

*David,*

*Further to our telephone conversation this morning I confirm the following:*

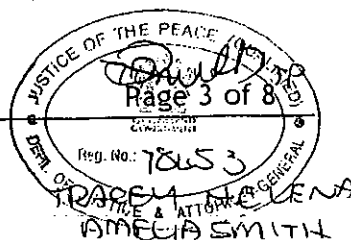
**Now shown to me and attached to this statement is annexure 'A'. I do not recall this document.**

Shown to me was a letter from Hickey Lawyers dated 10 March 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address [hickeya@hickeylawyers.com.au](mailto:hickeya@hickeylawyers.com.au); addressed to Councillor David Power, Gold Coast City Council, email address [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au); copied to Mr Brian Ray email address [bray@raygroup.com.au](mailto:bray@raygroup.com.au). The letter reads in part:

*Donna Gates*

Donna Gates

WITNESS



**CONTINUED STATEMENT OF: Donna Gates**

---

*Re: CAMPAIGN FUNDS*

*Sandy received a call this afternoon from Greg Phillips advising that a donation of \$20,000 will be made to this fund tomorrow.*

Now shown to me and attached to this statement is annexure 'B'. I do not recall this document.

Shown to me was a letter from Hickey Lawyers dated 15 March 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address [hickeya@hickeylawyers.com.au](mailto:hickeya@hickeylawyers.com.au); addressed to Councillor David Power, Gold Coast City Council, email address [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au); copied to Mr Brian Ray email address [bray@raygroup.com.au](mailto:bray@raygroup.com.au). The letter read in part:

*RE: LIONEL BARDEN CAMPAIGN FUND*

*We advise that we received a donation of \$10,00 into our trust account today from Villa World Limited.*

Now shown to me and attached to this statement is annexure 'C'. I do not recall this document.

Shown to me was an email Sandra Wild on behalf of Anthony William Hickey dated 15 March 2004 headed addressed to [infor@quadrant.com.au](mailto:infor@quadrant.com.au), copied to BRIAN RAY ([bray@raygroup.com.au](mailto:bray@raygroup.com.au)) and [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au); Subject: THE LIONEL BARDEN CAMPAIGN FUND - ATTENTION MR CHRIS MORGAN. This email read in part:

*Chris,*

*I have received your invoices which total \$60, 248.71*

Now shown to me and attached to this statement is annexure 'D'. I do not recall this document.

Shown to me was a letter from Hickey Lawyers dated 17 March 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address [hickeya@hickeylawyers.com.au](mailto:hickeya@hickeylawyers.com.au); addressed to Councillor David Power, Gold Coast City Council, email address [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au); copied to Mr Brian Ray email address [bray@raygroup.com.au](mailto:bray@raygroup.com.au). The letter read in part:

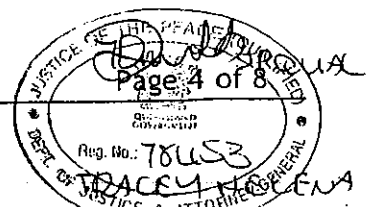
*RE: LIONEL BARDEN CAMPAIGN FUND*

*Gentlemen,*

*Donna Gates*

Donna Gates

WITNESS



**CONTINUED STATEMENT OF: Donna Gates**

---

*I now provide an update. We received today \$10,000.00 from the Ingles Group. Please note ....  
The current balance that we hold is \$55,300.00.*

*However, I refer to my email of 15 March 2004 advising that we have invoices from Quadrant totalling \$60,248.71 and I am waiting for an authority as to what to pay.*

*Brian, in answer to your question, we do not have any funds from Nikiforides also no contribution has yet been made by the Coomera Group who David was speaking to.*

**Now shown to me and attached to this statement is annexure 'E'. I do not recall this document.**

Shown to me was a letter from Hickey Lawyers dated 24 March 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address [hickeya@hickeylawyers.com.au](mailto:hickeya@hickeylawyers.com.au); addressed to Councillor David Power, Gold Coast City Council, email address [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au); copied to Mr Brian Ray email address [bray@raygroup.com.au](mailto:bray@raygroup.com.au). The letter read in part:

*RE: LIONEL BARDEN CAMPAIGN FUND*

*Gentlemen,*

*We received today the sum of \$10,000.00 from Mr Con Nikiforides.*

*The current balance that we hold in our trust account is \$20,300.00.*

**Now shown to me and attached to this statement is annexure 'F'. I do not recall this document.**

Shown to me was a letter from Hickey Lawyers dated 7 April 2004 headed "Email Transmission" from Mr Tony Hickey of Hickey Lawyers email address [hickeya@hickeylawyers.com.au](mailto:hickeya@hickeylawyers.com.au); addressed to Councillor David Power, Gold Coast City Council, email address [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au); copied to Mr Brian Ray email address [bray@raygroup.com.au](mailto:bray@raygroup.com.au). The letter read in part:

*RE" LIONEL BARDEN CAMPAIGN FUND*

*Gentlemen,*

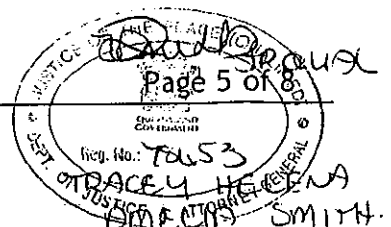
*We received today the sum of \$10,000.00 from Stockland Development Pty Ltd.*

*The current balance that we hold in our trust account is \$10,300.00*

**Now shown to me and attached to this statement is annexure 'G'. I do not recall this document.**

*Donna Gates.*

Donna Gates  
WITNESS



**CONTINUED STATEMENT OF: Donna Gates**

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Shown to me was a series of emails commencing with an email from Sandra Wild (<mailto:WildS@hickeylawyers.com.au>) on Behalf of Anthony William Hickey; Sent on 15 March 2004 3:56 PM; to Kelly Standing; copied to BRIAN RAY ([bray@raygroup.com.au](mailto:bray@raygroup.com.au)); [dgates@goldcoast.qld.gov.au](mailto:dgates@goldcoast.qld.gov.au); Subject: THE LIONEL BARDEN CAMPAIGN FUND - ATTENTION MR CHRIS MORGAN.

*Chris,*

*I have received your invoices.....*

There are responses from Kelly Standing on 15 March 2004 at 4:13 PM to Chris Morgan and from Chris Morgan that date at 5:58 PM to Lionel Barden ([lionel@innovationsshowcase.net](mailto:lionel@innovationsshowcase.net)); copied to [bray@raygroup.com.au](mailto:bray@raygroup.com.au); Cr David Power ([daveles@optusnet.com.au](mailto:daveles@optusnet.com.au))

Now shown to me and attached to this statement is annexure 'H'. I do not recall this document.

I know Mr Tony Hickey of Hickey Lawyers having met him socially. I know Sandra Wild to be Mr Hickey's Personal Assistant.

I have had telephone conversations with Mr Chris Morgan of Quadrant but am not sure whether I have met him.

I do recall some documents I prepared concerning a fund involving Councillor Power and Robbins.

In December 2003 Councillor Robbins asked me to prepare a document approving the transfer of funds. She explained to me that she and Councillor Power were working with the business community to get some sensible representation on the Gold Coast City Council.

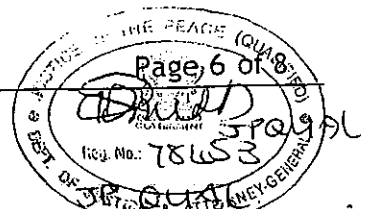
The document I prepared was on Councillor Power's official Council letterhead dated 24 December 2003 addressed to Mr Tony Hickey of Hickey Lawyers stating in part:

*Dear Tony,*

*We authorise a draw of up to \$7,500 for campaign assistance for Division 5 candidate, Brian Rowe from the "common sense" trust.*

*Donna Gates*

Donna Gates  
WITNESS





**CONTINUED STATEMENT OF: Donna Gates**

---

I affixed Councillor Power's electronic signature to the document as he was not in the office at that time and left it with Councillor Robbins.

I identified a copy of this document to Detective Inspector Lewis.

**Now shown to me and attached to this statement is annexure 'I'. I am able to identify as a true copy of that document.**

Shown to me is a letter dated 23 January 2004 addressed to Mr Tony Hickey of Hickey Lawyers, stating in part:

*Dear Tony*

*We authorise a draw on the following*

<i>B Rowe</i>	<i>\$7,500.00</i>
<i>G Pforr</i>	<i>\$7,500.00</i>
<i>R Scott</i>	<i>\$7,000.00</i>
<i>G Betts</i>	<i>\$7,000.00</i>

*Yours faithfully*

I recognise Councillor Power's and Councillor Robbins' actual signatures on that document. The footnote identifies that the document was created by me on my Council computer workstation.

I identified a copy of this document to Detective Inspector Lewis.

**Now shown to me and attached to this statement is annexure 'J'. I am able to identify as a true copy of that document.**

I believe I also typed a similar letter dated 19 February 2004 addressed to Tony Hickey although I cannot recall the specific instruction. It reads in part:

*Dear Tony*

*We authorise the following immediate draws:*

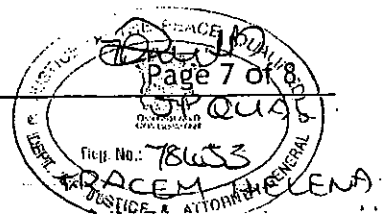
<i>B Rowe</i>	<i>\$20,000.00</i>
<i>R Scott</i>	<i>\$3,000.00</i>
<i>G Pforr</i>	<i>\$5,000.00</i>
<i>G Betts</i>	<i>\$5,000.00</i>

*Further, we authorise the following funds to be held and paid as invoiced by Quadrant.*

*Donna Gates*

Donna Gates

WITNESS



**CONTINUED STATEMENT OF: Donna Gates**

<i>R Scott</i>	<i>\$10,000.00</i>
<i>G Pforr</i>	<i>\$5,000.00</i>
<i>G Betts</i>	<i>\$5,000.00</i>

I recognise Councillor Powers and Councillor Robbins actual signature on the document.

I identified a copy of this document to Detective Inspector Lewis.

Now shown to me and attached to this statement is annexure 'K'. I am able to identify as a true copy of that document.

I cannot recall seeing a facsimile from Hickey Lawyers dated 4 March 2004 concerning an "Authority for execution". The facsimile number 5582 8263 however is to my office at the Council.  
Now shown to me and attached to this statement is annexure 'L'. I do not recall this document.

I have no other knowledge of any document exchanges concerning Councillor Power and any trust fund.

**Justices Act 1886**

I acknowledge by virtue of section 110A(5)(c)(ii) of the Justices Act 1886 that:

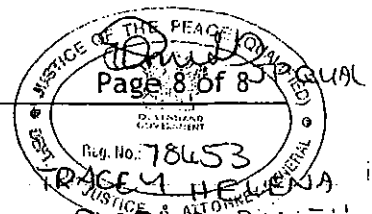
- (1) This written statement by me dated this seventh day of August 2006 and contained in the pages numbered 1 to 8 is true to the best of my knowledge and belief; and
- ) I make it knowing that, if it were admitted as evidence, I may be liable to prosecution for stating anything that I know is false.

*Donna Gates* ..... Signature

Signed at *Gold Coast* this *eight* day of *August, 2006*.

*Donna Gates*

Donna Gates  
WITNESS



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## **APPENDIX 3**



# GOLD COAST CITY COUNCIL

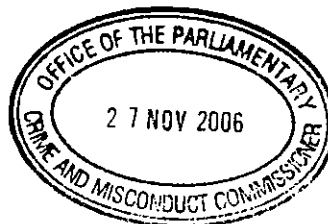
Councillor David Power

DEPUTY MAYOR



Address all correspondence to Gold Coast City Council PO Box 5042 Gold Coast MC Qld 9729 Australia  
Tel (07) 5582 8227 Fax (07) 5582 8263 Mobile 0414 180 003 Email [dpower@goldcoast.qld.gov.au](mailto:dpower@goldcoast.qld.gov.au)

23 November 2006



Mr A J MacSporran SC  
Office of the Parliamentary Crime &  
Misconduct Commissioner  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr MacSporran

## CRIME & MISCONDUCT INVESTIGATION INTO 2004 GOLD COAST CITY COUNCIL ELECTION

I refer to your request for further information concerning my complaint of inappropriate conduct by the CMC.

Please find attached extracts from the transcripts of the CMC Inquiry into the 2004 Gold Coast City Council Election.

I firstly point out Attachment A, which quotes headlines claiming that Mayor Ron Clarke failed to disclose nightclub grants. These headlines try to convey a clear impression that the Mayor had failed in his obligation under the Local Government Act. It was not until further into the article that it became clear that this was not the Mayor's responsibility, but the party which placed advertisements and undertook the actions to be lodged as a Third Party Return.

I draw your attention to the paragraph highlighted at the bottom of Attachment A where Counsel Assisting, Mr Mulholland, asked what is not only a ridiculous question, but one that he should well have known relating to the Mayor's responsibility for declaring this support. This question alone demonstrates the tenor under which the Inquiry was conducted, particularly when Senior Counsel suggests Mr Mullholland would have known that it was not Cr Clarke's responsibility.

I further draw your attention to Attachments B, C, K, L and M. Within each of these attachments are specific statements with witnesses disputing newspaper reports and their accuracy. This was a consistent theme by almost every witness including myself.

I now draw your attention to Attachments E, F, G, H and I, where Mr Radcliff acting on behalf of Cr Ted Shepherd questioned the Chairman regarding the weight of the newspaper reports and written statements submitted by various reporters.

I particularly draw your attention to Attachment G and the highlighted paragraph where the Chairman states:

"What's the problem now when Counsel Assisting - and I can assure you I'll be taking that attitude that no finding would be made against anyone that they said something to a journalist based purely upon an untested statement by the journalist and contrary to the sworn evidence of the witness".

You will note in my previous correspondence that I highlighted the Commissioner's findings against me and the use of newspaper articles to determine those findings despite my sworn testimony that the articles were out of context, that the questions that had been answered were very specific and that I had clearly advised journalists that I was approaching businesses for support for candidates as well as giving advice to candidates.


As you can see, the Commissioner clearly disregarded his own resolution when challenged by Mr Radcliff on the matter and has made a determination which can only be assumed is a predetermined judgement or a complete disregard for natural justice.

I further draw your attention to Attachments C and D, where evidence is given under oath to the provision of a transcript to the CMC by Councillors Dawn Crichlow and Eddy Sarroff. Under oath, the Mayor gave evidence that upon listening to the tape used to produce the transcript, there are clear discrepancies and the transcription is not a complete record of the tape itself, thus potentially taking statements out of context.

You will further note that Counsel Assisting at the bottom of Attachment D has stated that neither the transcripts or the tapes would be tendered. The real question in this is not whether the tape and transcript would be tendered, but how the CMC could blithely accept what is clearly a "doctored" complaint without taking action against the complainants - a recurrent accusation by local governments across Queensland that has failed to be addressed by the CMC at any time.

I now refer you to Attachment N. You will note a comment by Mr Debattista with regard to why or why not Cr Robbins and I or any other person chose not to tell the witness something. You will note the Chairman's response where he says he cannot answer what was in their mind. This is a critical comment by the Chairman who, in his final Report, makes reference to an alleged conspiracy to keep the existence of the Trust Fund secret. He states within the Report that the participants would have known that I would not have wanted them to admit its existence to the media. A fascinating conclusion when the Chairman himself has stated that an individual cannot answer what is in another's mind.

Yours faithfully



**DAVID POWER**  
*Councillor Division 2 & Deputy Mayor*

At any rate, there was this - he says that he spoke to Bell and the SMS messages went out, whether or not it was because of it or not I suppose no-one can say but that's what he says he said. Can I ask you to also look at an article which you may have there in The Australian of the 16th of May 2005-----

MR GLYNN: May I see a copy of that, please?

MR MULHOLLAND: Do you have a copy of that there - this is part of Exhibit 306?-- What date was it, sorry, again?

16th of May 2005?-- 16th of May, I have it, yes.

And this is under the headline, "Mayor failed to disclose nightclub grants". "Olympian Ron Clarke allegedly failed to disclose up to \$20,000 in donations he received from Gold Coast nightclubs for his successful mayoral campaign." And this was an allegation according to the newspaper which was made by the Gold Coast Licensed Venues Association. It further alleges that, "After he was elected last year Mr Clarke changed his position on earlier closing hours for the tourist strip. The association says it paid for advertising for the former Olympic long distance runner," et cetera. "Such in-kind donations are required to be declared under the Local Government Act." Then it refers to what you declared. And it refers to the Darlington Park Raceway matter. Then it goes on, "Licensed Venues Association Chairman Jim Bell said the donations to Mr Clarke's campaign were in the form of newspaper advertisements published over three days, 30 radio advertisements and between 50,000 and 60,000 SMS text messages sent to nightclub members." I think I said 70,000 before - 50 and 60 according to what Mr Bell's telling the newspaper. "All the material urged a vote for Mr Clarke. Mr Bell alleged the assistance was given after Mr Clarke said he opposed Mr Baildon's support for earlier nightclub closing hours." It then refers to the email and Mr Bell said - it quotes from the email and then it says - then the newspaper goes on - that, "Mr Bell said that after he was elected Mr Clarke supported the lockout for nightclubs so patrons could not be admitted after 3 a.m." "It was a complete turnaround," Mr Bell said. "He accepted \$20,000 worth of support, then he turned on us. If we'd known we would have stuck with Gary Baildon." You said - "Mr Clarke denied yesterday he had anything further to declare. What the venues spent on their campaigns to oust Gary Baildon was their business and not mine. I was never aware of the amount of their advertising account and I was not involved in any way with their campaign." So this - I don't think the rest of the article I need to refer to. Now, Mr Clarke, what is your position in relation to this allegation being made here? Are you - well, you tell us what it is so far as it was, as Bell put it, donations to your campaign in the form of newspaper advertisements published over three days, 30 radio advertisements, between 50,000 and 60,000 SMS text messages sent to nightclub members"-- I don't know, Mr Mulholland - I don't know how accurate that is, but they did put a return in-----

(B)

CHAIRMAN: If you can show it to Mr Glynn, thanks.

MR MULHOLLAND: You don't have it there?-- No, I'm sorry, I don't have it.

That's all right?-- I know about it fairly - a bit.

This is just the transcript of it?-- Yes.

Now, you'll see that the article in these terms: "Ron Clarke is working on a deal with David Power which aims at delivering his election commitment for big ticket items. Mr Clarke who takes over as Mayor this week had a 90-minute meeting yesterday with Councillor Power, his possible deputy." First of all, do you remember the article, Mr Clarke?-- Yes, I remember seeing the article.

Right. And do you remember having this meeting with Mr Power?-- No, no, I've never had the meeting with Mr Power.

You didn't?-- No.

So this is completely untrue?-- Completely untrue.

You had no such meeting?-- No.

All right. "It is understood that Councillor Power told Mr Clarke he would have the support of the majority of councillors." No such conversation?-- No. Can I just explain something about my philosophy - and I touched on it before - is that I believe in independent councillors, and I'm not interested in working with blocks of any sort. I'm interested in working with independent councillors, and I have no ambition to have my agenda put in - I'm happy with my agenda and the items that I wanted to bring up run the ring of the council. If they supported it, so be it. I mean-----

Well, let's just read on. Go down to - "Earlier this week, Councillor Power pledged his full support to Mr Clarke, and last night said his meeting with Mr Clarke had been productive and fruitful. 'I think there would be a lot of harmony in this council amongst most of the councillors. As a general consensus, Mr Clarke was elected with a strong, city-wide mandate and we have to respect that.'" That's quoting Mr Power according to the article?-- Mmm.

And then, down further, "The Bulletin was also told Mr Ray has spoken to Mr Clarke, indicating that a group of like-minded councillors would support his election blueprint." Now, did you have a conversation with Mr Ray along those lines?-- No, I never spoke in my life to Mr Ray, unfortunately.

Never spoke to him?-- Unfortunately, he died.

All right. "The Clarke team told Councillor Power that, if he delivered the eight votes required to implement a reformed agenda, Mr Clarke would support Councillor Power in any future

Bull

mayoral campaign, probably in 2008." Did you know of any such meeting, if it did occur?-- No.

Then it goes on to refer to Mr Staerk saying that they were expecting a broad consensus to emerge and so on. Anything said by Mr Staerk along those lines, did that have your imprimatur or approval?-- No, as I've mentioned. I've read this and I've read some other things that Mr Staerk said as supposedly my campaign manager. In both ways (a) he wasn't my campaign manager, he was never my spokesman, and he was very strictly my media - he did a very good job with media, but he was nothing else.

So you were not at any stage a party to any discussion, meeting or agreement that there would be some uniting of yourself and a group of councillors?-- That's right, and I didn't want it to. I didn't want to operate that way.

And you have indicated on a number of occasions that you were strongly opposed to acting in that way?-- Absolutely.

Yes. Yes, thank you, Mr Clarke. Return that. Just leave it there?-- Put it there?

And I'll have the orderly pick it up.

CHAIRMAN: Yes, Mr Glynn. We're coming up to 1.00. If you just break at a point that's suitable.

MR GLYNN: Yes, thank you. Can I take you back, Mr Clarke, to a point earlier. When you ran as the mayor, what was your position - firstly, did you have a position as regard to whether you would run for a second term?-- I always intended to - can only run for the one term, hopefully get enough through in that time.

All right. Did you explain that publicly at the time of the election?-- I think so. I think it's pretty well known.

Is that still your intention?-- Absolutely.

Okay. Now, my learned friend got onto a topic with you which he then left, and that is about the conversation which was said to have been taped by Councillor Crichlow. Since Councillor Crichlow gave evidence, have you been provided with a copy of the tape-----?-- Yes. Yes, and which I've transcribed.

-----that Councillor Crichlow provided to the CMC?-- Yes, I've been provided with her tape, but nothing from Councillor Sarroff.

Mr Chairman, I don't understand that tape to have been tendered. May I call for it for the purpose of tendering it?

CHAIRMAN: I didn't even know whether we have it, do we?



cd

13122005 D.26 T21/BP17 M/T 2/2005

available, which the witness has told us roughly equate with the transcript that was produced by Councillor Crichlow.

CHAIRMAN: All right. That one will be Exhibit 317.

ADMITTED AND MARKED "EXHIBIT 317"

WITNESS: I've initialled each page.

CHAIRMAN: And does your largesse extend to me, Mr Glynn?

MR GLYNN: Of course, Mr Chairman. Why would I leave you out? And I have one spare copy here should anybody have a need for it.

CHAIRMAN: Thank you.

MR GLYNN: Given what was just said by my learned friend, perhaps I should - this would be a convenient time to break, Mr Chairman, and allow everybody an opportunity to read it.

CHAIRMAN: Just - when you're saying this is highlighted, is the transcript produced by Councillor Crichlow just includes those specific bits that are highlighted?

MR GLYNN: Yes, it's not suggested that what's there is exactly what Councillor Crichlow has transcribed, but it roughly coincides with parts of her transcription.

CHAIRMAN: Yes, all right. 317, and we'll break now and resume at 2.15.

THE HEARING ADJOURNED AT 12.57 P.M. TILL 2.15 P.M.

THE HEARING RESUMED AT 2.30 P.M.

RONALD WILLIAM CLARKE, CONTINUING:

MR MULHOLLAND: There seems to have been, Mr Chairman, some misunderstanding in relation to this tape-recorded conversation and the transcript. I wish to make it plain that we are not seeking to make an issue in relation to the contents of this tape. Apparently it was thought that the transcript had been tendered but it has not been tendered and so in those circumstances I think we're all agreed that neither the tape or tapes or transcripts will be tendered.

XN: MR GLYNN

2360

WIT: CLARKE R W

60

(E)

13122005 D.26 T25/DR26 M/T 3/2005

CHAIRMAN: That's T-A-T-E, is it?

MS HAMILTON: It is, yes, Mr Chairman.

CHAIRMAN: That interview with Mr Tate will be Exhibit 318.

ADMITTED AND MARKED "EXHIBIT 318"

MS HAMILTON: I would also tender a record of interview with Stewart John Hill. At one stage it was proposed to call Mr Hill to give oral evidence. He is ill and has a medical certificate and it appears he will be ill for some time. So at this stage it's proposed to tender his record of interview, Stewart John Hill, on the 13th of October 2005.

CHAIRMAN: Mr Hill's record of interview will be 319.

ADMITTED AND MARKED "EXHIBIT 319"

MS HAMILTON: I would also tender a record of interview with Ian Solomon on the 4th of October 2005.

CHAIRMAN: Mr Solomon's record of interview will be 320.

ADMITTED AND MARKED "EXHIBIT 320"

MS HAMILTON: And, Mr Chairman, Biggs and Biggs have provided a number of statements to the Commission from journalists in respect of articles relevant to the Inquiry. I propose to tender the folder of statements as one exhibit and I will read the names of the witness statements into the record: Alice Gorman (nee Jones); Peter Gleeson; Fiona Hamilton; Joanne Gibbins; Ryan Ellem, E-L-L-E-M; Kylie Hennessey; Brian Mossop, M-O-S-S-O-P; Murray Hubbard and Marilyn, M-E-R-I-L-Y-N, McKenzie. I would tender that folder of nine statements.

MR RADCLIFF: May I speak about that tender. It really causes me some concern that these statements are being received in this manner. I have prepared some submissions which I can hand to you, Mr Commissioner, and I have a copy for my learned friends. I'll allow you first to read that and then I'd like to make some comments.

CHAIRMAN: I'm sorry, I can't hear you.

MR RADCLIFF: I'll allow you first of all to read that and then I'll make some submissions in relation to it.

CHAIRMAN: Yes, thank you. Yes. I must say, is it being suggested that we, by counsel assisting, that we rely upon these statements to prove that a witness said something when the witness denies that they've said it?

MS HAMILTON: Well-----

CHAIRMAN: Well, an example here is Lionel Bardon. I don't know. I'd need to go to the article as to whether Lionel Bardon said that he was the chairman. I know he was portrayed as the chairman, but-----

MS HAMILTON: Well, Mr Chairman, the article doesn't say that Lionel Bardon is saying it-----

CHAIRMAN: No.

MS HAMILTON: -----the article just says, "Businessman Lionel Bardon has been identified as the unofficial "Chairman" of the team."

CHAIRMAN: Yes.

MS HAMILTON: The basis upon which it's sought to cross-examine Ms Gorman is certainly not made clear in this submission.

CHAIRMAN: No.

MS HAMILTON: In particular, nothing is identified with which Mr Radcliff, on behalf of Councillor Shepherd, would like to factually take issue. The only item identified is that Bardon strongly refuted an involvement as chairman. I don't know what that's based on. I don't know that it was actually put to him during the hearing.

MR RADCLIFF: It was.

MS HAMILTON: Well, in any case, the article is not saying that Mr Bardon ever admitted that he was chairman.

CHAIRMAN: That's right. I'd need to go to the article but that's my memory of it, that it's a journalist interpolation that he was chairman which, I suppose, in an election gifts return that goes in in his name might reasonably lead to an inference that he had a fairly significant role in it even though we know that was not true but-----

MS HAMILTON: Well, I could certainly say the Commission is not intending to rely on this article to say that Mr Bardon was the chairman of anything.

CHAIRMAN: No, that's - but I must say I do have some sympathy for the position that in those circumstances - and I think they're fairly rare here which a witness says, "No, I did not

say that." And one example was Mr Clarke said it today. "I did not say that" - then I would think it'd be fairly awkward to be accepting merely a statement from the journalist that the journalist says, "Yes, he did say that in a statement," against the sworn evidence of Mr Clarke that he didn't say it.

MS HAMILTON: Well, Mr Chairman, as you will have observed, Counsel Assisting has been careful to ask any witness who is directly quoted in an article, whether the witness agrees with it or not - I mean, I could say in general terms that I do not - we will not be seeking to rely on a journalist's version as opposed to the sworn testimony of a witness unless that journalist is called.

CHAIRMAN: Yes, all right.

MR RADCLIFF: Well, that alleviates the position somewhat but not entirely. With the greatest respect, this is in an investigation. We've gone at great lengths to deal with it on that basis. Underpinning - or what I've observed from being here, underpinning this has been a document which you've refused to accept in evidence and a number of newspaper articles.

They were Exhibit 3 and they've been pulled out 150 times during this-----

CHAIRMAN: I don't mind going on the basis of what you say, I just don't like the term that this investigation is underpinned by those things that you assume.

MR RADCLIFF: Well, no, we don't know - we don't know but it appears to me-----

CHAIRMAN: You're right, you don't know.

MR RADCLIFF: It appears to me that they are - these newspaper articles were a progenitor of this inquiry to a degree.

CHAIRMAN: What's the problem now when Counsel Assisting - and I can assure you I'll be taking that attitude that no finding would be made against anyone that they said something to a journalist based purely upon an untested statement by the journalist and contrary to the sworn evidence of the witness. So what basis then, apart from that, do you have to object in any way to the receipt of these statements?

MR RADCLIFF: If you look at - if you look at the journalist to which I've referred in my outline of argument and look at her statement alone.

CHAIRMAN: I don't have the statements with me.

MR RADCLIFF: I'm sorry, I thought they were just tendered to you, sorry. We have spare copies.

CHAIRMAN: That folder of journalist statements.

MR RADCLIFF: If you look at the fifth page in.

CHAIRMAN: This is the statement, is it?

MR RADCLIFF: Yes, statement of Gorman nee Jones.

CHAIRMAN: Yes.

MR RADCLIFF: The instance that I'm referring you to, in particular, is about three-quarters the way down that page under the heading, "How a Plot Took Shape". The comment is, "Interviews were conducted by telephone. The shorthand notes that were taken are still in my possession. The story is a true and accurate account of what was said to me." We've not been given the shorthand notes. We've not been given the opportunity to test this witness as-----

CHAIRMAN: Look, I understand all that but what's the point? If there's - if what the witness attributes to someone as a quote, if it's not accepted by that person, we're not going to be relying upon it.

MR RADCLIFF: No, but what-----

CHAIRMAN: So what's the point?

MR RADCLIFF: Because the newspaper article contains the photograph that you would have seen in the montage of people, including my client, as being members of an organisation that breaks the law.

CHAIRMAN: So?

MR RADCLIFF: So you're accepting that without challenge as to how that-----

CHAIRMAN: Mr Radcliff, that's a silly statement, with respect. You're saying "we're accepting that", what do you mean? We're accepting that article or we're accepting the truth of the article?

MR RADCLIFF: Well, the article has been accepted in evidence first of all.

CHAIRMAN: Well, so?

MR RADCLIFF: And secondly, the principal - one of the principal allegations that has been made out in documents that I've seen is that there is a "bloc" or a group of councillors who vote together in party fashion.

CHAIRMAN: What's been produced in evidence has no photographs at all-----

MR RADCLIFF: That has also been tendered, I apologise, it has.

CHAIRMAN: Well-----

(I)

MR RADCLIFF: That has been tendered and was accepted by you as part of Exhibit 3.

CHAIRMAN: Well, presumably, it was tendered by you then.

MR RADCLIFF: It was and it is part - you took it as part-----

CHAIRMAN: How can you complain about it if you tender it?

MR RADCLIFF: Because we wanted to get to the background before - Mr Barden - as to what that photograph depicted. It's not just the content of the typed transcript that you have, it is what was actually put in the public arena. Now, I don't wish to be difficult about this but you go one - and this is not on point with my submissions. But what happened this morning with Councillor Clarke is worse when you look at the statement of Mr Solomon which you haven't read yet.

CHAIRMAN: Hang on. Sorry, if we can just stick with the one.

MR RADCLIFF: All right. Well - yes.

CHAIRMAN: This article,

MR RADCLIFF: Yes.

CHAIRMAN: How the Plot Took Shape.

MR RADCLIFF: Yes.

CHAIRMAN: Is your objection to receipt of this statement by Ms Gorman?

MR RADCLIFF: Yes. It's not sworn.

CHAIRMAN: That it has - sorry, is what?

MR RADCLIFF: It's not sworn, it is a signed document, no more.

CHAIRMAN: Yes, but - yes.

MR RADCLIFF: And it goes to - it has no probative weight. It should either be rejected by you or if it's to be accepted by you it is dangerous for you to receive it in that fashion without having her here to test it.

CHAIRMAN: What is the danger when we said that we would not use any part of it that is contrary to the sworn evidence of a witness before this hearing?

MR RADCLIFF: So therefore we can accept, can we, that the sworn evidence of my client is that there is no bloc then you will accept that evidence?

CHAIRMAN: No, no. Any statement attributed to a witness in any of these articles, all these evidence of what was in the

newspaper is exactly as you said before, is part of the background.

MR RADCLIFF: Yes.

CHAIRMAN: That's all, and they're tendered as part of the background.

MR RADCLIFF: Yes.

CHAIRMAN: Of an article that was printed in the newspaper on that particular day. But if a statement is attributed in here to Mr Molhoek, "They were wanting to check me out," I will not accept that that was said by Mr Molhoek to the journalist unless Mr Molhoek has agreed that he said it. All right?

MR RADCLIFF: All right. Therefore-----

CHAIRMAN: Now in so far as she says there is a voting bloc, of course I'm not going to act just upon the evidence of that witness.

MR RADCLIFF: That it exists.

CHAIRMAN: I'm surprised you would even think that.

MR RADCLIFF: No, no. No, the evidence is - we received a note from - and I don't say this in any way disrespectful-----

CHAIRMAN: Oh, Mr Radcliff, I think we're wasting time. Unless you've got some more coherent sort of objection to this evidence I propose to accept in evidence Exhibit 321, the folder of journalists' statements. That will be utilised in the way we have indicated.

MR RADCLIFF: Well, the record should note that I would ask that that witness be called.

CHAIRMAN: I do not propose to call that witness. Your objection is noted.

MR RADCLIFF: As you will.

CHAIRMAN: Does anyone else have any objection?

MR DEBATTISTA: Chairman, I note my objection for the record. I note that my client indicated that one of the statements made by a journalist as it related to him was false. I object to the truth and accuracy-----

CHAIRMAN: That's in the transcript.

MR DEBATTISTA: -----of that. I appreciate it's in the transcript. I also note, Mr Chairman, I don't object to the exhibit being received and I fail to see, since no one objects to the authorship of those articles, no one has suggested they're not written by the people who appear on the bylines

(K)

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All right. You will note the first paragraph of that document states, "Sue Robbins yesterday named herself, David Power, Ted Shepherd and Bob La Castra as the main players in the election plot to take over the Gold Coast City Council." Do you see that?-- Yes.

All right. How do you react to that statement?-- It's typical of reporting by Alice Jones and the Gold Coast Bulletin. It's a total fabrication.

Well, do I take from that, that you agree with the statement or that you disagree with it?-- Totally disagree with the statement.

Did you ever-----

CHAIRMAN: How can you say it's misreporting? You can disagree with the comment but it might be proper reporting of what Ms Robbins said?-- No, it's not proper - sorry, with 28112005 D.24 T5/LM18 M/T 1/2005

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respect, Mr Chairman, no, it's not because I actually spoke to Sue Robbins about it.

All right. Well, if you tell us that, that then clarifies it.

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MR DEBATTISTA: That was my next question, Chairman.

CHAIRMAN: Thank you.

WITNESS: Yes, sorry.

MR DEBATTISTA: We might move to that. Did you ever have any discussions with Ms Robbins?-- Yes, I did.

About this article?-- Yes, I did.

Can you tell us what the contents of those discussions were?-- Sue was absolutely livid. Sue said that she had mentioned that I was giving assistance to Roxanne, which I was, I made no secret of that. In fact I told as many people as I could that Roxanne Scott was a good candidate and that I was giving her advice, and Sue made it quite clear that that is the only mention that she had made of the fact that I was actually helping Roxanne and refuted categorically that she made any statement along these lines. Because it was clearly untrue. There's no way Sue would have made that statement.

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Did you ever take up this article with anyone else?-- I actually rang The Bulletin about it and I spoke to a senior staff member at The Bulletin. It doesn't actually show in



this - in this exhibit, unless I haven't got to it as yet.

No, there's no photographs of the exhibits?-- Okay, yeah, it's only text. But the thing I think that was most concerning was there is actually a diagram with that which actually shows - it's to do with the Lionel Barden Trust Fund, it shows Lionel Barden at the top, and then it shows myself along with three other councillors and then - I can't remember - I think it was Ted Shepherd, Sue and David, and then it also shows candidates and my guess is they would actually be Roxanne, Brian Rowe, Grant Pforr and Greg Betts, and underneath that there was a picture of Brian Ray and I think Soheil.

All right. What is your concern with that?-- Well, my concern with that is a picture paints a thousand words and quite clearly that diagram is showing that I am actually part of a trust fund and that I am actually connected and I am receiving money from the money men at the bottom, it actually says "The Money Men" and that I am connected to all these candidates and the trust fund.

That's the view that you took when you saw that?-- Absolutely.

All right. And for the record is that correct?-- No. Clearly - clearly not true at all. It's totally misrepresenting the situation and totally misleading, because as I say, that's par for the course and there are plenty of - plenty. I mean, I don't want to be on the stand for a week but if anyone needs

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to - me to point to evidence or situations with the Gold Coast Bulletin misled the public there are countless occasions in the lead up to the election and since the election.

All right. Well, you say you took it up with the Gold Coast Bulletin. What was the-----?-- Yes, I did.

What was the outcome of that?-- I actually rang a senior staff member of The Bulletin and actually spoke to them and said, "This actually is depicting me as receiving money from a trust fund, which clearly I am not. It shows me linked to this money and to these candidates which clearly I'm not. I'm helping Roxanne and that's as far as it goes. But I'm not receiving any money from the trust fund." And the answer to that was, "Well, that's what you tell us but you're probably

getting it under the table in some way so you're probably getting it through the back door," and I promptly hung up.

All right. Did you in fact receive any money from the trust fund or from developers in what might be colloquially referred to as by the back door?-- Of course not.

All right?-- Of course not.

Now, what was your relationship like with Councillor Robbins?-- It was very good. We were - we were very close.

We were actually born on the same day so I used to refer to her as my twin sister although we were like chalk and cheese as personalities. We got on extremely well. In the main, the main reason for that was I like people who call a spade a spade and Sue very much called a spade a spade. So you always knew where you were with Sue. That said, because of that we fought like cat and dog, I suppose a bit like siblings, twins can be that as well, so we fought a lot. We constantly disagreed on issues and when Sue disagreed on an issue Sue would really sort of make it known what her beliefs were.

When you say disagreed on issues, that meant you would vote against each other on the floor of council?-- On - on numerous occasions, on numerous occasions, but as people we got on really well and it was never taken personally, it was just she had her view and I had mine.

All right. I want to discuss very briefly a matter which I'll refer to as the Ecotrans cableway matter. Do you recall a matter of Ecotrans being brought up in council?-- Very much so, yeah.

All right. And was that a development that was substantially in Councillor Power's division?-- Yeah. Ecotrans was actually a tourism infrastructure, it was a cableway they were looking at doing sort of over Tamborine.

All right. And do you recall what Councillor Power's attitude towards it was?-- David was vehemently opposed to it. It actually was in his division. It affected quite a few of his residents. The cableway passed over several of the residents and he was vehemently opposed to the infrastructure going in.

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And do you recall what your own position on the matter

who, after all, went to Quadrant because you suggested there might be funding available-----?-- Yes.

-----that's true, isn't it?-- Yes, that's true, absolutely.

Now, what seems curious just looking at this evidence, Mr La Castra, is why wouldn't they have told you what was going on?

MR DEBATTISTA: Well, objection, Chairman. This witness cannot answer in any way what so ever as to why Councillors Robbins, Power or any other person on the planet did or did not tell him anything. It's not a proper question.

CHAIRMAN: No, he can't answer what was in their mind-----

MR DEBATTISTA: That's right, and that-----

CHAIRMAN: -----but if he has any knowledge in his own mind as to reasons that they didn't trust him or whatever-----

MR DEBATTISTA: Certainly.

CHAIRMAN: -----then he can tell us what he thoughts he has about it.

MR DEBATTISTA: Well, it-----

CHAIRMAN: He certainly can't tell us what was in the mind of Power-----

MR DEBATTISTA: I understood that to be the question. It was a somewhat lengthy question with a bit of a preamble so I may have misunderstood its intent but, certainly, so far as that is - so far as it goes to that extent only, yes, the question is permissible.

MR MULHOLLAND: Yes. Well, is there anything you can think of as to why you wouldn't be told by these people if there was no problem with it, if no-one was concerned about it-----?-- Mmm.

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-----why wouldn't they tell you?-- Well, I can only give a presumption, as I say, as to why. One, I don't think - quite honestly, if I knew about it then I would tell you that I knew about it because, quite honestly, I don't see a problem with the fund being set up anyway.

CHAIRMAN: That's going away from the question you were asked?-- Sorry, I'm sorry.

Are you able to say any reason why - that you know of why those two councillors would not have told you about this fund?-- Thank you. Yes, okay. Well, again, as I say, I can

Yes, all right. Yes, thank you, I have nothing further for the councillor.

CHAIRMAN: Thank you. Yes?

MR TIPLADY: Councillor La Castra, I appear for Councillor Power today. Just a few quick questions also. You're not aware of any voting bloc in the present Gold Coast City Council?-- There is absolutely no voting block.

And you've never reached an agreement or given an undertaking with Councillor Power on how to vote on any issue?-- No, I can honestly say that I've never been asked to - at all by any councillor except - sorry, I'm elaborating too much. No, the answer is no, sorry.

And Councillor Power never said to you or mentioned to you that he was forming a voting bloc in the lead up to the '04 election?-- No, definitely not.

And Councillor Power has never mentioned a voting bloc to you subsequent to the '04 election?-- Never.

Councillor Power has never asked you to mislead the press or anyone on any issue at any time?-- Certainly has not.

Would it be correct to say that you have voted against Councillor Power on development applications during your time in council?-- Yes, I have, on several and on several in his own division.

Earlier Mr Mulholland touched upon the discussion between councillors and seemed to be suggesting to you that there might be something untoward about certain issues not being raised with you. Discussions between councillors. Would it be correct to say the majority of the time it's on council business?-- Discussion with councillors?

Between councillors?-- Yes, well, there's really not very much time to socialise if that's what you're after.

Socialise, that's the point I was trying to make?-- Yeah. Thank you.

CHAIRMAN: Yes, Mr Mulholland?

MR MULHOLLAND: Thank you. Mr La Castra, just going back to the Sunland discount?-- Yes.

You were asked by your counsel as to what, if any, effect it would have had on you if you knew that shortly before that full council meeting on the 22nd of November 2004 Sunland had made a donation which went direct to Quadrant to satisfy part of the outstanding amounts owed to Quadrant in relation to the campaign that we've been speaking about - that is, the

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