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TRANSCRIPT OF PROCEEDINGS

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WEDNESDAY 6 APRIL 2016

BEFORE COMMISSIONER ANTHONY HUDSON

MURRAY SHIRE COUNCIL PUBLIC INQUIRY

1 COMMISSIONER: We will start. Good morning. Before we start,  
2 yesterday Councillor Pocklington gave us a copy of the  
3 agreement, I'd just like to return it.

4 <CHRIS BILKEY, examined:

5 MR BROAD: Councillor Bilkey. Just to commence, I briefly  
6 reviewed the return to work agreement overnight and in  
7 that agreement there was an obligation imposed on you and  
8 the Mayor to meet with the general manager on a weekly  
9 basis to discuss certain aspects of her return to work  
10 agreement. My question to you is whether to your  
11 knowledge, that was communicated to other councillors?---I  
12 don't believe so.

13 There is a reason for that?---I believe that document was  
14 deemed to be a private document on legal advice, and that  
15 as such, wasn't shared.

16 That of course provided an interaction beyond the limited scope  
17 permitted under the Interaction Policy that had been  
18 previously agreed to by councillors?---Yes, but I do  
19 believe it was an agreement that had been sanctioned by  
20 the Safe Work office.

21 COMMISSIONER: That legal advice would have been the advice  
22 from the solicitors acting for the council in relation to  
23 the whole return to work issue presumably?---I  
24 couldn't - - -

25 You (indistinct) know?---No, I don't know where that legal  
26 advice came from.

27 MR BROAD: The issue of leaks was the last topic that we were  
28 discussing yesterday afternoon, and I think there was some  
29 reference by you to a meeting that took place on  
30 24 November 2014 with the general manager. Do you recall  
31 that meeting?---If that's a reference to the meeting that

1 was sought by some councillors to address issues between  
2 the general manager and those councillors, yes, I know the  
3 meeting you're talking about.

4 It's one of those you described that turned into a performance  
5 review?---Yes, that's the one.

6 Can you give an outline of the events that occurred at that  
7 meeting?---My understanding was that it was sought in  
8 order to ostensibly address outstanding issues between  
9 those councillors and the general manager, that was the  
10 way in which it was presented, and once the meeting was  
11 convened, which occurred after a little bit of toing and  
12 froing about the advisability of having the meeting at  
13 all, those councillors quickly abandoned the alleged  
14 reason for the meeting and sought to conduct a, virtually  
15 an inquisition about the general manager's performance,  
16 and it became apparent that that agenda was quite  
17 different to the one that was allegedly sought, and, you  
18 know, as I say in my submission, I wasn't at all surprised  
19 when the general manager left that meeting on that basis.

20 You used the word, "Inquisition". Did the meeting progress to  
21 a stage where it had become an inquisition?---I believe  
22 so, yes.

23 In what respect did it become an inquisition?---They were  
24 questioning a lot of the general manager's actions and her  
25 performance. They asked questions that were not properly  
26 part of the responsibility or the agenda for that meeting,  
27 and would more properly have been undertaken in a formal  
28 performance review, and the implications and accusatory  
29 tone in which they were being asked left no doubt about  
30 their view of the general manager's performance. If you  
31 asked me to recall specific questions, I'd struggle, but

1           certainly the flavour of the meeting was very accusatory  
2           and, as I said, inquisitorial.

3   Can I go to another issue, and that's Deep Creek. Can you give  
4           your understanding of what the Deep Creek issue  
5           was?---Look, I think the initial driver of the Deep Creek  
6           affair was a concern on the part of Councillor Mackenzie  
7           in relation to the tank that he had been told about or had  
8           seen at Deep Creek, and I think that his concern regarding  
9           that tank was perfectly valid, and properly should have  
10          been addressed by council at a time considerably before  
11          the time it was. I think though, that that the Deep Creek  
12          issue really was two issues. One was regard the tank  
13          itself and the need to relocate it or find some preferable  
14          solution to that temporary solution, the other issue was  
15          the way in which Councillor Mackenzie and other  
16          councillors sought to seek a resolution to that against  
17          the advice of council officers, and they subsequently put  
18          themselves in a position that placed the council at some  
19          risk of legal cost, of cost in the dispute that's been  
20          long ongoing with the owners of Deep Creek, so my first  
21          point is that, yes, it was a very valid concern and the  
22          second point is that the way in which it was addressed was  
23          inappropriate, and could have been expedited through much  
24          more appropriate channels including adhering to the advice  
25          of the director of environment and planning, or planning  
26          environment, and seeking a resolution through those means  
27          in a less combative way.

28   You had a discussion with Councillor Mackenzie on  
29          20 March at 12.30. What I'll do is I'll show you a  
30          document which formed the basis of a code of conduct  
31          complaint and I'll just ask that you confirm that that is

1 a record that accords with your recollection of the  
2 event?---I think that's correct, yes.

3 So it was quite clear that in your discussions with Councillor  
4 Mackenzie that this was a potential pollution  
5 issue?---Yes, I believe so, yes.

6 Just looking backwards through those documents, generally there  
7 are a number of emails that pass this advice given by the  
8 Director of Planning and by the general manager, were you  
9 generally brought into those emails? If you'd like to  
10 look at the document I've given you, I think you'll find  
11 it starts on the second page of the documents I gave  
12 you?---Well, I was a recipient of those emails in which  
13 I'm an address clearly. I wasn't aware of other - the  
14 other emails that passed between various parties.

15 All right. There is an email of the 16th of March, time, 12  
16 noon, it's actually on the second page of the various  
17 documents relating to the particular issue, that came from  
18 the Council's solicitors. If I can draw to the second  
19 paragraph, and to the part that says that, "The current  
20 proceedings are unlikely to see a resolution to the  
21 ongoing uncertainty of the sewage treatment at Deep  
22 Creek," and then goes over to discuss those options. Were  
23 you aware of the content of that advice?---I don't believe  
24 so, no.

25 No. Can I take you to the following page, and to an email sent  
26 on the 16th of March, 2015, at 2.41, again, from Michael  
27 Down, who as I understand, is a lawyer?---Yes, I have it.

28 And that advice, the first point, is basically to the effect  
29 that, "Simon and Margot are obviously working towards the  
30 same end to ensure that councillors do not go off and  
31 promise something or make any representations which may

1 provide an avenue for further action by the developers for  
2 anyone else," and then continues, in the last line, "If  
3 they are going to have discussions though, it would be  
4 good to know with whom and what they are asked for, at  
5 least"?---M'mm.

6 And then it continues further, under Point 2, towards the end  
7 of the second line, "Council can't have the proceedings  
8 fetter its obligations to otherwise exercise its statutory  
9 duties, and probably powers. Part of the solution to the  
10 whole of this, is working out what alternatives there may  
11 for the in sewage," and then it concludes, "Any  
12 discussions should be on a without-prejudice basis". So  
13 do you draw from that, the solicitors were providing  
14 warnings but saying the meetings should not  
15 occur?---I think they were indicating that a solution to  
16 the sewage treatment issue was something that Council had  
17 a responsibility to address and that the addressing of  
18 that issue should not be fettered by the considerations in  
19 relation to liability that might accrue as a result of  
20 conversations with the developer, but they were also  
21 warning that any such discussions should not take place  
22 where they didn't need to, and that anybody dealing with  
23 the issue needed to be mindful of the potential damage  
24 that might accrue to the Council of the result of comments  
25 to that developer. But I think the advice is very clearly  
26 that Council has an obligation to address the issue of  
27 potential pollution and that it needs to find a way to do  
28 it without compromising the Council's legal position.

29 And what they said was the issue about the resolving that fell  
30 outside the terms of the litigation, do you agree with  
31 that?---I think they indicated that the Council did have

1 an obligation and a responsibility to, and the powers to,  
2 address that issue without compromising the legal  
3 situation, yes.

4 The part that I quoted to you clearly stated that the  
5 resolution of the sewage issue fell outside the terms of  
6 the litigation?---Yes.

7 Yes.

8 COMMISSIONER: Were you provided in any of the meetings a copy  
9 of the statement of claim of the legal  
10 proceedings?---I don't believe so, no.

11 Just the summary from the Director?---Summary, yes.

12 MR BROAD: Can I now take you to an email, which is over the  
13 page, sent on the 18th of March, 2015, at 3.27 pm, and it  
14 was sent by Mr Arkinstall to Councillor Mackenzie. Do you  
15 recall seeing that email?---Look, I don't recall it, but  
16 I note that I was - no I didn't receive it. Yeah, no.

17 You don't appear to have been copied into it?---No.

18 Would you agree, reading down through that, that was a very  
19 strongly worded email?---Yes, it's quite direct, isn't it.

20 Do you regard it as proportionate to the risk?---I think it  
21 addresses one element of the issue and not the other, that  
22 is it addresses primarily the risk of legal implications,  
23 should the discussions continue. It doesn't address the  
24 issue of how and when the counsel should address the issue  
25 of the potential pollution problem. It's focussed on the  
26 legal issue.

27 Can I take you on to the next page, to an email dated 18 March  
28 sent at 3.37 pm by Councillor Mackenzie. You will see that  
29 you were copied into that email.

30 COMMISSIONER: The one dated - the one from Councillor  
31 Mackenzie?

1 MR BROAD: From Councillor Mackenzie, it commences, "I refer to  
2 my email of yesterday evening, I've had no response".  
3 COMMISSIONER: Yes. Sure?---I note that the timing of that  
4 email is ten minutes after the distribution of an email  
5 from Simon Askinstall to Councillor Mackenzie regarding  
6 the legal situation.  
7 MR BROAD: And the potential risk?---And the potential risk,  
8 yes.  
9 I wasn't trying to gloss over that?---No.  
10 But it certainly clarifies the stance being taken by Councillor  
11 Mackenzie, not so much in relation to the litigation but  
12 certainly into his perception of a pollution risk?---Yes.  
13 Yes.  
14 And again, if I can take you to the next email from Councillor  
15 Mackenzie sent at 4.06, again to Mr Arkinstall and copied  
16 to councillors, and to his statement, "Your advice and  
17 implied threat in your email response is obviously  
18 intended to silence me", would you see that as a  
19 reasonable response to Mr Arkinstall's email of 3.37  
20 pm?---No, I would have, if Councillor Mackenzie was  
21 concerned about the lack of information in Mr Arkinstall's  
22 email to him regarding the pollution risk, then I would  
23 have thought a more appropriate response would have been  
24 to seek such information specifically in relation to the  
25 pollution risk and the actions that the council was  
26 considering undertaking rather than to take a more  
27 antagonistic approach to that email.  
28 Would you see that email from Mr Arkinstall at  
29 3.37 pm on 18 March, and the earlier email sent on the  
30 same day at 3.27 pm, as heavy-handed?---I would see it as  
31 perhaps not holistic in its approach to the matter,

1 insofar as it addressed the legal issue only and that it  
2 would have been advisable to provide some advice to  
3 Councillor Mackenzie regarding the actions that council  
4 should undertake in relation to the sewage risk, so it's  
5 one-sided. I don't think - I think he has a  
6 responsibility to properly inform councillors where  
7 appropriate, of the legal advice that he's received in  
8 relation to something, and I think he's laid that  
9 information out fairly clearly.

10 My underlying purpose for asking those questions is to seek  
11 your views in relation to the role of councillors in  
12 meeting with the public to hearing their views, and to  
13 discuss their concerns, and my question is, leaving aside  
14 the litigation, would that have been a valid thing for a  
15 councillor to have done?---Absolutely.

16 The effect of the litigation was to effectively provide  
17 circumstances where a councillor should tread  
18 carefully?---It constrains councillors in the  
19 investigation of such a complaint, to the extent that they  
20 must act very carefully, you know, cognisant of the risk  
21 the councillor might accrue, but it doesn't disqualify or  
22 in any way reduce the responsibility of councillors to  
23 report on such issues.

24 Look, I'll take you forward to an email of March 19 2015 -  
25 sorry - a record of a telephone conversation. It may be  
26 that I'll have to find it to make it easy for you. If I  
27 can ask you to read that, it's a record of a conversation  
28 between the then Mayor Councillor Weyrich and Councillor  
29 Burke as he then was, and if I can take you to about two-  
30 thirds of the way through that, and the record is to the  
31 effect that Councillor Weyrich asked, "So what happened?"

1 to which Councillor Burke responded, "We listened about  
2 what they wanted to do although there may have been  
3 another agenda going on. There were other things  
4 discussed, they asked all sorts of questions but I kept  
5 out of it because I woke up that this was not what I  
6 thought it was going to be", and then it goes on to his  
7 discussion with Councillor Mackenzie. Beyond that,  
8 Councillor Weyrich is recorded as asking, "Did anyone  
9 admit liability?" and Councillor Burke said, "Not that I'm  
10 aware of". Was that drawn to your attention?---I don't  
11 believe so, no, I haven't seen it before I don't think.  
12 In your meeting with Councillor Mackenzie on 20 March did you  
13 explore that issue with him, whether any admissions had  
14 been made?---No, there were no such admissions made.  
15 Sorry?---There were no admissions made in relation to what  
16 occurred at the meeting at Deep Creek.  
17 I'm sorry, when you say there were no admissions made, did you  
18 ask him what had occurred and did he tell you?---My  
19 recollection of that conversation was related to the  
20 sewerage tank itself. We do kind of get a little - there  
21 is sometimes some misunderstanding in relation to which  
22 sewerage plant, whether that relates to the - - -  
23 COMMISSIONER: The big one they built or the little one that's  
24 on the - - -?---Yes, exactly, and I know that there'd been  
25 an ongoing dispute regarding how sewerage at that site  
26 should be managed, who should contribute to its payment  
27 and so on, and I believe that the owners were quite keen  
28 to see a contribution from council either in terms of  
29 buying the plant itself and operating it as a resolution  
30 of this issue, because it was proven problematic for  
31 themselves to operate it.

1 In a sense, that's the bigger issue, if you like, which is the  
2 subject of a litigation?---In the sense that's - yes, and  
3 it appears to me on the basis of that transcript of that  
4 conversation, that the original agenda in going out there  
5 may not have been the plastic tank on the riverbank at all  
6 and that that was shown as part of the larger picture.

7 From the people who were taking the litigation against the  
8 council?---Yes.

9 Yes?---Indeed. But here I'm speculating.

10 Yes.

11 MR BROAD: Those actions were of course the subject of a  
12 conduct complaint?---I wasn't aware of that.

13 I'm sorry, I'll show you a report?---Yes, I beg your pardon,  
14 there was a conduct complaint in relation to Deep Creek, I  
15 beg your pardon, there was. I thought you meant my  
16 conversation with Councillor Mackenzie. Yes, I have seen  
17 this.

18 Please excuse my notations on it. One of the issues I went  
19 through with Councillor Pocklington was the quality of the  
20 evidence that is adduced in support of the findings, and  
21 what there appears to be, and I'll paraphrase it if I may,  
22 is an assumption, or a number of assumptions as to what  
23 may have occurred in the absence of evidence being  
24 provided, and on that basis a positive finding. Can you  
25 tell me what your approach was in reviewing this report  
26 and in dealing with that report when it came before  
27 council?---The criteria I think that we described in  
28 relation to determining outcomes in this as in other code  
29 of conduct complaints was as you've described yesterday I  
30 believe the balance of probabilities rather than a beyond  
31 reasonable doubt approach, and it was those - it was that

1 criterion that was uppermost in my mind in making a  
2 judgment about the validity of the outcomes that were  
3 presented in this report. As such I was accepting of the  
4 outcomes of that report as being a reasonable conclusion  
5 to have drawn.

6 You didn't regard statements that it is considered, and I'll  
7 actually quote them directly, you took the view that the  
8 statement as occurs at p.31 before the heading was a  
9 matter brought to council in a confidential report. If  
10 you look at the paragraph above, there's a statement in  
11 the second sentence, "We find it highly unlikely that  
12 matters pertaining to Deep Creek development were not  
13 discussed with the third parties". That to you formed a  
14 basis of proof?---Yes, I accepted that and I think it's  
15 supported somewhat by the evidence that Councillor Burke  
16 has subsequently given, "There are other things discussed  
17 but not with me", so it does appear that there were other  
18 matters discussed besides the plastic tank.

19 Following forward, p.33, the third last paragraph, it  
20 commences, "The meeting was clearly held at Deep Creek"  
21 and if I can take you to the concluding sentence which  
22 reads, "Therefore, in our view, it is highly unlikely",  
23 it's a negative?---I think that's less strong, certainly.

24 Can I ask you at this stage, was there a pervading flavour  
25 between the councillors that had grown - was there a  
26 feeling that you, and I don't like to use the words,  
27 "majority of councillors" but councillors who you saw as  
28 being in one grouping, were in some instances  
29 diametrically opposed to the views of other  
30 councillors?---That's certainly the case on a number of  
31 matters, it is absolutely not the case on perhaps the

1 majority of issues that came to council, but certainly on  
2 numbers of key matters yes, there are diametrically  
3 opposed views.

4 And behaviourally?---Behaviourally, yes, certainly.

5 Can I now deal with the Macleay Report and I'll take the  
6 opportunity of picking those documents up from you, what's  
7 your view of the Macleay Report?---I think the Macleay  
8 Report provided for the first time, the opportunity to  
9 evaluate behaviours in context with one another that a  
10 series of behaviours constituted the complaints that were  
11 subject to that investigation, and because they were  
12 investigated by the same investigator, that investigator  
13 had the opportunity to look at a pattern of behaviour  
14 which wasn't afforded to other investigators investigating  
15 a single complaint. I think that's the major strength of  
16 that report, that it was able to make judgments about  
17 patterns of behaviour rather than individual behaviours.

18 Councillor Bilkey, were you aware that the conduct reviewers  
19 were given a summary document entitled "Issues at Murray  
20 Shire in 2014 and 2015"?---No.

21 It's referred to in that report that I just gave you?---Okay.

22 If I can indicate, it's a summary document giving historical  
23 background of issues within council?---Provided by?

24 This was provided through Mr Higgins, the complaints  
25 coordinator. Were you aware of that being provided?---No.  
26 Don't recall that.

27 COMMISSIONER: It looks like that. I mean, I'm not asking you  
28 to read it but that's just what it looks - - -?---I can't  
29 recall it. No, I don't recall it.

30 MR BROAD: Councillor Bilkey, have you lodged any code of  
31 conduct complaints?---Yes. One, against myself.

1 Against yourself?---Yes. Self reported. That's all.  
2 What, you indicated that you?---I indicated that I  
3 inadvertently sat in on a matter in which it might be  
4 perceived I had an interest.  
5 A conflict of interest?---Yes.  
6 To your knowledge, have any code of conduct complaints been  
7 made against you?---Not to my knowledge.  
8 Your, and I don't know to the extent that we've dealt with this  
9 more fully yesterday, your submission refers to three  
10 occasions when there were motions to seek to have the  
11 general manager stood down or seek her resignation. I  
12 know there was one prepared for the meeting of 19 January  
13 2016. Can you indicate the other times that  
14 occurred?---May I refer to some notes?  
15 COMMISSIONER: Yes.  
16 MR BROAD: Of course.  
17 COMMISSIONER: I might be able to help you with it, think about  
18 23 June 15 and September 15?---Yes, certainly on 23 June  
19 there was an attempt to have a resolution passed to have  
20 Margot stood down, and I believe that was defeated on the  
21 5/4 lines or probably 4/4 lines at that stage, I'm not  
22 sure, with using the Mayor's casting vote. The other one  
23 was when?  
24 29 September perhaps. 29 September 15?---Yes, and that  
25 occurred during a period in which the general manager was  
26 off work I think on a work-related injury.  
27 That's when we're getting into the period when personal  
28 negotiations are happening about her coming back to  
29 work?---That's right, that's immediately following the - I  
30 think it was the first meeting after the mayoral election  
31 in which Councillor Pocklington was - - -

1 We spoke about it yesterday, yes.

2 MR BROAD: One of the matters you refer to in your statement to  
3 Janice Macleay is a meeting that occurred at Mathoura and  
4 issues - I'll seek it out, it's probably better I do it  
5 that way. Can you outline the events that occurred in  
6 relation to that?---To the best of my memory a memo had  
7 been sent by the executive assistant for the general  
8 manager to the effect that an annual photograph would be  
9 taken of councillors prior to or during the meeting at  
10 Mathoura and that councillors were requested to be aware  
11 of that and wear appropriate clothing, and I arrived at  
12 the meeting prior to the meeting to find the general  
13 manager standing outside the doors here, spilling a cup of  
14 coffee and obviously clearly distressed. I asked her what  
15 the issue was. She replied to me that she'd been abused  
16 and intimidated by Councillor Mackenzie, the words I've  
17 quoted in the submission are accurate to my recollection,  
18 and that when I quoted those words back to Geoff some time  
19 later, he acknowledged that he had said so and asked  
20 "What's the problem?" or "So what?"

21 Councillor Bilkey, can you indicate your view whether the  
22 current councillors are dysfunctional and whether in your  
23 view they cannot operate together?---I believe that the  
24 current council as it is constituted now is dysfunctional  
25 and cannot operate effectively, and a number of reasons  
26 for that, one I believe is there's a demonstrated history  
27 of this council and some councillors being unprepared to  
28 observe the requirement for confidentiality in relation to  
29 confidential matters, another is that there has been a  
30 history of seeking to undertake the passing of unlawful  
31 motions, in addition there's a fairly long and significant

1 record of misbehaviour and findings of breach in relation  
2 to those misbehaviours which show no sign of abating. For  
3 those reasons and others I think the council is  
4 dysfunctional.

5 Councillor Bilkey, what sort of response have you had from the  
6 community as a councillor throughout the period since your  
7 election and also since the inquiry was  
8 announced?---Leading up to the announcement of the  
9 inquiry, I believe the attitudes that have been fed back  
10 to me by the community have been increasingly despairing  
11 of the level of disputation within the council and the way  
12 in which the council's business, sometimes confidential  
13 businesses, appear on the front page of the local paper,  
14 and of the behaviour of some councillors which has become  
15 apparent through those articles and through other means,  
16 has been inappropriate behaviour for people representing  
17 the community. Since the inquiry has been announced, I  
18 believe that there overwhelmingly the feeling has been one  
19 of relief, that this constitutes a circuit breaker and  
20 potentially a resolution to the ongoing issues.

21 Moving now to the terms of reference, can I ask you for your  
22 views in respect of each of the terms of reference. The  
23 first term of reference asks whether the elected  
24 representatives and staff have, since the appointment of  
25 the current general manager, complied with applicable  
26 laws, codes, administrative procedures and policies, and  
27 fulfilled its and their duties, powers and functions,  
28 particularly in relation to relationships between  
29 councillors, the general manager and senior and other  
30 staff?---In relation to matters other than those you  
31 identify under "particularly" I say yes they have

1 fulfilled their obligations. In relation to those  
2 matters, I think it's a resounding no, that the behaviours  
3 and activities of some councillors have fallen well short  
4 of the standards required by the code and by general  
5 community expectations.

6 Can I seek the same response in respect of the second term of  
7 reference which is as follows: whether the Council has,  
8 since the appointment of the current general manager,  
9 complied with its Work Health & Safety obligations as the  
10 general manager's employer?---Clearly, no.

11 Turning to the third term of reference, again, I would seek the  
12 response, whether the elected representatives have been  
13 and will continue to be in a position to direct and  
14 control the affairs of the Council, in accordance with the  
15 Local Government Act and other relevant Acts, so that  
16 Council may fulfil its Charter, the provisions of the  
17 Local Government Act 1993 and otherwise fulfil its  
18 statutory functions and obligations?---No.

19 Thank you.

20 COMMISSIONER: Just a couple of very specific little questions  
21 before you step down, in the Resolution of the Council to  
22 bring back the general manager, it says, "Council  
23 authorise the mayor," this is on the 29th of September,  
24 "Council authorise the mayor to represent the Council in  
25 the legal proceedings relating to the general manager," we  
26 had heard about that yesterday. What did you understand  
27 by that resolution??---That it superseded a previous  
28 resolution.

29 The one before on the 15th of September about doing the  
30 investigation and so forth?---Yes, yes. That it  
31 superseded that resolution and it gave the mayor the

1 authority to act on behalf of Council in relation to  
2 negotiating that return to work.  
3 That is how you - - -?---That is how I perceived it.  
4 It was a full delegation to him to do that?---Yes.  
5 In accordance with the verbal report that he gave, that he told  
6 us about yesterday?---Yes, yes.  
7 In Councillor Campbell's submission to the Inquiry, she, you  
8 don't have this, I will just quickly ask you a couple of  
9 questions, just because she mentions you specifically, it  
10 might be easier just to show you this. I will read it out  
11 and make sure - you know what that - before you answer, do  
12 you know what it is about?---No, I do not, no.  
13 So what that was about is that, it says, "Soon after my  
14 appointment, Councillor Bilkey, soon after my appointment  
15 to Deputy Mayor, stated at the council meeting, 'Given  
16 your history, it wouldn't be acceptable to attend the  
17 meeting with the general manager,' or words to that to  
18 effect". I assume that probably that means attending the  
19 meeting about the - back in Melbourne, for  
20 the - - -?---I can only assume what it meant. I certainly  
21 wouldn't have made such a comment in relation to other  
22 allegations - - -  
23 Anything else? I mean, do you agree that that is  
24 probably - - -?---That is the most likely explanation  
25 I would think.  
26 And is that what you believe, too? Would he have said  
27 that?---Yes, I do.  
28 I do not quite understand that bit. I am sure Councillor  
29 Campbell will tell us that. Now the only other thing is,  
30 we talked about the resolutions. Also, in the submission,  
31 the same submission, it says, "Councillor Burke was

1 systematically targeted by ruling faction," that would  
2 have you, or part of your team, so to speak, or be the one  
3 you were thinking, just your response to this, it says  
4 specifically, "Councillor Burke was systematically  
5 targeted by the ruling faction supported by the general  
6 manager"?---I do not believe that is true. In fact, I,  
7 many times, found myself on the side, on the same side as  
8 Councillor Burke, on a number of matters, and I felt that  
9 of that four, he was the most amenable to logic and  
10 persuasion and likewise, he often raised issues that  
11 convinced me of their wisdom as well, so I have a better  
12 working relationship with Councillor Burke than I did with  
13 any of the other three.

14 Thank you. And the last thing - - -?---Which is not to say  
15 that I didn't have a disagreement with him.

16 No, no, of course not, yes. The last thing is on the 20th  
17 of October, there was a meeting which was the welcome back  
18 to the general manager, and in the general manager's  
19 notes, she says, "In order not to vote, Councillor  
20 Mackenzie to lodge a declaration of interest," and it is  
21 asserted that this was your motion to welcome back the  
22 general manager, is that correct?---That is true.

23 That was, literally that "welcome back, general manager," that  
24 type of motion?---After a prolonged absence at work, yes.

25 Yes, of course, yes. And that is correct about, that  
26 Councillor Mackenzie didn't vote in that. Do you recall  
27 that?---Yes, indeed, yes.

28 What did he say was, did he say anything about what the  
29 interest was, or did explain it?---He muttered something  
30 on his way out of the room, which I understood later  
31 referred to his contention that he had a legal action

1 pending against the general manager and therefore was  
2 conflicted, which raised to me the interesting question of  
3 why he remained in the room, and a whole host of other  
4 matters in relation to the general manager.

5 Do you if there was any legal action between him and the  
6 general manager?---I have not heard from him, no.

7 Thank you?---The other point I had make is that that motion to  
8 welcome the general manager was one of two motions I had  
9 on the paper that day, and the other motion was to thank  
10 the executive staff who had managed - - -

11 The work?--- - - - the business of the Council - - -

12 In the meantime?--- - - - in the absence of the general  
13 manager.

14 Okay, that is all. Anything further, Mr Broad, from the  
15 Council?

16 MR BROAD: No.

17 COMMISSIONER: Thank you very much, Councillor?---Thank you.  
18 So we move to Councillor Weyrich. Thank you, come in, just  
19 take a seat.

20 <TOM WEYRICH, sworn:

21 COMMISSIONER: Thank you for coming this morning, close, not  
22 quite 10.30 but close. Could you just tell us when you  
23 were, how long you were a Councillor? When you came, that  
24 very short background is asked of everything, just  
25 to - - -?---Sorry, could you repeat the question?

26 Can you just give us a summary of when you first were elected  
27 to Council, however many times, and when you became mayor,  
28 just to - - -?---I was first elected in 1999.

29 Yes?---And re-elected at every election since.

30 So you have been on the Council since 1999?---Correct.

31 And the time that you were mayor?---From 2012 to 2015.

1 And that was the only time that you were the mayor?---Correct.

2 Thank you?---I was deputy mayor from '01 to '06, '05, sorry.

3 '01 to '05.

4 Deputy, right.

5 MR BROAD: Councillor Weyrich, what I am intending to do is go  
6 through, get a bit of general information, rather than  
7 starting on precise topics, at the outset, and just  
8 wanting to get your understanding of what the role of the  
9 mayor is. So if you can indicate what you regard the role  
10 as the mayor as being?---The Council sets the policy for  
11 the Council and the GM puts those into place. I see the  
12 role of the mayor as convening and running the meetings  
13 and setting in place boundaries that should not be -  
14 I would state them. Look, it is a very complex thing, to  
15 be the mayor. You have a position in the community that a  
16 lot of people look up to you and a lot of people have some  
17 misgivings about what the role of the mayor but by and  
18 large, I saw it as being the convenor of the meetings and  
19 running of the council meetings.

20 And in part, you also have a casting vote where voting  
21 tight?---Correct.

22 And in respect of the mayor, you have got certain ceremonial  
23 functions?---Yes.

24 And you have got powers to make decisions for council in times  
25 of emergency or over certain breaks?---Yes.

26 As a councillor, what do you see your role as being?---A leader  
27 in the community and someone who attends council meetings  
28 to form policy for council and to make decisions on  
29 planning matters, to put the council in a position whereby  
30 it is able to make the right decision in relation to the  
31 wellbeing of our communities.

1 And council makes its decisions at meetings?---Correct.  
2 And in relation to meetings, meetings proceed on the basis of  
3 the business paper?---Yes.  
4 And that business paper can be long?---Yes.  
5 Particularly when you have got development  
6 applications?---Sure.  
7 In dealing with council's business, what is your approach to  
8 going through and understanding the business  
9 paper?---Look, I think at times, it was nearly impossible  
10 to get through a business paper, given the short time  
11 spans. For a long, long time, we received the business  
12 papers on a Thursday for the council meeting the following  
13 Tuesday, and on occasions, it was very difficult to get  
14 through it all. In my mind, I thought I had been there  
15 long enough to - particularly when it came to  
16 environmental services reports, some of them are very  
17 large, and some of them are a duplication of other  
18 planning matters, and I certainly did not read each and  
19 every page because there just was not enough time,  
20 physically, there was just not that time, and I think that  
21 after a period of time, you become au fait with the  
22 workings of council, and look, prior to myself being the  
23 mayor, we certainly had every opportunity to ask questions  
24 of senior staff, you know, directors, in relation to all  
25 matters, and I just continued that on.  
26 At meetings, the general manager would of course  
27 attend?---Sure.  
28 The directors would attend, and so, councillors or yourself,  
29 councillors could, through you, ask questions of the  
30 staff?---That is right.  
31 And to -through the general manager, and I understand that in

1 the current term, there was also a workshop or a briefing  
2 period prior to the meeting that took place?---Yes, that  
3 only came into place - look, it has not been that long,  
4 maybe - look, I doubt it would be twelve months. I would  
5 have to check it, but it has not been in place that long.

6 Did you find it useful?---No, not at all.

7 Why not?---Well, I'm probably a little different to the rest.

8 I rely on my moral compass, and so far it has held me in  
9 pretty good stead. Having said that, I think it was a  
10 formality that we could well have done without. I think  
11 one of the great things about the Murray Shire has always  
12 been that - well, I believe has always been that if  
13 members of the public wish to come along to a meeting,  
14 they can see firsthand what the attitudes and the ideas  
15 and the way - the voting patterns of councillors. I think  
16 that worked pretty well.

17 Did many residents come along to meetings?---No, no. Unless  
18 there was something of some, you know, significance. We  
19 had a few meetings where the gallery was absolutely  
20 packed, you know, there was a football club issue here,  
21 there was a chemist shop, a few other matters where we had  
22 large amounts of people but by and large, no.

23 So you probably have proponents for development matters and  
24 those sorts of people otherwise.

25 COMMISSIONER: Yeah. The DA, was it some of those ones?---Yes.

26 Or that particular football issue which was seized up?---Yeah,  
27 because there was a lot of community interest in that  
28 particular issue, and having said that, we certainly had  
29 one or two regulars that you could nearly say were there  
30 at each and every meeting. Members of the public who just  
31 wanted to come along for whatever reason, yeah.

1 MR BROAD: Is this a council where things proceed in an orderly  
2 way and there are not that many major issues that  
3 arise?---Yes, yes. You know, look, if I can be a little  
4 bold, and jump to the end here, it is my personal view  
5 that the decisions that came out of Murray Shire since the  
6 day I have been here, by and large, have been the right  
7 decisions, and that includes the last three years,  
8 I think, despite what we are here for, I think the  
9 decisions that went out the door were by and large the  
10 right decisions. And look, I did not agree with each and  
11 every decision but I accept democracy and that is just how  
12 it is. But by and large the place worked pretty well,  
13 I think.

14 And so there wasn't major contentious stuff that was coming in  
15 the business papers of council?---No, not really, there  
16 was always the odd one, but by and large, no, no.

17 And as far as you are concerned, was council was getting  
18 through its business?---Yes, absolutely.

19 All right. And were you having to adjourn meetings to complete  
20 the business?---I can only recall once I think that  
21 happened. We had some days, certainly we had some big  
22 meetings where it went on. You know, we might have  
23 started at 10.30 or 11 o'clock and we were still there at  
24 6/6.30. They were big days, big meetings, but given that  
25 we are in the country and people, you know, we have a  
26 couple of councillors that are on farms and kangaroos are  
27 an issue travelling at night. You know, we got through  
28 it. The meetings - you know, had the meetings start early  
29 - I did not think there was much resistance to starting  
30 early.

31 Was there a clear - I will probably go back one level. The

1 Local Government Act differentiates between matters which  
2 fall under the responsibility of councillors, and those  
3 which fall under the responsibility of staff, the latter  
4 matters, of course, are referred to as operational  
5 matters. Were there issues in relation to councillors  
6 trespassing into operational issues?---That is a good  
7 question and - - -

8 COMMISSIONER: Obviously, in the period we are talking about,  
9 that is why we are here?---Yeah, look, interfering, no,  
10 but certainly questioning some of the decisions that were  
11 made by senior staff. I am not aware of any councillor  
12 who directly went to a director and questioned them on a  
13 matter. Look, it is very difficult in a country setting  
14 to not - like, we all know each other, we all - you know,  
15 look, for a long time, it worked very well. When I was  
16 just a councillor, for many, many years, if I saw a  
17 director in the street, I could have conversation about  
18 anything, because I always treated them with respect that  
19 they were due, and honestly, I am not aware of any issues;  
20 certainly that changed with this current council because,  
21 you know, some of the remarks and some of the accusations  
22 were not warranted. I did not think, I thought a few of  
23 the comments were probably a little over the top, but  
24 mostly at a council meeting, like, we have a meeting in  
25 this room, and a councillor might just say something  
26 about, to a director, that I felt was inappropriate.

27 MR BROAD: What was your response in those circumstances, as  
28 mayor?---Well, immediately, I would ask that councillor to  
29 cease and desist, and depending on what was said, I would  
30 ask them to retract it. Most of the times, they stopped,  
31 one or two occasions, they chose not to, and, look,

1 hindsight is a wonderful thing, and you know, I certainly  
2 made some mistakes, I acknowledge, as the mayor, in  
3 running the meetings, I understand that, but once again,  
4 you know, we are small rural country New South Wales  
5 council in the backblocks of New South Wales. We all know  
6 each other, we all know how we operate, we all know how we  
7 think, and you know, we have some headstrong councillors.  
8 You have to be headstrong to be a councillor, and you have  
9 to be very, you know, and I am probably preaching to  
10 people who already know this but we had some strong  
11 characters - we have some strong characters and we have  
12 some characters that are not so strong; it is a gigantic  
13 clash of personalities that has put us where we are.

14 But you have to be pretty thick skinned?---I am pretty thick  
15 skinned, do not worry, and I am well aware of the  
16 comments that have been made about me in the last of  
17 couple days like a media whore and a wild maverick. I am  
18 aware of all those. They just, you know, they are  
19 nothing, I do not - - -

20 Councillor - - -

21 COMMISSIONER: Sorry, just - is that like a little summary  
22 (indistinct), a gigantic clash of personalities, it's  
23 almost like a - - -?---Yeah, look.

24 In a very broad sense about what we're here - why we're here,  
25 really?---Exactly, and look, if I can be a little brave,  
26 my view of it is had OLG intervened a long time ago, and  
27 all they had to do was come down here and look at a couple  
28 of the issues, it could have been straightened out then.  
29 Well, they did come down, though?---You did but you didn't come  
30 back.

31 It's not me?---Sorry, I'll separate the Commissioner, the

1 Commissioner is not part of this.

2 I'm definitely not part of the OLG?---Sure, okay, I take your  
3 point, I take - - -

4 MR BROAD: That's all right, I'll just - I'll make it also very  
5 clear, while I am an employee of the OLG, in conducting  
6 this role assisting the Commissioner, I in no way am an  
7 advocate for nor do I defend the OLG. I'll make that very  
8 very clear, so if you have a view about the OLG please, I  
9 won't stop you saying it?---Well, look, there were  
10 complaints going to - - -

11 You're not alone, by the way?---Sorry?

12 You're not alone?---Yeah.

13 Okay?---There were complaints going to OLG left right and  
14 centre, and quite a number, and I know they were, and a  
15 number of occasions I rang OLG and I spoke to a couple of  
16 people at OLG and it was always, "Will somebody please  
17 help me? Somebody please come here and help me." It was  
18 the situation that was deteriorating at a rapid rate, and  
19 when I say deteriorating at a rapid rate, what I'm  
20 referring to is the council to council, councillor to  
21 councillor interactions and, you know, innuendoes and  
22 rumours and - and it was just - it just got out of hand,  
23 it just - and there were a couple of instances where I  
24 thought, and - and I heard you speak before to Councillor  
25 Bilkey about the sewerage tank out at - that was one that  
26 could have been quite easily nipped in the bud really  
27 early and saved everybody a whole lot of grief, and OLG  
28 got involved in that and they never should have got  
29 involved in that, the issues should have been fixed, could  
30 have been easily fixed, and I believe if my memory serves  
31 me correct, that I signed - one of the last things I did

1 as Mayor was sign an emergency release of funds to have  
2 the problem fixed. There is the clash of personalities.  
3 Councillor Mackenzie is very passionate about the river,  
4 he's on the Murray-Darling Basin Association. The GM,  
5 look, I believe she did everything that she could, but it  
6 could have - the whole thing just got out of hand, it just  
7 got out of hand, and the proper way to do it in my view,  
8 in that particular instance, was bring it to council as  
9 Councillor Mackenzie did, and it should have been dealt  
10 with nearly immediately. Everyone agrees that that was  
11 the wrong place for that septic tank, for want of a better  
12 word, that sewerage tank, to be where it was. No one  
13 disagreed. EPA.

14 It was meant to be temporary?---Yeah, exactly. The EPA were  
15 aware of it, didn't like it, but were prepared to accept  
16 it until council could come up with something else. All  
17 it took was a report to go to council to say, "Look, we  
18 need to deal with this sooner rather than later". You  
19 know, the fact that Councillor Mackenzie is very  
20 passionate about it just increased the amount of  
21 volatility in it tenfold. Could have been easily fixed.

22 MR BROAD: Councillor Bilkey described the hurly-burly of  
23 council and I think that's recognised, that there is an  
24 element of passion?---Sure.

25 And there is an element of passionately putting forward your  
26 views as a councillor?---Yep.

27 Has the behaviour of councillors gone beyond simply hurly-  
28 burly?---That's a tough question. Probably borderline.  
29 Borderline. It's like I say, it's very - - -

30 COMMISSIONER: You've been a councillor since 1999 so you've  
31 seen a few council matters?---I have, I've seen a few,

1 I've seen some, what I consider to be very good  
2 councillors, seen some bad councillors, my overview of it  
3 is that there's a fair bit of argy-bargy goes on and,  
4 look, let me also say I was very lucky to be involved in  
5 some very very good councils where everyone was pretty  
6 well behaved except me on occasions, and that was a  
7 deliberate act on my behalf at that time. This particular  
8 council is just a gigantic clash of personalities. I  
9 can't, I cannot reiterate that - and everybody's gone into  
10 lockdown mode, everybody is now, we're at each other's  
11 throats all the time, and I'm very disturbed to hear some  
12 of the derogatory remarks made about me in the last couple  
13 of days - hence that's why I left yesterday because I  
14 couldn't contain myself.

15 MR BROAD: One of the purposes of this inquiry is to allow  
16 people to put evidence on the table?---Sure.

17 And we're tending to go through a series of questions to allow  
18 everyone the opportunity to speak. This inquiry is an  
19 evidence gathering process, not a blame gathering  
20 process?---That may well be but from what I'm hearing  
21 there's been a fair bit of blame.

22 COMMISSIONER: Well as part of it, there's going to be - people  
23 are going to assert all sorts of things against each  
24 other, that's the nature of it, but you've got an  
25 opportunity to say what you want to say too?---I get that  
26 and I'll keep my bullets dry till later.

27 That's all right.

28 MR BROAD: Okay. What I got to is the process in which council  
29 operates and we got through basically meetings, we have  
30 resolutions passed and those resolutions form the  
31 decisions of council. The general manager has a

1 responsibility for implementing those decisions. Now,  
2 there - you've talked about headstrong councillors and  
3 councillors having strong views. Were the resolutions  
4 made by council passing down and being implemented by  
5 staff?---Yes.

6 There was no impediment to those resolutions being acted  
7 on?---Certainly not that I'm aware of.

8 Okay, and I got to a question about differentiation between  
9 operational and governance issues, and I think you'd  
10 indicated that councillors largely knew their role and  
11 didn't trespass?---Yeah, look, I'd have to agree with that  
12 and I'm certainly aware that there is a particular issue  
13 that you're probably alluding to, and that goes back to  
14 this sewerage thing, but, yeah, look, I wasn't privy to  
15 any conversations. I - you know, my information is  
16 hearsay and I don't listen to rumours.

17 Okay. To your knowledge - I'll differentiate this in two ways  
18 - council had an interaction policy which covered the  
19 interaction between councillors and staff, and you've  
20 indicated that you would see directors and be able to  
21 discuss things freely. In the early part of the current  
22 term of council, how was the interaction operating? Now,  
23 I'll single out the period which really goes back a bit  
24 before the commencement of this inquiry when Mr Murdoch  
25 was the GM. How was that operating?---I thought it  
26 operated okay. Look, it was okay, but it was clear that  
27 there were - look, the day I was elected mayor, I said,  
28 "Tighten your seatbelts, you're in for a rough ride", and  
29 I said that because I knew the make-up of the councillors.  
30 I know them all, at that time, apart from Sue Mulcahey,  
31 she was the only councillor that I didn't know anything

1 about, but I certainly knew the rest and I knew what was  
2 coming, and the interaction in the early days, look - - -  
3 COMMISSIONER: Because, sorry, you're the mayor from the first  
4 - when this election happens in 2012 aren't you?---Yeah,  
5 yeah, and I might remind you that within six months of  
6 being elected mayor I had two councillors resign.

7 Yep?---I had, within the next six months I had the general  
8 manager of some 20 years resign, and everyone's an expert  
9 in hindsight, but I can tell you there were some days  
10 there where I was absolutely beside myself. I'm charged  
11 with running the whole shire and the council. I nearly  
12 burst into tears one day because I didn't - I didn't have  
13 the credentials at that time, it was a steep learning  
14 curve, and I've always said the jump from councillor to  
15 mayor is immense.

16 A big deal?---It is - and if you haven't done it, you wouldn't  
17 know just what it involves. Getting back to your question  
18 about interaction, my personal view of it was that a  
19 couple of councillors probably needed to be - I'm  
20 struggling for words here - there's a learning process  
21 that you go through when you become a councillor, you  
22 know. When I first became a councillor I was going to do  
23 wonderful things, but it didn't take me long to figure out  
24 how it all works, how the system works, and that's -  
25 there's nothing wrong with that, because the general  
26 community, you know, perceived councillors as - well, they  
27 have all have different perceptions, but, you know, we're  
28 some super-duper people who can fix anything and  
29 everything, when in actual fact we can't. You have to  
30 play the game, you have to be a team member, you have to  
31 get on with your other councillors whether you like it or

1 not. If you want to achieve things in council, the way to  
2 do that is to get along with other councillors, and I  
3 learned some lessons very quick, I can tell you, very  
4 quick.

5 So is that part of the transition of knowing you can get  
6 elected and you're on a platform and you do - make great  
7 things and then when you get in there you realise there's  
8 a corporate body and you've got to deal with  
9 that?---Exactly, and I felt that there was a learning  
10 curve that - - -

11 So that distinction, you thought, wasn't quite being  
12 understood?---Exactly.

13 And how those two rules work together?---Exactly, and getting  
14 back to the headstrong councillors, we've got a couple  
15 that are very headstrong and very not hesitant in telling  
16 you their views, and I'm probably a little bit different  
17 to the current mayor, I'm a great believer in free speech  
18 and I'll get to that later, but I was probably prepared to  
19 let things go.

20 That's the meeting issue about - we'll come to that  
21 (indistinct), yep?---I was - yeah. Perhaps I should have  
22 nipped it in the business a couple of times, some of the  
23 conversations in relation to that, but, no, it was early  
24 days and they were pretty heady days, I can tell you.

25 MR BROAD: Moving forward, you've got two councillors who have  
26 resigned, you've got a general manager who's resigned,  
27 you've got two new councillors who came onto council.  
28 What were the dynamics at that stage?---And look, I've  
29 heard - I've heard a lot of talk about sides. Now, I  
30 don't see that - - -

31 COMMISSIONER: About what, sorry?---About sides, like, you

1 asked me a question about the dynamics of the council, you  
2 know, we've got this side and we've got this side, and I  
3 don't - look, and I know a lot of people put a lot of, you  
4 know, think that is a major factor in all of this, and I  
5 don't see it that way to be honest with you. The dynamics  
6 didn't change that much. Couple of new personalities that  
7 - yeah.

8 MR BROAD: You talked about the understanding, your  
9 understanding of the role as mayor, and you talked about  
10 the understanding of councillors of their role. Was there  
11 a formal induction process after the 2012 election?---Yes.  
12 Yes.

13 Do you know if there was a further induction program after the  
14 bi-election?---I think so, I think so, but it may have  
15 been optional for councillors already elected, I believe.

16 COMMISSIONER: So it's Councillor Mackenzie and Councillor  
17 Bilkey that came on then?---That's correct.

18 MR BROAD: The council has a substantial, has during the, term  
19 of council, received a number of code of conduct  
20 complaints, probably most famously 111 in the 2014-15  
21 period. Now, I don't know whether you were here on Monday  
22 but there was some discussion about the validity of that  
23 gross number, but notwithstanding that there appear to  
24 have been a large number. In your view - well, actually,  
25 I'll do it this way - what is your view about the number,  
26 the nature of the code of conduct complaints?---Look, the  
27 number is certainly disappointing. For a small rural  
28 council that nearly pulled off the Bluett Award in 2012 to  
29 have 111 code of conducts in such a short time, indicated  
30 there was a problem, now, some of which are trivial, and I  
31 view them as trivial, and some not so trivial. Look, it's

1 always disappointing for any council to have code of  
2 conducts. I think up until this council I am aware of  
3 one, possibly two in the 13 years or 14 years prior, and I  
4 would consider that to be a normal, you know.

5 COMMISSIONER: That's what the figures show for the areas  
6 around?---Yeah.

7 Generally for rural councils?---Look, certainly as the mayor I  
8 was very unhappy, but, you know, look, OLG could have -  
9 and I don't want to be critical of OLG because I might  
10 need them one day - but, you know, they just didn't do  
11 anything, they did nothing. I was so frustrated and so  
12 angry that I just couldn't get OLG to come down, and if  
13 they had to come down two, three or four times, or five,  
14 well, so be it. It could have been avoided.

15 MR BROAD: Are you really saying that council was unable of  
16 itself to deal with the number of complaints and the  
17 outcomes?---No, I wouldn't say that. I think prior to the  
18 GM, the current GM being appointed to the position there  
19 was, you know, a fair bit of talk about being a female,  
20 and I think that, you know, that certainly didn't sit well  
21 with a couple of councillors I think, and that may well  
22 have been an issue.

23 Are you really saying that the OLG needed to come down and just  
24 break, as it were, the, I suppose not "break", just deal  
25 with - deal with the issue that was between the  
26 councillors?---Yes, exactly. What they should have done  
27 is gone through the pile and said, "Look, these are all  
28 trivial, these are the ones we need to deal with, and the  
29 ones we need to deal with involve you, you, you and you,  
30 we need to have a meeting with you and we need to tell you  
31 what is going on". Now, at the time, and even now, I

1 don't see what was so difficult about that. We had Lyn  
2 Brown and Tony Day I think.

3 COMMISSIONER: Doesn't matter who?---Anyway, they just could  
4 have come down here and resolved a lot of issues. Like,  
5 out of the 111 I'm tipping that 95 of them are just  
6 trivial matters that, you know - - -

7 MR BROAD: Let me explain the methodology, okay, and whether  
8 you were here on Monday.

9 COMMISSIONER: It's not really 111.

10 MR BROAD: The methodology was to say if there was a single  
11 document that made a complaint about three councillors,  
12 that was three complaints, but within that document if it  
13 said there are four particular matters complained of, then  
14 that became three times four which is 12?---Twelve, sure.  
15 And that's how - - -?---Sure.

16 It grew to that proportion. Now, Mr Hurst from the OLG gave  
17 evidence that that isn't in accordance with what the OLG  
18 said was the way to deal with it, so we have that issue  
19 about numbers, but by the same token we've got a cost in  
20 that year of 125,000.

21 COMMISSIONER: There's still the same issue that there's more  
22 than normal and all that?---Yeah, it's just multiplied.  
23 Yes?---Something of that - - -

24 Yeah?---The issue - I suppose the question I've got and I was  
25 gathering my thoughts - the question I've got really is  
26 this, that you've talked about the headstrong councillors,  
27 do you think intervention by the OLG in that matter would  
28 have been able to resolve it?---Yes, absolutely.

29 In the way that you've just described?---Yep. Yep, and that  
30 would have been the quickest and the easiest way to deal  
31 with the matters, and that would have set - I honestly

1 believe had it have been handled correctly it would have  
2 set a precedent that would have - these councillors would  
3 probably, you know, have second thoughts about their  
4 behaviour, and maybe we wouldn't have so many code of  
5 conducts.

6 Yes.

7 MR BROAD: So, the Office of Local Government described the  
8 code of conduct as an ethical document?---As a what  
9 document, sorry?

10 An ethical document?---Yep.

11 And it really relies on the good will of  
12 councillors?---Absolutely.

13 To comply with it?---Yep, yep.

14 It also puts council in the position of primarily being the  
15 body to deal with the behaviour of other  
16 councillors?---Sure.

17 In your view, has that been able to occur within Murray Shire  
18 Council?---Probably not.

19 I mean, your evidence that the OLG - you needed the OLG?---I  
20 did.

21 Or you wanted the OLG?---I did.

22 That itself says that, doesn't it?---Yep. Yep.

23 There have been a couple of reports considered by council,  
24 there have been other reports which have been referred for  
25 informal resolution. In your view has informal resolution  
26 worked?---Not sure. Maybe not have worked but has had an  
27 effect, I think. The veracity has declined somewhat.  
28 Yeah, no, look, you know, I'm judging other people's  
29 characters now and I'm not really good at doing that.  
30 Yeah, yeah, that's a difficult question.

31 There were three conduct complaints which were considered by

1 council ultimately, and sanctions applied, whether it be  
2 apology or otherwise. Have those outcomes been  
3 achieved?---No.

4 Has there been a change in councillor behaviour as a result of  
5 those matters (indistinct)?---Yes, absolutely, yes.

6 To what extent?---The behaviour in the chamber has mellowed  
7 somewhat. Having said that, there are still times when it  
8 does become a little bit argy-bargy, but in my view  
9 acceptable.

10 Is there any baiting that goes on at council meetings?---Yes.  
11 Yes.

12 To what extent?---Comments made that have been made in such a  
13 way as to not suck somebody in but to have the - you know  
14 what I'm trying to say, you know, you say something in the  
15 chamber and you know damn well that someone - she's going  
16 to - - -

17 COMMISSIONER: Do you think you would have been on the  
18 receiving end and on the giving end?---Exactly, yeah,  
19 yeah. Don't get me wrong, I play the game like everybody  
20 else, don't worry, I'm not  
21 Mr Innocent here, I understand that.

22 MR BROAD: So, did that stem across the board within council or  
23 was it confined to certain individuals or otherwise?---I  
24 think, I think nearly - no, not all, no, certainly not  
25 all, but I think three or four councillors participated in  
26 that, yeah, maybe not on a regular basis but certainly,  
27 yeah, there were comments that were not necessary.

28 I know you say that there aren't necessarily two groups, but we  
29 certainly had a lot of evidence that there were primarily  
30 two groups, were those comments confined to a group of  
31 councillors?---Yes. Yes.

1 Which group?---Sorry, which group?  
2 Which group?---I just told you I don't think there are any  
3 groups, but, look - look, I'm not happy to say sides or  
4 groups.  
5 I hear that?---And I know that's, like I said earlier, that's a  
6 common thing, but I'm not happy to say that and the reason  
7 I say that is at the end of the day the decision's coming  
8 at the door with the right ones, but if I had the - was  
9 there one faction here and one faction there, I'd have to  
10 say it was the group that involved Councillor Mackenzie,  
11 Campbell, Burke and Moon, and, look, certainly nothing  
12 illegal in what they did and I, look, I don't know whether  
13 you guys have been councillors, I've - - -  
14 No?---I witnessed a lot, I didn't think they were, you know -  
15 we're grown up adults and we, you know, it's just how it  
16 is. It's just how it is.  
17 Can I go through the events that occurred in the selection  
18 process for the new general manager and can you outline  
19 what occurred both in respect of the interview process and  
20 in respect of the appointment?---Look, Stephen Blackadder  
21 from Blackadder & Associates was appointed by council to  
22 find a suitable replacement for Greg Murdoch. I spoke  
23 with Stephen Blackadder on numerous occasions, he came  
24 down here and he spoke to councillors. I thought the  
25 process went pretty much as it should. Yeah. Yeah, it  
26 was pretty standard procedure. We went through a process  
27 where we started off with, look, and I just forget, might  
28 have been 15 or 16, and we narrowed it down to six,  
29 narrowed it down to three and that's how it went. Yeah,  
30 it was a pretty arduous time. It went on and on and on  
31 and it seemed to consume a whole lot of time, but, yeah,

1           it was pretty standard, straightforward. And I know where  
2           you're going. I know what the next question is.  
3 The next question is the behaviour of certain individual  
4           councillors at those interviews?---Look, apart from one  
5           incident, it was all pretty much normal. I don't recall  
6           there being any great disagreement between councillors. I  
7           think when we got down to the final three it got a little  
8           bit more, you know, it was quite obvious I felt which way  
9           council was - which councillors wanted which applicant.  
10          Yeah. It was pretty much - - -  
11 What was the one incident?---There was a remark about gender.  
12 COMMISSIONER: So the remark that everybody's heard and was in  
13           the press, of allegedly to Councillor  
14           Mackenzie?---Correct.  
15 You're saying that occurred. What we've read and seen in  
16           documents, that occurred?---Yes. Yes.  
17 MR BROAD: The other indication that we've had is that certain  
18           councillors turned their back when certain persons were  
19           being interviewed, or one or more persons were being  
20           interviewed.  
21 COMMISSIONER: Physically move their chair like this around  
22           away from the interviewee. Not just one  
23           (indistinct)?---Yes. True.  
24 MR BROAD: That was Councillor Mackenzie again?---Yes.  
25 Councillor Campbell. Was there more than one person?---Yes.  
26 When the resolution for the appointment of the general manager  
27           came before council, what was the debate in relation to  
28           the appointment?---Look, I probably struggle to recall  
29           that particular meeting. I think once the decision had  
30           been made there was certainly some opposition by a few  
31           councillors. As I recall it was a five and four vote but

1 I couldn't be positive on that, but that is, if my  
2 recollection is correct, that's how it was, and naturally  
3 some councillors voiced their disapproval at council's  
4 decision. I mean, that was just normal. That was, you  
5 know, if I wasn't happy when we had a discussion or a  
6 debate around the table, I would certainly have put my  
7 views forward. I didn't see anything wrong with that.

8 COMMISSIONER: It's the process?---Yeah, exactly.

9 MR BROAD: Subsequently Councillor Burke resigned as a  
10 councillor and there was therefore eight councillors and  
11 the potential for a vote to be tied, and for you as mayor  
12 to exercise a casting vote. Did that occur often?---No,  
13 no. No, look, once, maybe twice. Not a common - - -  
14 So it wasn't an important part of - - -?---I don't believe so,  
15 no, no.

16 COMMISSIONER: Because of the way the numbers fell  
17 generally?---Yeah.

18 Yes?---I didn't think that there was - there's one I can recall  
19 and I'm sure there was - might have been two or three in  
20 total but certainly no more than that. It wasn't like  
21 every meeting they all relied on my vote. It wasn't like  
22 that.

23 MR BROAD: So in other words, in reality, you weren't being  
24 called upon to - - -?---No.

25 Break a tie as it were?---Not a regular basis, no.

26 You've given some evidence in respect of Deep Creek. Did you  
27 see the issue about Deep Creek so far as it was raised by  
28 Councillor Mackenzie as the potential pollution issue, did  
29 you see it as involving the litigation issue or  
30 both?---Both.

31 Did you think they were related?---Yes, absolutely. Yep. I

1 think the potential for council to be exposed in relation  
2 to that was immense. I felt that Councillor Mackenzie was  
3 quite appropriate to bring it to council's attention. I  
4 think where the wheels probably fell off it was that his  
5 approach could have been a little bit more subtle, and as  
6 I said earlier, I learnt early on in the piece, if you  
7 want something done there are ways to do it. Now,  
8 Councillor Mackenzie is a headstrong individual, very  
9 headstrong individual, he's very passionate about the  
10 river and its environs, I understand that, and it was a  
11 glaring issue and I don't think anyone disagreed with  
12 that, but the process from then on, just seemed to fall  
13 apart, it could have been easily resolved, council  
14 I believe had the funds. It quite easily could have been  
15 dealt with, but it just got bogged down, and it went, you  
16 know, tit for tat, and it just got out of control, you  
17 know. And I can vividly recall the GM saying to me, she  
18 is just had the Herald Sun on the telephone, and in our  
19 part of the world, you know, that is a big player.

20 Yes, yes, yes?---And you know, it just got out of control.

21 Look, I had a gutful of it, in the finish - I said to the  
22 GM, "Look, sign whatever I have to, to make this just go  
23 away," because I knew OLG was involved, I knew the press  
24 involved, every man and his aunty had a run in this.  
25 "Let's just deal with it and fix it".

26 COMMISSIONER: What I will do is I will take you to some of the  
27 documents that relate to it. Sorry, just give me a  
28 second.

29 MR BROAD: Just while he is doing that, when you say, OLG, they  
30 were involved in this issue too, were they?---Well, only  
31 from the point of view that complaints had gone OLG.

1 Just in that sense?---And advice sought from OLG by individual  
2 councillors to, although the process had not, you know,  
3 "How is this being allowed to happen?"

4 Yes, okay, yes. And did you ever see in the, I suppose you  
5 were the mayor at this time, did you ever see the actual  
6 court proceedings, like the actual statement of claim?  
7 Councillor Bilkey said he never did?---No. Well, I do not  
8 believe I did.

9 Yes, no, no. Okay. I mean, it was not attached as far as you  
10 remember to a report to the Council? I mean, you got  
11 reports from your director, he told you all about it and  
12 all that, but the actual document was not part of  
13 it?---I can't recall that, no. And let me tell you, some  
14 councillors, and the GM included, are very, have very good  
15 memories and write down a lot of things, I just did not  
16 have the time to; I'm a bit different.

17 COMMISSIONER: You had some involvement, not the least of which  
18 was a discussion with Councillor Mackenzie, and I will  
19 take you to that. It is probably going to be easier for  
20 me to simply point it out to you. Sorry, a discussion  
21 with Councillor Burke?---Is this in reference to the  
22 telephone conversation I had?

23 Yes, as I understand it?---At the Moama RSL?

24 I'm sure where it was, it is not reported in this?---Okay.

25 COMMISSIONER: I'm just wondering if you can recall that  
26 conversation, and if it is a fair record.

27 MR BROAD: So what day was that again? What date are we  
28 talking about?

29 COMMISSIONER: That is the 19th of March at 12.50 pm.

30 MR BROAD: Then I have got it?---Yeah, I would say it is pretty  
31 accurate.

1 COMMISSIONER: Can you generally look through the email trail  
2 which really starts on the 16th of March, probably on the  
3 third page that I have just given you?---Can I just ask,  
4 this is a Code of Conduct complaint put in by?  
5 This is a Code of Conduct complaint lodged by the general  
6 manager?---Right.  
7 It is an attachment to - that complaint.

8 MR BROAD: We are assuming that the reproduction of the emails  
9 are correct but that is what it is, yes?---Okay.  
10 These are emails that are attached to that Code of  
11 Conduct?---Well, okay.

12 COMMISSIONER: So we are just using that as a - we are assuming  
13 these are correct?---Well, yes, as far as I'm concerned,  
14 it is, yeah.

15 MR BROAD: So we are starting with, I suppose, is this, there  
16 is an email that was sent on the 16th of March at 11.08  
17 am, to Council's solicitors who are acting in the court  
18 proceedings, and then a response, which comes down the  
19 page, and I will just make sure we are on the same  
20 page?---Where "Council has a meeting tomorrow". Sorry.  
21 Okay.

22 COMMISSIONER: My simple question in relation to those two  
23 emails is whether you were aware of them at the  
24 time?---I can't recall but it is more than likely I would  
25 have been, as the mayor, I would say. I can't recall it  
26 specifically, but if I had to say, I would say yes.

27 Yes?---M'mm, yeah, no, that is - look, like I said, I can't  
28 recall it, but I'm sure I did.

29 The reason I'm asking you to read that of course is that the  
30 Council's solicitor is providing a warning about not  
31 making any admissions but is not saying, "there can be no

1 meeting"?---M'mm. At the time, I had the view that it  
2 could have been resolved a lot easier, and I tended not to  
3 get too bogged down in the legal jargon and I was  
4 frustrated at the time that I could not understand how  
5 come it had, it had come to this, it was just ridiculous,  
6 it was. You know, Council should have seen the error of  
7 its ways, it should have - as I said earlier, I honestly  
8 believed we had funds available to rectify it immediately.

9 When you say, "the error of your way," we are only talking the  
10 temporary tank?---Yes.

11 Not the whole litigation?---Well, the temporary tank - - -

12 That is a different issue?---The temporary tank should have  
13 been there in the first place.

14 Yeah, no, I understand that, but it was there and that was what  
15 was causing the issue, and when you have seen that  
16 statement that you have seen a moment ago, it was really,  
17 I'm just making sure that - it was the temporary tank and  
18 then the fixing of that temporary tank as opposed to the  
19 bigger issue of the litigation, that is what you were on  
20 about?---Well, in relation to the litigation, I would have  
21 taken advice from the GM.

22 Yes. I mean, that is a major piece of litigation which  
23 everybody can - it is not quite what we are talking about  
24 in a sense, it was this sort of little issue, not a little  
25 issue but this issue, that had sort of blew up?---Yep,  
26 exactly.

27 Now whether they are related, that is a different issue and all  
28 but I just want understand that is what you are referring  
29 to?---Sure.

30 MR BROAD: Ultimately, I think it was on the 15th of September,  
31 there was funds given, or there was a resolution passed to

1 provide for the tank being moved, and there was a  
2 subsequent report back, I think, in, from  
3 recollection, November, that it had been moved?---Correct.  
4 Yes. And there were substantial changes to the way in which  
5 that tank was configured to provide greater security for  
6 any spill?---The building and all that stuff?  
7 Yes.

8 COMMISSIONER: Was there, at the time, was there any concern,  
9 I mean, I can ask the council office but was there any  
10 sort of issues about whether, "we would have to get  
11 approval to do it," and all that sort of stuff?

12 --- I know there had been some conversations between staff and  
13 EPA. I think it was in everyone's best interests that it  
14 be moved. There may well have been some approvals that  
15 were required but in matters such as this - - -

16 COMMISSIONER: We are going to say that I understand exactly  
17 what you are saying, because sometimes that can then cause  
18 another lot of whole lot of problems, but that did not  
19 seem to have - that was not an issue here, in the end it  
20 was fixed?---This is one of those issues that we should  
21 have just cut through to - and just did it. Council can  
22 move very slowly, it can move very fast; this is one where  
23 we just should have jumped on it, fixed it, and everyone  
24 would have been happy.

25 Okay, all right.

26 MR BROAD: Look, could I go forward: there is an email on the  
27 18th of March at 3.27, it would be on the left-hand  
28 page?---Yes.

29 And it is an email from Simon Arkinstall to Councillor  
30 Mackenzie. Can you have a bit of a look at that, and see  
31 if you recall seeing it?---Look, I can't specifically

1 recall it but I would suggest that I had seen it, yes, I  
2 will admit that I've seen it but I can't recall it  
3 but - - -

4 You think you may have?---Well, I was aware that Simon  
5 Arkinstall had had some correspondence with Councillor  
6 Mackenzie in relation to this matter and I knew it was  
7 rapidly getting to a legal point, so, yeah, look, I must  
8 have. Yeah. I would have.

9 In reading that email fully - it goes over the page - do you  
10 think it's a fairly heavy hit?---Yes. I do.

11 It talks about surcharge?---Yes.

12 COMMISSIONER: You ever had anything like that, have you been  
13 told about those type of things before in all the time of  
14 being a councillor? I mean, just if you  
15 can - - -?---Yeah.

16 On and off?---Yes, I would have been, yes, yes.

17 I mean, that always has a potential threat to councillors, that  
18 type of thing?---Yep.

19 MR BROAD: Can I go forward. If you'll note that that email  
20 I've just directed you to was sent at 3.27 pm on  
21 18 March?---Yep.

22 There's a further email that was sent from  
23 Mr Arkinstall to all councillors and I assume you would  
24 have seen that, that was at 3.37, ten minutes  
25 later?---Yes. Yep.

26 Then there was a response, or two responses from Councillor  
27 Mackenzie. Do you recall seeing those?---I have.

28 Quite clearly Councillor Mackenzie, in the later email sent at  
29 4.06 took exception to the threat?---Yes, I agree with  
30 that.

31 Or the threat that he perceived?---Yes. I think he says

1 "perceived" though. Yeah, anyway, yep. You know that,  
2 that particular email that you're referring to, the second  
3 one at 4.06 pm, probably - it probably highlights just how  
4 Councillor Mackenzie felt towards this particular issue  
5 and how passionate he was towards it, and - and it also -  
6 "difficult position as we are unable to discuss anything  
7 directly with you as per council directives", which only  
8 complicated the whole thing and made it ten times worse  
9 than it needed to be. We needed responsible adults to  
10 deal with this, and it just didn't happen.

11 There's another email on March 19 2015 sent at 7.58 am. It may  
12 be a little bit hard to spot?---What date was it?

13 19 March 2015, it's - - -?---Okay.

14 It's an email from Councillor Burke to Councillor Mackenzie.

15 Do you recall seeing that?---No, I don't believe I have.

16 In that email Councillor Burke in the second paragraph says,

17 "Due to the fact that the meeting with those at Deep Creek  
18 was nothing more than a listening session, and further,  
19 due to the reply of the Director of Environmental  
20 Services, Simon Arkinstall, I advise that I will not",  
21 with emphasis, "be involved in any further discussions in  
22 the matter". That seems to clearly set out the position,  
23 that it was nothing more than that. Obviously things  
24 progressed and quite clearly you refer to an approach  
25 from, I think it was the Melbourne Herald?---Correct.

26 MR BROAD: Councillor Weyrich, the conduct complaint that I've  
27 just shown you preceded, and I'm providing a conduct  
28 reviewer's report, in relation to Councillor Campbell's  
29 involvement in that matter. Do you recall seeing  
30 that?---Yes, I believe so.

31 That matter was subsequently dealt with at a meeting of council

1 and there was a sanction imposed, and I won't go further  
2 into that. Do you recall reading through that  
3 report?---Not all of it, no.

4 Right. What parts do you recall reading?---Look, I honestly -  
5 I couldn't say. Look, I - it's probably difficult for  
6 people to understand but the whole thing just - it annoyed  
7 me and I had to deal with it and I didn't want to deal  
8 with it because it just could have been fixed so easily,  
9 and I was beginning to think that there were other motives  
10 behind all of this. You know, grown up adults don't  
11 conduct themselves like this, certainly not councillors,  
12 and it was clear that something else was going on and I  
13 was on the peripheral, I was - you know, look, I was aware  
14 of it, I knew about it, I just couldn't understand why  
15 this was happening, you know, like "Let's just deal with  
16 it and be done with it". Look, I would have read it,  
17 parts of it, I can't recall which parts, but - yeah. You  
18 know, and look, when you have someone who you have a  
19 conversation with who records each and every word that you  
20 say, and I'm not like that, that's just not me, this is  
21 how you wind up with things like this, because I say lots  
22 of things all day every day, some are relevant, some are  
23 not, it just was - the whole thing's been taken out of  
24 context.

25 Who are you referring to when you say "when you've got a person  
26 who records everything you say"?---The general manager.

27 Right?---I'm not saying that's a bad thing, I'm saying that  
28 given the circumstances and what was happening, in that  
29 context, you know, it was always going to be a disaster,  
30 and I could read it, I could see it, I knew it was  
31 happening, but I couldn't stop it. You know, we have

1 headstrong individuals, one is a very forthright man and  
2 in the other corner I've got a very intelligent general  
3 manager.

4 COMMISSIONER: Who you put in a forthright individual  
5 also?---Sorry?

6 Who is also part of the forthright individuals?---Exactly. It  
7 was - I could see it was like a train wreck and it was  
8 coming straight at me.

9 Just that point about the way that the general manager operated  
10 from the word "Go"?---Yes.

11 That was her nature?---Yes, I'm not being critical but I'm just  
12 saying that is the lawyer coming out in her.

13 Wasn't something that developed, that's just her?---There's no  
14 lawyer jokes. That's right.

15 Yeah.

16 MR BROAD: While you were mayor, you appear to have adopted a  
17 very protective role in respect of the general  
18 manager?---Look, as I've said earlier, there was no doubt  
19 that there was resistance towards a female being a general  
20 manager, and look, I don't care who knows, I voted for her  
21 for the position, I don't see - - -

22 COMMISSIONER: So you didn't have that problem?---No, not at  
23 all. I think that her credentials were quite good.  
24 Stephen Blackadder is a man who recommended her.

25 Did you know of him before or - - -?---No.

26 So that's the first time you meet him?---Yeah. I think I might  
27 have had a meeting, one meeting in Sydney prior to - - -  
28 The job was given?---Yeah, I don't even recall it, Greg Murdoch  
29 might have been there. I don't, I can't recall, but  
30 anyway - - -

31 It doesn't matter, admitting he did it, yeah?---I didn't have a

1 problem with her. I think, yeah, look, she had her  
2 credentials, she had, as far as I was concerned,  
3 everything going for her. She's very intelligent, very  
4 articulate. Yeah, I didn't have a problem with her, and  
5 I think in that role, there's no reason why a woman can't  
6 do that right.

7 MR BROAD: But there appears to have been an ongoing issue in  
8 relation - not just to her appointment, but in respect,  
9 I suppose, in the way she fulfilled her role?---Sadly,  
10 yes.

11 COMMISSIONER: And you weren't able to break that?---Look, the  
12 make-up of the Council was like a perfect storm, it was;  
13 it was a perfect storm, and I knew that from day one. At  
14 the end of the day, when this Inquiry is completed, you  
15 may well appreciate what I'm saying. Yes, look, there was  
16 - it wasn't hostility but it was this underlying - and  
17 look, I don't, I don't know so much whether it was a  
18 gender bias issue or it was - we just didn't get the  
19 person that we wanted, you know, being the councillors  
20 that were opposed to her appointment. And to this this  
21 day, I still don't know. And to the GM's credit, she  
22 withstood a fair bit, and warning signals were going to  
23 OLG.

24 So do you think she had a tough ride?---Absolutely, absolutely.  
25 Very, very tough, I think. Look, I can - there are  
26 personal moments that I've had with the GM where she was  
27 in a very distraught - you know, I was great - one day, in  
28 particular, I was greatly concerned for her wellbeing.  
29 She had, I guess, for want of better words, disappeared,  
30 and we couldn't - and I know there are several councillors  
31 in the room who also tried to find her, because we were

1           greatly concerned for her wellbeing.

2   They're fairly strong words?---Well, you know, the GM and I, at  
3           the moment, don't seem to see eye to eye in too many  
4           things, but I still have immense respect for the lady,  
5           I think - and I have immense respect for councillors, you  
6           know, that allegations have been made; it's just, no one  
7           was prepared to bend. And I tried a couple of times,  
8           I got a pretty good spray from the Council at a council  
9           meeting one day, a pretty good spray.

10   There was mediation that took place with Norman Turkington  
11           in December 2015?---Yeah, waste of time, waste of time.  
12   Why?---Because it was just a waste of time.

13   Yeah, just go back a step, and just slightly analyse that, a  
14           waste of time to have it, or a waste of time in hindsight,  
15           or at the time was there any goodwill?---Waste of time  
16           having it. The lines had already been - the battle, not  
17           "the battle," that's the road - - -

18   We're in our corners already, you know, in the corners  
19           of - - -?---It was beyond us. It was too late, it was too  
20           late. Too much - to try and patch it up to a position  
21           where I would've consider it to be a normal relationship,  
22           I think it was too late. And look, I went to - there were  
23           several mediation sessions, a couple with - there was  
24           another general gentleman involved, a Dutch guy, I forget  
25           his name, and I participated actively but in my own mind,  
26           I thought that the wheels had already fallen off; the  
27           relationship issue. Now, some people might say, "Well,  
28           that's no good," but given the job that we were doing as  
29           Council, you know, there's - I can remember a time  
30           I didn't talk to the GM for five years. No, I mean, I'd  
31           say, "Hello, how are you going?" but didn't have any other

1 meaningful conversations with him(sic). You know, that  
2 scenario is not that unusual and I just didn't, you know -  
3 it's not that I'd given up, it was - there was no point,  
4 no point. And the fact that we're here now, just bears  
5 out what I thought.

6 You spoke about the dynamics of the councillors from day one,  
7 of the Council term: did that dynamic change with the  
8 appointment of the general manager?---No, no. No, I don't  
9 think so. Maybe slightly, but no marginal - well, yeah,  
10 nothing.

11 Did it provide an - so you're saying, prior to the general  
12 manager, there's already - strong characters clash -  
13 whatever you want to call it - - -?---Yes, yes, yes.,

14 Did the general manager just provide another "criteria," for  
15 want of a better word, to make it deeper? Or another  
16 "factor," is a better of saying it?---By the time, in any  
17 appointment process, by the time when we got to nearly to  
18 the end, when it was quite obvious that there was a deep-  
19 seeded resentment of the appointment, what could I do, you  
20 know? It's like - - -

21 Why I state the question was, did it intensify the already - a  
22 better way, did it intensify the already existing  
23 problematic - - -?---I think so, yes.

24 Yeah, right.

25 MR BROAD: Councillor Weyrich, WorkSafe was, as it was then  
26 named, became involved in this issue involving the  
27 councillors and the general manager; there were two  
28 notices given to Council, one of which to effect change in  
29 policies, the other was to require an investigation. The  
30 first change in policies led to a change to the  
31 interaction policy, and the need for councillors not to

1 directly contact the general manager to raise their  
2 concerns through an email process, to a neutral email box.  
3 How in your view did that operate?---As I recall, I voted  
4 for that, but it didn't seem to work too well.

5 COMMISSIONER: So you voted the - to bring the policy in, in  
6 the first place?---The interaction? Yes, I did.

7 So it was interaction policy which was just through the general  
8 manager, and then it made a change, but that was the first  
9 time you had a specific policy about that?---Yes, yes. It  
10 took away from councillors the ability to contact - - -  
11 To do what you said before, the way you'd done it  
12 before?---Sorry?

13 To do what you said before, the way you done it before, which  
14 in any rural council, you can do all that stuff?---Yeah,  
15 exactly, it took that away from us, and not only that but  
16 - look I had an issue with someone, a personal issue, with  
17 the Council, neighbour/neighbour thing, and I wrote a  
18 letter and I didn't even get a response, so, you know -  
19 whereas prior to the interaction, I could have rung - and  
20 as I did on many occasions, rang on behalf of ratepayers  
21 to ask questions. The interaction policy was implemented  
22 with such, you know - look, I've lived in this town for 35  
23 years, I know everybody in this town, everybody knows me,  
24 but the people who worked on the Shire, even outdoor  
25 staff, let alone the office staff, virtually refused to  
26 speak to me, because it was being implemented with such  
27 gusto, they were frightened for their positions; and a  
28 simple lapse of concentration by our IT man at Moama, and  
29 I'll tell you what happened: I went in there to see our  
30 IT guy, he invited me behind the counter, which is a  
31 "staff only" area, which prior to that, councillors were

1 quite able to - now it was a lapse on my behalf, and it  
2 was a lapse on his behalf, and what he was doing something  
3 was doing something to my iPad. I'm of the understanding  
4 that he was severely reprimanded by the HR person and  
5 Mr Phil Higgins, for allowing a councillor to be in a  
6 "staff only" area when it was nothing more than a lapse.  
7 Nothing was said or done that was any harm. That was - it  
8 was his first and only offence, I believe, as an employee  
9 of Murray Shire, but that is the way the interaction  
10 policy was being implemented; it was too rigid, it was too  
11 - and it went too far down the line. It was intended for  
12 councillors to senior staff; not, you know, the office  
13 girl, or the secretary that I've known, or you know, one  
14 of the guys in the outdoor staff. No one was being -  
15 I went to a function at the bowling club, everyone had  
16 left, because no one would speak to me. They were scared  
17 to speak. They had been told, "You get caught talking to  
18 a councillor and you can't prove what the content of the  
19 conversation was, and you will be reprimanded". There  
20 will be issues.

21 MR BROAD: As a mayor, I assume it's important to have close  
22 contact with the general manager?---Absolutely.  
23 Absolutely. I'd talk to Margot ten times a day some days.  
24 I wouldn't talk to her for two days and then I'd talk to  
25 her ten times in one day. You know, we often travelled to  
26 Sydney, to conferences, to Ramrock to all - - -

27 COMMISSIONER: Yes, there's no issue. It wouldn't be  
28 allowed?---Well, it is an issue because - - -  
29 No, I mean, the principle of a mayor and a general  
30 manager?---Yes.

31 Coming in close contact. Any councillor would tell you

1 that?---There's been aspersions cast as to what was  
2 going - - -

3 You understand - - -

4 MR BROAD: You say in respect of the interaction policy that it  
5 was doomed to failure. Things had progressed too  
6 far?---I believe so.

7 Were you agitating for some direct response whether it be a  
8 suspension of councillors, whether it be some other  
9 response that might be forthcoming from the Office of  
10 Local Government?---Was I agitating, did you say?

11 Yes. I may have used a euphemism?---I don't believe so, no.

12 What were you seeking? How were you looking to overcome the  
13 impasse?---I had - I don't know whether agitating is the  
14 right word, but it was so frustrating. I didn't know what  
15 to do. Look, the issues went up to OLG and nothing seemed  
16 to be happening, and look, did I ring to enquire? Yes,  
17 I did. I don't think that it's agitating. I think, given  
18 that nothing appeared to be happening and I felt that  
19 I had to do something, and in the finish, towards the end,  
20 I just resiled myself to the fact that this is how it is  
21 going to be until the next council elections  
22 come September and we'll let the community judge who  
23 should and who shouldn't. That's the beauty of democracy.  
24 You know, we're there for four years and no longer. We  
25 were, you know, when I was turfed out as the major  
26 in September, we had 12 months to run. We'd done three  
27 years. It was - and as I keep saying, I honest believe  
28 the decisions coming out of council were correct, by and  
29 large. It was not an intolerable situation. Not pleasing  
30 given that the new mayor was very reluctant to hand over  
31 information and I believe information which could have

1           gone a long way in resolving some issues.

2   The second aspect of the WorkCover notices was to require an  
3           investigation which led to the Macleay report.  What's  
4           your take on that report?---Yeah, look, it pretty well  
5           came out - I thought bullying, you know, the three  
6           councillors that were, according to Janice Macleay found  
7           to be bullying.  It thought that was probably a bit  
8           strong.  I almost felt from the outset that the general  
9           manager could probably have been a little bit more thick  
10          skinned and I always felt that the councillors could  
11          probably pull up a bit, you know, ease up a little bit.  
12          Yeah, no, the report was - once again I haven't read it in  
13          its entirety because I was there, I lived it, I knew what  
14          was going on.  I didn't need a report to tell me what was  
15          happening.

16   The mediation agreement and the Macleay report were leaked to  
17          the press.  What in your view was the effect of those  
18          leaks on the council?---It wasn't good that's for sure.  
19          Some serious questions being asked and I know there's a  
20          group that are trying to fit me up as the leaker, but I'm  
21          not.

22   COMMISSIONER:  Hang on, let's deal with that right now.  You're  
23          not the leaker?---No.

24   Of the mediation agreement or the Macleay report?---Exactly.  
25          And like I say, I know they're trying to fit me up for it,  
26          but it won't work because I'm not.

27   MR BROAD:  All right.  The leak of the Macleay report was very  
28          damning.  It gave, I think, four or five pages of press.  
29          What, in your view, was the effect as far as the public  
30          was concerned of that becoming known?---Look, without a  
31          doubt the community was aware that the council, you know,

1           there was - there were issues involving councillors. To  
2           what extent, they probably didn't know and it would only  
3           be the people that attended on a regular basis or, you  
4           know, senior staff or directors who would know what the  
5           exact situation was at council. And although it wasn't  
6           good, it wasn't - you know, bullying is a very strong word  
7           and I think the public, some people viewed as very  
8           disappointing that the leaders in our community could be  
9           acting in this way. Other people saw it as "Well, you  
10          know, the joint needed a bit of a stir up", you know,  
11          there were varying factors but by and large most people  
12          were disappointed, I guess. Yes.

13        Did the leaking of the mediation agreement have any effect on  
14          the dynamics of the council?---Look, this is the agreement  
15          with Norm Turkington where each - - -

16        (Indistinct) agreement, yes?---Where each councillor signed the  
17          page.

18        Yes?---I can't even recall it being leaked to be honest with  
19          you. I don't recall seeing that in the paper.

20        MR BROAD: Right. As mayor you had a particular position in  
21          respect of contact with the media. You were, as it were,  
22          to a large degree, the voice of council?---Sure.

23        And there is a policy in respect of contact with the media. Is  
24          that an important role for the mayor?---Absolutely.

25        And in respect of councillors contact with the media, is that a  
26          relevant role for councillors?---It depends on the subject  
27          matter, I guess. And I've never tried to subdue or ask a  
28          councillor not to talk to the paper, I don't believe.

29        I think - the way I viewed it was, I was to talk to the  
30          media in relation to matters that council decisions that  
31          were made and why those decisions were made and sometimes

1 it included a little bit of background as to why council  
2 came up with that decision. Some decisions were popular,  
3 some were not so popular. I didn't think - but in respect  
4 of councillors, look, you know, a really red hot topic is  
5 the bridge at Echuca/Moama. You might not be aware of it,  
6 but it's an ongoing 50 year issue. A councillor went to  
7 the press and vilified the council on the other side. My  
8 response to that was I went to the mayor of the other side  
9 of the river and I apologised to him on behalf of the  
10 Murray Shire and I felt that that particular councillor  
11 was out of order. I spoke to him at council meeting and  
12 that was the end of it.

13 COMMISSIONER: What about when you were a councillor yourself,  
14 did you have much contact with the media?---I did, yes.  
15 So you don't have a problem - it's not a criticism in any way,  
16 but no problem with contacting them?---No.

17 MR BROAD: And if a councillor has a view contrary to the  
18 adopted position of council, should they be free to  
19 express that?---In the press or anywhere?

20 COMMISSIONER: Yes, in the press - - -?---Well, I don't know  
21 about anywhere else but how it works here is we generally  
22 had the press in the room when decisions were made, and  
23 I might also add, and this is an important part of this,  
24 that not always did the press get it right. The  
25 reporting, I mean.

26 MR BROAD: That can't be right.?---There are times when I read  
27 the paper and I thought, "Wow, how did that happen". They  
28 don't always get it right. Look, if I had to have a  
29 guess, I would say 95 per cent of the meetings we had the  
30 press there. Councillors who voiced their disapproval or  
31 wanted to disapprove against a development application or

1           whatever the subject matter may be - - -

2   COMMISSIONER:  But that's in the chamber.  It's more what  
3           happens after you got out of the chamber is really the  
4           question.  What's your feeling about how far you should  
5           or shouldn't do it - - - ?---Well - - -

6   I mean, it's a difficult question?---It gets back to head  
7           strong individuals, and you know, if it was in a public  
8           meeting where we weren't in confidential and - look,  
9           I didn't have that much of a problem with it.  I think  
10          councillors should be free to talk to the press after a  
11          meeting providing the meeting was in general public.

12   I mean, what extent.  I mean, I suppose would you go to a  
13          meeting (indistinct) to vote for that.  I mean, that's -  
14          something like that, is that harmless or  
15          not?---Look, - - -

16   Knowing the press is there.  I mean, I'm just giving you an  
17          example.  I'm not saying its wrong or right or  
18          whatever?---Everybody is different, particularly when it  
19          comes to this sort of stuff.  And look, I've had a couple  
20          of councillors come to me and be critical of me being  
21          talking to the press all the time.  I get that.  
22          I understand that but, you know, they ring me all the time  
23          and that doesn't mean I should say, just because they  
24          ring, I should say what I want.

25   Yes?---But yeah, no, look, I didn't see it as a big issue.

26          I mean, some do, some don't.  People in the community are  
27          pretty smart.  Smarter than we think, I reckon.

28   MR BROAD:  One of the comments which, of course, was the  
29          subject of a conduct complaint, were comments by  
30          Councillor MacKenzie where he referred to the Mathoura  
31          Cartel and that sort of thing.  At one level there's a

1 concern that there wasn't a disclaimer in accordance with  
2 the policy that they were his views. At another level,  
3 there's a concern that they were detrimental or demeaning  
4 of council. Can I ask for your views in respect of those  
5 type of comments?---Look, this is argie bargie and that's  
6 all it is. I live in Mathoura. That was not directed  
7 directly at me but the people who live close by to  
8 Mathoura. Look, many things get said in a council  
9 meeting, and I've had some pretty ordinary things said  
10 about me and you just - I didn't take offence to it.  
11 I just shrugged it off. If you knew Councillor MacKenzie  
12 and as the end of this you will know Councillor MacKenzie,  
13 you will understand what I'm saying. Look, it had no -  
14 really no offence. I mean, I know the truth. The  
15 councillors in the room know the truth. The suggestion  
16 that the Mathoura Cartel were controlling the council is  
17 just ludicrous and Councillor MacKenzie, honestly I think  
18 he would know that. He was, if I recall correctly, he was  
19 upset about a decision. And look - - -

20 COMMISSIONER: But at the end it's whoever votes, considering  
21 it is a 5/4 or 6/3 or what it is?---Exactly.

22 That's how it works?---It is how it is. It's called democracy.

23 I don't control it. Yes, look - and we had some issues  
24 over the life of this council that were pretty  
25 contentious, two or three, the football club is probably  
26 the main one.

27 MR BROAD: Before I come to the football club and I'll only  
28 touch on it very lightly. The comments made by Councillor  
29 MacKenzie were the subject of a conduct complaint which  
30 came back to council which were dealt with by council and  
31 there was an issue about an apology. In view of your

1           comments, do you regard some of the conduct complaints  
2           that were made as trivial?---Yes. Yes, absolutely.  
3    Would that represent a small proportion or how would you  
4           describe that?---I'm not aware of each and every code of  
5           conduct. They were treated in a confidential fashion at  
6           council. We were not told who, how many or directed at  
7           who, none of that information was given to us.

8    COMMISSIONER: You just get the report at the end of the day,  
9           the council, I mean. Generally speaking the code of  
10          conduct complaints made. It's investigated and then you  
11          might be told there's actually a complaint or something,  
12          but in the end of the day you just get the report?---Yes.  
13    Yes?---And look, there were code of conducts put on me in  
14          relation to, you know, I chaired the AGM at the football  
15          club, therefore I got a conflict. It was dismissed.  
16          Trivial ones like that. The Mathoura Cartel, you know,  
17          just - you know, I didn't - I'm immensely respectful of  
18          other people's views on things like that. It didn't  
19          bother me but it bothered other people.

20   MR BROAD: The issue, of course, that arises is that in  
21          2014/2015 August till September 14/15, council spent in  
22          the order of \$125,000 on reviewer's costs?---I'm aware of  
23          that.

24   COMMISSIONER: Could have built plenty of tanks for that?---My  
25          word we could have. My word. Absolutely.  
26    Just before we leave the bit about the press, the policy that  
27          says you've got to say it's your own opinion first before  
28          you speak to the press, what do you think of that, just as  
29          a general - how would you differentiate that if you were  
30          talking to the press? You were the mayor. Is it a 24  
31          hour job almost?---Yep.

1 So how do you do it? How do you implement that in your own  
2 head as a councillor?---Very difficult. Very difficult.  
3 It's disappointing that councillors would have to say  
4 that. Look, despite our differences, I honestly believe  
5 that every councillor there is there for the betterment of  
6 the community that they live in. It's just a colossal  
7 difference. Look, and if we have to say from here on in  
8 that my personal view is this, well, then so be it.  
9 That's what we say. And since I'm not the mayor, anything  
10 I've had to say to the press, I always ensure that that's  
11 what I'm saying. My personal view is and it's still a  
12 free country and I'm still entitled to my personal view.

13 MR BROAD: And it may be obvious from the words that are  
14 used?---Yes.

15 Could I briefly go to the PDNFL matter. Not to the litigation  
16 in detail but to the resolutions relating to the  
17 proceedings. As I understand, there was a resolution to  
18 commence proceedings?---My understanding of it is, if  
19 I recall, there was a resolution to support the Mathoura  
20 Football Netball Club in legal action.

21 COMMISSIONER: Taking the proceedings?---Yes.

22 And their proceedings supported by council, is that  
23 correct?---Well, council financed most of it, I think, to  
24 the tune of \$20,000 or 15 or 20. But the Mathoura  
25 Football Netball Club had also put in place a repayment  
26 plan to council to repay the money, and I viewed the whole  
27 thing as this is one of the things that council should be  
28 involved in. The football netball club is the very fabric  
29 of a small town and this small town has suffered with the  
30 National Parks and a few other things. If the football  
31 netball club had folded, it would have had a devastating

1 effect on the town, and I know there was opposition from  
2 some councillors. To this day I don't understand why. It  
3 was money that council had - it wasn't a large amount of  
4 money, I didn't think and the benefits far outweighed any  
5 disadvantages there may well have been.

6 MR BROAD: And council under s.355, I think it is, of the Act  
7 is able to support bodies - - - ?---I went to the GM and  
8 said "Can we do this?" and she said, "Well if there's a  
9 resolution of council, yes, you can".

10 COMMISSIONER: A moment ago you said - I think you said this  
11 was a big issue in terms - do you see this as a big issue  
12 of why we're here?---The football?

13 Yes, this whole - - - ?---No, no, no. At the time this - - -  
14 Oh, sorry, yep?--- - - - this building was chock-a-block. It  
15 was standing room only. They were out the front, out the  
16 side, everywhere because it was a bit of a - you know, if  
17 the football club hadn't of had the grand final that year,  
18 it would have been probably demise and as it turns out  
19 they didn't have it, but they were guaranteed the - - -  
20 They got it the next year?---Yeah.

21 That was the resolution, wasn't it?---Yeah. That's right. And  
22 financially saved the club which didn't save the town, but  
23 it certainly had an instrumental - you know, like we're  
24 also responsible for the wellbeing of the people who live  
25 in the Murray Shire and we were concerned that this little  
26 town could have suffered immensely. And if the same thing  
27 had of happened in Moama, I would have voted exactly the  
28 same way for Moama or Bunaloo or Womboota or wherever.

29 MR BROAD: The next question I want to deal with is that  
30 council was involved in the resolution of the proceedings  
31 and concerns appear to have arisen in relation to the

1 information that was provided to councillors about that  
2 outcome and the costs incurred?---I am well aware of that  
3 and the inference was that the president of the Picola  
4 Football Netball League, a gentleman by the name of Shane  
5 Rolton, I believe, felt that he had been denied a hearing  
6 with council to put his case.

7 COMMISSIONER: Because he's in the other camp, isn't he?---Yes.

8 But you see, this was - it was the football club taking  
9 the Picola Football League, it wasn't the Murray Shire  
10 taking the - and that's where a lot of this got lost, you  
11 know. Mr Railton should have dealt with the Mathoura  
12 football club. All the shire was doing was financing it.

13 Was this an argument between the club and the league. Were you  
14 with this club in that league?---That's correct.

15 Like in the usual way - - - ?---That's correct.

16 And they wanted to move it somewhere else and you didn't want  
17 it to happen. You'd been doing it before or - not you,  
18 the club?---Yeah. Yep. Look, there's a - they have some  
19 sort of a committee that comes along and says "You've got  
20 the grand final next year. We need to make sure the  
21 facilities are up to scratch".

22 Yes?---All of that happened a little bit late. It happened  
23 under very - not suspicious, but certainly somethings were  
24 very questionable. Time was getting away. We needed to  
25 deal with this, not immediately, but as a matter of  
26 urgency.

27 Because it was coming up to the grand final?---Exactly.

28 You've got to fix up the - whatever they were and all that  
29 stuff?---Exactly. You know, and the tyranny of distance,  
30 you know, there are some clubs in this league that are a  
31 fair distance away and it had to be resolved.

1 I understand now.

2 MR BROAD: I suppose the question that hasn't been directly  
3 answered, is whether, in your view, sufficient information  
4 was provided to the councillors?---Sufficient information?  
5 Sufficient information was provided.

6 COMMISSIONER: About that whole thing?---Oh, yeah, I'm sure it  
7 was, yes. I think I've just explained the guts of it.  
8 Yes, but the specific question then was, sort of after the  
9 event or during it and I suppose the issue was how do we  
10 know how much has been spent and there was notices of  
11 motion and they were answered - - - ?---Look, I felt the  
12 process was quite, you know - there was opposition there's  
13 no doubt, but you know, it's called democracy.

14 MR BROAD: Can I deal with aspects relating to the general  
15 manager's claim to SafeWork in respect to the unsafe  
16 workplace and we briefly mentioned those two improvement  
17 notices. What's your take on the events that have  
18 occurred?---Gee whiz. Look, I believe that - and as I've  
19 said OLG should have intervened. They did, they chose not  
20 to for whatever reason, so the general manager went to  
21 Fair Work Australia. Went to the Fair Work Commission.  
22 Went to WorkCover. Went wherever she could get some sort  
23 of a hearing to try and get somebody to do something.  
24 Now, my understanding of it is the general managers in  
25 local government in New South Wales fall into a completely  
26 separate basket to everybody else. They're not - and  
27 I don't recall exactly what it was but Margot did explain  
28 it to me one day, and even though she's an employee, she's  
29 an employee of an elected body and that changes the rules  
30 tenfold. And I always viewed, and I've been dying to say  
31 this. The way this council works and every other council

1 works is, and I know you guys know it, but I've got to say  
2 it. This council - this council employs one person and  
3 that's the general manager and everybody else is employed  
4 by the general manager. I don't employ the general  
5 manager, Mayor Pocklington doesn't employ the general  
6 manager. She's employed by the council and anything that  
7 has to do with the general manager in respect of her  
8 employment, should come to the council. Now, I know for a  
9 fact that there's some sort of an agreement that we can't  
10 see and I don't care who knows, I'll tell you now. I put  
11 in a code of conduct because I want to know the works -  
12 the terms and conditions of employment of the general  
13 manager given, not that long ago, she was up for a  
14 performance review and how could council actively conduct  
15 a performance review when we didn't even know what the  
16 terms and conditions of her employment are. And I felt  
17 that she works for the council collectively. Not for  
18 Councillor Bilkey or Pocklington or Murphy or MacKenzie,  
19 she works for the council. I'm sorry, but I've been  
20 wanting to get that off my chest because there's some  
21 secret agreement, several secret agreements in place, I'm  
22 led to believe, and I am absolutely, not devastated, but  
23 disappointed beyond belief that the mayor of the day will  
24 not tell us what that agreement is. It was all shrouded  
25 in secrecy. The performance review is an absolute joke  
26 because no councillor had a reasonable opportunity to have  
27 input into her performance review. Now, I know that  
28 discussions are - "Oh, this side's going to do that" and  
29 "This side's going to do this" and "Tom's going to do  
30 that". Well, they're all wrong because Tom doesn't even  
31 know what he's going to do. It is about the one and only

1 thing in the life of this council that has really got me  
2 upset. The fact that that information is being  
3 deliberately and systematically withheld from council and  
4 it needs to be fixed. Now, as I understand it, you have a  
5 copy of that agreement?

6 COMMISSIONER: Yes?---You've seen it.

7 Sorry, I don't have a copy right now but I've read it,  
8 yeah?---Well, you have.

9 Yes?---Is it such a big secret? Why can't the council - - -  
10 We will deal with that in the report. I'm not going to tell  
11 you about it right this second?---Okay.

12 It may infuriate you but - - -?---Oh, well, you know, as angry  
13 as I am - - -

14 We already had some evidence about it yesterday in a brief  
15 term.

16 MR BROAD: Yes. And that will become available, of course, as  
17 the transcript comes out.

18 COMMISSIONER: But in terms of what it was, there was some -  
19 well, what was the evidence we had yesterday?

20 MR BROAD: Certain positive obligations on the part of the  
21 mayor. As I recall, obligations on councillors. Some  
22 payment.

23 COMMISSIONER: There was some payment and that's about all that  
24 was said openly?---And I know you're supposed to be asking  
25 the questions, but if there's some relevance to  
26 councillors and something that councillors have to do, how  
27 can we abide by it - - -

28 COMMISSIONER: It's not the councillors. It was the mayor and  
29 - well, it was basically the mayor?---Okay. Righto.

30 MR BROAD: What I was going to move to, as you were talking  
31 about the general manager's recent performance review is

1           you describe you had no opportunity for input?---No  
2           reasonable opportunity.

3   Did you seek a copy of the general manager's self-assessment of  
4           her performance?---Yes, I did. Exceeded expectations.

5   COMMISSIONER: Before we get to that. There was a resolution  
6           passed to engage Mark Anderson to do the job, wasn't  
7           there?---Yes.

8   That went through in the normal way?---No, it didn't. Well, it  
9           was - at the end of the day it was a resolution of  
10          council. That's for sure.

11   Yes?---But the mayor of the day, Councillor Pocklington was  
12          told that there will be a - - -

13   A rescission motion?---That's right, a rescission motion.

14   Yes, I understand that part, yes. Okay?---Very soon.

15   Yes. He's given his evidence. He acted on it and then you get  
16          into all that business about the (indistinct) on the  
17          resolution. Yes, I know about that?---We get to talk  
18          about that later?

19   You can talk about that in a moment.

20   MR BROAD: So you're aware of her self-assessment?---Yes.

21   Councillor Pocklington said there was an opportunity for each  
22          of the councillors to make a submission?---A very short  
23          window.

24   How long?---Ten days. And look, since I've been here for a  
25          long time, the process is very plain and simple. It's  
26          been around since forever. The general manager's  
27          performance review is conducted by the mayor with the  
28          deputy and one other councillor and the other councillor  
29          is decided by council. Then you have the general manager  
30          and the general manager brings an advocate. And how it's  
31          supposed to work is, council have a confidential meeting

1 without staff or certainly the GM, and any issues that  
2 councillors may have they put to the mayor and the mayor  
3 conduct or conveys that to the performance review.

4 I don't believe and if I recall the mayor  
5 in December says there's been aspersions cast as to my  
6 ability to conduct the performance review, therefore I'm  
7 going to farm it out. My response to that was "Well, hang  
8 on a minute, Mr Mayor, you are the mayor. Don't worry  
9 about the aspersions. You need to man up and you need to  
10 do the job that you're supposed to do. There's been  
11 horrific stories and rumours about me, well you just brush  
12 them aside and you do the job. You're the mayor. You  
13 take the deputy and another councillor and you do the GM's  
14 performance review". He just refused. He just refused.  
15 And the next thing we know, I don't know whether it was  
16 that meeting or the next meeting, "I've engaged some guy  
17 from Sydney to do it in conjunction with OLG".

18 COMMISSIONER: Can I suggest LG NSW?---Sorry.

19 Local Government New South Wales?---You are correct, my  
20 apologies. Yes, I stand corrected, it was LG New South  
21 Wales. Mr Anderson who no one knew, nobody knew anything  
22 about him, resolution was passed. I told him there'd be a  
23 rescission motion if not that day, the next day. The  
24 rescission motion went in the next day. After a bit of  
25 pressure the mayor sends out an email saying "Too late it  
26 was enacted on the night of the council meeting". On the  
27 Tuesday night after hours it was enacted. I find it very  
28 strange for business like that to be conducted after hours  
29 given the - you know, the heated discussed around the GM's  
30 performance review.

31 Now, once again, we get back to this democracy

1 debate where - and I'm sure councillors in this room and  
2 anyone who has been involved in any sort of a, you know,  
3 democracy type deal, I've been rolled. I've been rolled -  
4 I've been beat up mentally. Many times. It's just how it  
5 is. Things went - I couldn't believe the decision that  
6 the council was making, and I was bitterly upset. But  
7 that's just how it is. It's just how it is. You know,  
8 the lack of understanding by the mayor of democracy is  
9 what led us to that, which then led us to the ultimate  
10 meeting on January the 19th where, you know, they just  
11 didn't show up, and the mayor's excuse was "I just wasn't  
12 available".

13 You know, there were times, I run a very, very small  
14 business. There were times when I wasn't available but  
15 you make yourself available. You do the extra yards as  
16 the mayor. His excuse was, "I just wasn't available" is  
17 unacceptable. And how everyone could be all sick on the  
18 one day defies logic and then I'm hearing there was a  
19 meeting on the morning of that council meeting in the GM's  
20 office where these particular councillors attended.

21 That's what I'm hearing.

22 So what's that again. There was a meeting. Just tell us a bit  
23 about that?---Well, a staff member came to me and he's  
24 been a staff member for some time, he said to me that on  
25 the morning of the council meeting of Tuesday January 19  
26 2016 there was a meeting in the GM's office where  
27 councillors Bilkey, Pocklington, the GM and Cr Murphy  
28 wasn't sighted but her car was parked out the front.

29 MR BROAD: Can I go backwards and we passed on a bit, but  
30 I need to go backwards to what the assumptions were or how  
31 the general manager's performance reviews had taken place

1 in the past, and I think there may have been exception to  
2 the deputy-mayor being involved, that's Cr Campbell. Is  
3 it assumed that the performance review would take place in  
4 a room with all personnel present?---No. No.  
5 Have you been involved in any previously?---Oh, yeah,  
6 absolutely.  
7 What was the course of events in previous ones?---We'd schedule  
8 a meeting, the mayor, the deputy and a councillor.  
9 COMMISSIONER: Before you say that, so first of all the council  
10 would determine who's going to be the group to do the  
11 review. The council would usually have to - - - ?---It  
12 was always the mayor, the deputy and one other councillor.  
13 The only thing that would - - -  
14 That's how it was done here, that was it?---The only thing that  
15 had to be decided, who that other councillor would be.  
16 Each time times. So there was almost like a standing  
17 resolution or position or whatever you want to call  
18 it?---Yeah, yeah. And look, I'm well aware of the deputy-  
19 mayor's, you know - look, the deputy-mayor is - - -  
20 Can I just come back to what you said? So that happens. There  
21 was the meeting with the organiser, new councillor is, the  
22 deputy, mayor, new counsellor?---Yeah.  
23 What happens next?---Well, we have the performance review.  
24 Between yourselves first?---Yes, and then - - -  
25 Because the general managers already done something, haven't  
26 they? They've already filled out their form?---Yes, yes.  
27 And then that comes back to council to be ratified and  
28 that's how it's been done.  
29 After you've had your meeting you make a decision?---Yep.  
30 Look at the general managers. Do you interview the general  
31 manager? Do you have a discussion with the general

1 manager before it goes back to the council

2 meeting?---Don't think so, no.

3 Never before?---I don't think so, no.

4 (Indistinct) just wondering - - - ?---Yeah, yeah.

5 MR BROAD: So what you are saying is there was not a round  
6 table discussion where all parties or both parties, as it  
7 were, were represented at the same time?---I don't think  
8 so, no. And look, Greg Murdoch was the general manager  
9 for 20 years. Look, fortunately or unfortunately every  
10 performance review that involved Greg Murdoch went well.  
11 He was highly respected. Always did a good job. And I'm  
12 not telling you that the GM's done a bad job or a good  
13 job. I'm just telling you that in the past, I had been  
14 part of a performance review where there was a groundswell  
15 of disapproval of the GM. So it was in effect new  
16 territory for everyone. But what I'm saying is that, you  
17 know, council should have had a meeting and any issues  
18 that any councillor had, conveyed that to the mayor and at  
19 the performance review, that would be discussed and then  
20 we would get a report back and then I'm assuming if we  
21 wanted to, we could have had the GM back in the room in a  
22 confidential session and discussed the issues with her.  
23 But, you know, like I said - I've never been part of any  
24 performance review to do with this current GM.

25 The general manager was employed in April of 2014. The  
26 contract - the standard form of contract assumes a review  
27 within 12 months. Can you indicate why a review didn't  
28 occur in April 2015?---Well, this is where I get into  
29 trouble. I was well aware that a performance review was  
30 due, and indeed I was well aware that it was overdue.  
31 Given the circumstances and my concerns for the GM's

1 wellbeing and she'd had considerable time off. She was not  
2 well and I didn't - I just knew she wasn't well. That was  
3 obvious and I didn't have a groundswell of councillors  
4 asking me to perform the performance review and I felt  
5 that one of two things would happen. No one would realise  
6 that she was due for a performance review and I'd get to  
7 the end of the four year term and que sera, sera, or we'd  
8 wind up in this situation.

9 Now, look, it was very difficult. It was extremely  
10 difficult. She had a lot of time off because she wasn't  
11 well. I didn't - I didn't - it comes back to her working  
12 for the council. I was concerned but I didn't have any -  
13 I don't recall ever having a confidential council meeting  
14 where we discussed the GM's health. Because - - -

15 MR BROAD: The GM's health you said? Yes. Did you say

16 health?---Right, I don't believe we ever had a specific  
17 for that.

18 Yes. So she was off because she was off work in that period  
19 we're talking about August to October and then there was  
20 the earlier period where she was doing the Fit for the  
21 Future and all that stuff?---And look, it's not that  
22 I struggled with it, I just didn't think it was  
23 appropriate for me to delve too deeply into the GM's  
24 personal health issues. It's not for me to - you know,  
25 she had doctors' certificates that said she was unwell and  
26 not fit for work, and I just accepted it as that, and  
27 that's how it should be.

28 And you accepted it that it was related to work?---Yes. And

29 I never - I don't recall ever asking her, you know, "Do  
30 you think you'll be back next week, next month", you know,  
31 I didn't think that was - you know, had there been a

1 council resolution for me to put that to the GM, I would  
2 have, but I didn't feel - I would be out of my - you know,  
3 I just wasn't comfortable talking to her about that.

4 What was your role in relation to the decision for the general  
5 manager to work away from the office on the Fit for Future  
6 proposal?---If that's what it took to get the job done and  
7 time was of the essence. We were really struggling time  
8 wise, the time lines were very tight. It had been a very  
9 - it was quite a complex issue and it needed to be dealt  
10 with and if it made - look, I have no doubt in my mind the  
11 GM was capable of doing the job. Now whether she does it  
12 over here or she does it at her house, I would have much  
13 preferred for her to be here at the offices and only for  
14 the reasons that the staff would feel a lot comfortable if  
15 the boss is in the place, do you know what I mean?

16 She told me that it would probably help her mentally  
17 if she could do it in an environment where she felt more  
18 comfortable and I agreed. Like she's doing the job, you  
19 know.

20 COMMISSIONER: So was it a twofold thing, obviously to get the  
21 job done, to respond to the Fit for Future?---And part of  
22 it - - -

23 And secondly it was going to give her a little bit of relief,  
24 not that I'm saying she wasn't working or anything, but  
25 she's not in the firing line or whatever way you want to  
26 put it?---It was my idea. I put that to the GM and  
27 I said, "Look, if we don't do something with Fit for the  
28 Future", I know this is not about Fit for the Future.

29 No, no. The point is - - -?---But it was the elephant in the  
30 room and it needed to be dealt with and the GM - that was  
31 part of her job, that was part of her role. She obviously

1 is an academic person and she was up to the task and she  
2 did. If it helped her mental state, well, that's a bi-  
3 product, that's a benefit.

4 And you put the proposal in? Sorry, put your response in, she  
5 did it basically?---Yeah, and she attended a couple of  
6 council meetings and gave up updates, you know.

7 Did the proposal go in as a resolution of the  
8 council - - -?---Yes.

9 - - - in the sense of a unanimous one? Was it something that  
10 everybody was happy about at the end of the day?---Look,  
11 I think the resolution was that it goes in. I think there  
12 were a couple of items and a couple of councillors weren't  
13 entirely happy about it but once again, that was always  
14 going to be.

15 But generally speaking, they were opposed or whatever the  
16 answer was at the end of the day?---Look, I know one  
17 councillor who was bitterly disappointed that some things  
18 weren't included in it, but by and large I thought the  
19 document was okay.

20 MR BROAD: Can I deal with conduct complaints in relation to  
21 yourself and one of the issues that's come up, of course,  
22 or to our notice are certain allegations of your  
23 description of certain councillors as dickheads?---Look,  
24 I made that - I regret making that. I apologised to those  
25 councillors. It was out of order and it was stupid, but  
26 as I recall I was - I could read into the future. I could  
27 see what was coming, and I just in frustration I made that  
28 remark and I do sincerely apologise for doing that.

29 And you did apologise to the councillors concerned?---Well,  
30 I think so. I can't remember. Did I? Did I apologise?

31 SPEAKER: (Off microphone) No?---No, I didn't sorry, but I am

1 apologising now.

2 SPEAKER: (Indistinct)?---Look, it was born out of frustration.  
3 I just - "Come on guys we can do better".

4 MR BROAD: As I raised earlier, you seem to have had a  
5 protective role in respect of the general manager. Could  
6 I just show you one document? That document is a  
7 statement by the general manager in respect of a claim.  
8 I've got essentially two questions, one of which is, is  
9 that your signature as witness?---Yes.

10 MR BROAD: The second question is, did you have any input in  
11 the preparation of that document?---I don't think so, no.  
12 No. No, my role was only to witness the signing of the  
13 document. I can't - yeah, I thought my role was just to  
14 witness the signature. I have seen this document. When  
15 is this date? This some time ago, isn't it? April last  
16 year. Yes. As I recall there is some very, very personal  
17 information in that document, and I refer specifically to  
18 the GM's immediate family and the effect that all of this  
19 is happening on her and her immediate family. I read a  
20 couple of lines and then I - I didn't read the rest  
21 because it was too personal for me.

22 COMMISSIONER: Just while Mr Broad is just looking for the  
23 document, a couple of specific things that have come out,  
24 I just need to put to you to see what your response is.  
25 Were there ever defamation proceedings, I read somewhere,  
26 between you and Cr MacKenzie or is that incorrect? First  
27 of all, was there?---No, no. It didn't go ahead, no.  
28 So that never happened. Who was alleging - was it you alleging  
29 against him or him alleging against you??---He was  
30 alleging against me.

31 All right. So no proceedings, not done?---No.

1 Just another specific one. This is in the general manager's -  
2 just pardon me two seconds. This was a reference - again,  
3 just because it mentions you, and this is the announcement  
4 after the merger or the Fit for Future. "Since the  
5 announcement Cr Weyrich and Moon have been in close  
6 contact with the Mayor of Wakool and have effectively  
7 undermined the Mayor Pocklington and I. Councillor  
8 Weyrich advised the public meeting on 21 January that  
9 Murray Shire could not meet with Wakool because the mayor  
10 Wakool had a problem with our general manager. I believe  
11 Cr Weyrich has telephoned, records would show  
12 that"?---When did I say that?

13 That's at a meeting on 21 January this year?---Where?

14 It just says "Advised a public meeting"?---A public meeting  
15 held in Wakool?

16 It doesn't say. It just says "Since ... effectively  
17 undermined the Mayor Pocklington - advised a public  
18 meeting on Thursday 21 January", it doesn't say  
19 where?---What's the accusation?

20 That Cr Weyrich advised a public meeting - - -?---Undermined  
21 somebody.

22 Just read that little bit?---Oh, yeah, okay. Yep. Yep. Look,  
23 my response to that is that I'm - Neil Gorey is the mayor  
24 of Wakool Shire. They're a neighbouring shire. Prior to  
25 any announcement of any merger, I certainly had a good  
26 working relationship with Neil and it continues on. Now,  
27 it's - look, - - -

28 I mean, the general manager there is asserting that you said  
29 something, you know, contrary to her or - - -?---Look,  
30 I don't recall word for word what I said but I did attend  
31 a public meeting in Barham which is in the heart of the

1 Wakool Shire. It was a public meeting to discuss mergers.  
2 I don't believe I publically said that the GM and Neil  
3 Gorey have an issue. I may well have said that to Neil,  
4 but I certainly didn't say it over a microphone, I can  
5 guarantee you of that. But now you bring it up, it is an  
6 issue, yes. And it has - it has been a factor in Murray  
7 Shire meeting with Wakool Shire and there's been a fair  
8 bit of toing and froing as to try and organise a meeting  
9 with Wakool Shire councillors and Murray Shire  
10 councillors. Up until we were suspended it was a major  
11 issue because - - -

12 Are you saying because they have a perception there's a problem  
13 here. I mean, is that what - - -?---Well, yeah,  
14 absolutely. Everybody knows there's a problem.

15 Yes, yes?---But there's a problem between - the general manager  
16 of Wakool Shire left recently and our general manager and  
17 that general manager are good friends, and Neil sees  
18 things a little bit differently to me. I just saw it as  
19 they're good friends. I was well aware that Neil and  
20 Bruce Graham had their differences but that's their Shire.  
21 I don't - you know, what they're doing is their business.

22 Neil's the councillor?---Sorry?

23 You're talking about Neil, he's the councillor, isn't  
24 he?---Yeah, he's the mayor. He's the mayor of Wakool  
25 Shire. Bruce was the general manager.

26 Right?---There was a fair bit of friction there as most people  
27 would know. Nothing to do with me.

28 No, not with me either, so. All right.

29 MR BROAD: Councillor Weyrich, in January this year, the  
30 general manager lodged an application for an order to stop  
31 bullying with the Fair Work Commission. In that

1 application she refers to certain matters involving  
2 yourself?---M'mm.

3 I assume you've seen that application?---Well, yes, I've seen  
4 it. I haven't read it but I've seen it.

5 I will show you - - -?---I will tell you now, I'll put it in  
6 the rubbish bin.

7 I will show you one part and I'll ask you a couple of questions  
8 about it, if I may?---Yes.

9 COMMISSIONER: Sorry, which document was that, again, we're  
10 going to?---That's the Fair Work Commission.

11 Yes.

12 MR BROAD: Now, I do not want to deal with all the matters in  
13 example 1. But on p.3 beginning of the second paragraph  
14 it talks - it refers to a discussion between the general  
15 manager and yourself. Can you read that, not aloud, but  
16 to yourself?---M'mm.

17 Can I ask you this firstly. In respect of the first part where  
18 it talks about a discussion on 19 August 2015, had you in  
19 fact had a discussion with Cr MacKenzie in relation to  
20 your return as mayor?---Look, I can't recall specifics but  
21 that's possible, yes, I'd agree with that.

22 The statement then attributes a conversation to you - - -  
23 ?---Look - - -

24 What I'm trying to do is find out whether, to your  
25 recollection, the initial statement is correct and whether  
26 the subsequent statement is correct?---Yes, I believe it  
27 to be correct. But look, I've had a thousand  
28 conversations with different councillors and you know,  
29 some conversations just shouldn't be repeated. Do you  
30 know what I mean? They just shouldn't be repeated. I've  
31 had confidential discussions with lots of councillors over

1 many subjects over a long period of time. 99.99 of just -  
2 they're just gone. They're just conversations that I have  
3 with the general manager, with councillors. You know, to  
4 take - randomly take one of those conversations word for  
5 word, and I don't understand how anyone could word for  
6 word - unless the conversation's been recorded. Because  
7 this conversation would have taken place over one minute,  
8 60 seconds. Do you understand what I'm saying? I don't  
9 understand for starters, word for word, how you could  
10 repeat that conversation. And the second part of it is  
11 that, you know, I've had lots and lots of conversations  
12 with lots of people that were full of derogatory remarks,  
13 full of aspersions, full of rumours, some discussions just  
14 - I read the first part of this and I put it in the bin.  
15 That's the truth. I'm not the kind of person who goes  
16 back in - the only thing you get looking backwards is a  
17 sore neck. There you go.

18 The question that obviously arises is you weren't ultimately  
19 returned as mayor. Did you find that your relationship  
20 with the general manager changed?---Absolutely.  
21 Absolutely. It did a complete 180. It went from I felt a  
22 good working relationship. Indeed I took time off my work  
23 to go to Sydney. Sure, I didn't pay for airfares or  
24 accommodation but it cost me money to go to Sydney.  
25 I went to the country mayors meeting. I went to OLG.  
26 I went to the lawyers and it all cost me money. It cost  
27 me money for me to try and get something done in relation  
28 to the situation. There was a text message from the GM -  
29 I just forget exactly when it was, I've still got it -  
30 that says "Stop discussing my deteriorating health in the  
31 press" and I believe that was in either late August or

1 early - look, I do have that and I can produce that. And  
2 I wrote my response to that. That was "Well, when did  
3 happen, I don't know what you're taking about" and from  
4 there on in it's just gone downhill at a rapid rate.

5 COMMISSIONER: So you're still the mayor obviously then when  
6 that happens?---No. No.

7 Sorry, August 2015?---No, I think after - - -

8 A bit after?---So it was after, sorry. It must have been  
9 after.

10 Yes?---To this day, I don't know why. I tried to have a  
11 conversation with her here actually, and she wasn't too  
12 friendly so I didn't want to push.

13 MR BROAD: There appears to be a perception that you're  
14 allegiance changed from - - -

15 Put it bluntly, that's right?---Yesterday when I was here,  
16 I did hear Cr Pocklington make that aspersion and I know  
17 that gets a regular run around the place, but that's okay.

18 COMMISSIONER: Let's just put it back there. The regular run -  
19 you were mayor. You looked like you weren't going to get  
20 the numbers. Change side. I'm going to get the numbers  
21 and didn't work?---No.

22 That type of thing. What do you say to that?---Load of  
23 rubbish. Just rubbish. Just absolute rubbish. So I'm on  
24 some sort of a pay back, tit for tat thing, am I? Is that  
25 the accusation? Is that what they're saying about - - -

26 MR BROAD: That's not the question that's being asked but if  
27 that's - - -?---No, look, there's no doubt I was upset.  
28 For three years I tried as hard as I could, and for the  
29 rest of my life I walk down the street, any street, in  
30 what used to Murray Shire, and hold my head up high.  
31 I couldn't have done it any better. I couldn't have done

1 it any different, given what I had to contend with. Given  
2 that councillors resigning and a general manager resigning  
3 and the appointment of the GM. Look, I'm happy - within  
4 myself I'm happy and if they see it differently  
5 well, - - -

6 COMMISSIONER: So you don't become mayor. You're still someone  
7 else's mayor so they're having that more closer contact  
8 with the GM in the normal way, and then so where does it  
9 go off the rails with you and the general manager?---It's  
10 starting to come back to me. The text message I got  
11 saying "Don't discuss my deteriorating health" was just  
12 prior to the mayoral election.

13 MR BROAD: Right?---And then all of a sudden after Cr  
14 Pocklington is the mayor, her health has not - it's not  
15 deteriorating any more, it's done an amazing 180 and she's  
16 back at work. So I didn't take it personally but I felt  
17 that if there was an issue with me, perhaps the GM should  
18 have told me there was an issue with me, and - - -

19 COMMISSIONER: You still don't know what she was - - -?---No.  
20 All right. So that happens. Change in mayorship. At the same  
21 time you then get the issue you dealt with before about  
22 "Well, how come the general manager's come back, on what  
23 terms, why don't we know (indistinct)?---Exactly.

24 So you put that all together?---Yeah.

25 And that explains your position with the general manager at  
26 this point?---Yeah. As well as - let me tell you a little  
27 story that happened and this was in July, August of last  
28 year. On a Wednesday - sorry, on a Thursday morning, I'm  
29 getting - I'm still the mayor. I'm getting multiple phone  
30 calls from staff members and other people, "What's going  
31 on with the GM?" "Why what's the problem?" "Well, she's

1 not at work". "Well, that's not unusual".  
2 Sorry, when was this? Put that - - - ?---This was July, August  
3 last year.  
4 All right. Yes?---Right. I've got some distraught staff  
5 members and I'm saying, "Well, I don't know, why what  
6 makes you so concerned". "Well, there's not one single  
7 solitary thing in her office. It has been cleaned out" to  
8 the point - - -  
9 Yes, I have read that before, yes?---"She has just disappeared.  
10 Where is she Tom? What's going on?" "I don't know.  
11 She's obviously working from home". That was the  
12 assumption. Why she's cleaned her office out and I'm led  
13 to believe it was clinically cleaned out, is beyond me.  
14 And that's at the time - not the Fit for Future time, the other  
15 time, the second time when - well, she wasn't working, she  
16 left. That period?---And I had no qualms about the woman  
17 working from home and as I've said earlier - - -  
18 I understand that part, yes?---So I'm getting all these phone  
19 calls and rather distressed people, you know "The GM's  
20 gone". I'm saying, "No, she's just working at home".  
21 I talked to her at her house on the Saturday afternoon,  
22 didn't mention it. Did not mention one single word that  
23 she'd packed up her belongings and I believe now, had no  
24 intention of returning whilst I was the mayor. That's my  
25 take on it. The paper rings me up and says, "Tom, we're  
26 hearing this, we're hearing that. What's going on?"  
27 I have to have a position. So I said, "As far as I'm  
28 concerned the woman is working from home with Fit for  
29 Future stuff". That was it. I'm not the mayor anymore  
30 and all of a sudden she's back. Now, there's been a -  
31 there's a rumour that there's a large monetary amount

1 involved. Fine, you know, I don't even know how much  
2 we're talking about. I have no idea. Can't find out and  
3 it goes back to what I said at the outset, but democracy's  
4 taken a sickie in the Murray Shire when it comes to this  
5 sort of stuff because she works for the council and the  
6 councillors - and it is the bane - it is causing a lot of  
7 problems and I believe as a council, we are duly entitled  
8 to know what is going on. And like I said, if Margot's  
9 got a problem with me, well come tell me.

10 Can you get those text and send them to us?---Sure can.

11 Or right now?---Yeah, sure.

12 MR BROAD: I notice the time. I think we'll probably be about  
13 20 minutes. So we will be back here in an hour. Sorry,  
14 to do that to you, but that's what we've done to everybody  
15 else. Come back in an hour and we'll finish off. It will  
16 probably take about 20 minutes or half an hour?---Sure.

17 And then we will go on to the next witness. Thank you.

18 <(THE WITNESS WITHDREW) 1.10 PM

19 LUNCHEON ADJOURNMENT

20

(Chairperson, Mr A. Hudson))

1  
2 UPON RESUMING AT 2.07 PM:

3 MR BROAD: Councillor Weyrich, yesterday, Councillor Bilkey  
4 gave evidence to the effect that there was an agreement  
5 between yourself and other councillors that after, I think  
6 it was two years or thereabouts, at term of Council, you  
7 would resign the role as mayor to allow another councillor  
8 to be appointed, what do you say about that?---There was  
9 discussions along those lines, yes. Yes, I agree.

10 Do I assume that come August/September 2015, your views had  
11 changed?---They had, yes.

12 Why?---I didn't think there was anyone in the ranks that could  
13 step up, and given the issues, I just didn't - I thought  
14 it was a bad idea to change at that moment.

15 Can I go to another issue and that is this, you  
16 haven't made a submission to the Inquiry, why is  
17 that?---As I've said earlier on, I'm of the belief that a  
18 lot of this is unnecessary. I think towards the very end,  
19 just before the suspension when, on January the 19th, this  
20 year, when we were unable to have a council meeting  
21 because of a lack of quorum, I felt that - look, one of  
22 two things can happen here, we either are sacked  
23 completely, or we're reinstated. If we're reinstated,  
24 I believe the motion that was put - I believe a motion  
25 that was put to Council by a democratically elected  
26 councillor will return in the business papers. I can see  
27 nothing that makes me think that motion won't go back  
28 before Council.

29 MR BROAD: This is the motion of no confidence?---Yes. Now,  
30 I've said earlier that I find it extraordinary that three  
31 councillors all on the one day are not available for a

1 council meeting. And as I have also said earlier, there  
2 were days when I just wasn't available but you do what you  
3 have to do to be there. And if you go back and have a  
4 look through the records, I think in 17 years I might have  
5 missed half a dozen meetings.

6 Did you see the motion of no confidence potentially leading to  
7 a further resolution terminating the contract of the  
8 general manager?---If the resolution had have got up, yes.

9 Did you see that there might be legal difficulties with that  
10 given that there was a claim?---Yes, yes, yes. But I  
11 probably felt that that was far better than this, the  
12 situation we have now.

13 If the meeting had gone ahead, it would have allowed that  
14 debate to have occurred?---Yes.

15 And if there was legal advice, for that legal advice to come  
16 forward?---I think - and, look, I don't have it before me,  
17 but there would have been - if the motion had have got up  
18 there would have been a resolution. I would assume that  
19 that then would go to our lawyers and the lawyers would  
20 advise us of what our legal - what the legal implications  
21 of terminating the contract were.

22 Had you seen legal advice before that meeting to the effect  
23 that that motion was unlawful?---No, I haven't seen it. I  
24 think the Mayor indicated that he thought it was unlawful.  
25 But I don't believe I've read any legal advice that says  
26 that and, look, my take on it is that Council can decide  
27 anything. You can put any motion you want to the council.  
28 I didn't think it was out of left field. I think from  
29 time to time an organisation there's disharmony and  
30 dissatisfaction with people who run the show and if this  
31 had have been private enterprise, you know, well, if the

1 resolution had got up, the general manager would have  
2 gone.

3 Leaving aside any restrictions that might be imposed under the  
4 Work Health & Safety Act, for example, is the general  
5 position that either party, either a general manager or  
6 the councillors, may give a termination notice under the  
7 contract with a provision for 38 weeks' pay?---That's my  
8 understanding of it, yes. I think 38 weeks is a standard  
9 clause in those sort of contracts. Should legal action  
10 have been commenced, and I'm not telling you that it  
11 would, I don't know, but I think given - - -

12 So what do you mean? What sort of legal action?---Well, if the  
13 GM had have pursued unfair dismissal or - - -

14 Undertaken by the council, yes, sorry?---Yes, or something like  
15 that, I certainly wouldn't be happy about it, but, you  
16 know, like - - -

17 Deal with it?---Yes, well, you know, we just need to grow up.

18 And just further to that, in a court of law, and assuming  
19 it would go to a court of law, if the presiding judge or  
20 Magistrate, or whoever it is, says, well, you have, you  
21 know, well, then we are and then we pay; simple.

22 Councillor Weyrich, since the convening of this Inquiry, what  
23 communication have you received from the residents of your  
24 community?---Varied. Some people are in favour of it.  
25 Some people are dismayed that it's got this far. Some  
26 people can't understand how these matters couldn't have  
27 been dealt with earlier. How did we get to a council that  
28 was operating very well three years ago, to this? You  
29 know, but they are all looking to point the blame at  
30 somebody. You know, people aren't saying to my face that  
31 I'm responsible for this, but I full well understand there

1 would be some people who would see that, yes. But those  
2 sorts of people weren't there. They didn't live it. They  
3 don't know. They just don't know.

4 Has it been a demanding period for you?---That's an  
5 understatement. Extremely. Extremely. Because when  
6 you're the Mayor for the last three years, you know, and,  
7 look, I shoulder some of the blame. As I've said earlier,  
8 I made mistakes. I full well acknowledge that. It has  
9 been very stressful.

10 I was going to follow up with a couple of more generic  
11 questions.

12 COMMISSIONER: Just before you do that, I'm just going to ask  
13 one - and this is one of those little specific things, I  
14 would just be interested in what (indistinct words). This  
15 is, when you read that, I think it's saying: "Weyrich  
16 says that the general manager thinks the pay clerk does  
17 not work and will be made redundant." An assertion that -  
18 you said something like that. You express that and the  
19 same thing for another employee, if that makes  
20 sense?---M'mm.

21 So that's a reporting back. I mean, is there  
22 any - - -?---There's merit in that, yes, yes.

23 MR BROAD: So am I reading that right that the general manager  
24 thought that that particular person didn't work properly  
25 or whatever the allegation was?---Correct, correct.

26 And that she was going to make her redundant?---Correct.

27 And she said that to a couple of people?---Correct.

28 Do you know what the context of that was? Like, was it part of  
29 a review of the whole organisation or was it a - I mean,  
30 this is about December. I don't know if it happened  
31 then?---Yes. Well, yes, look, I'm very familiar with the

1 logic behind it. I'm struggling a bit with it because it  
2 involves people that I know and I - - -  
3 Just in the context, do you think was it in a process that  
4 someone was thinking about revamping the council as  
5 happens in lots of councils?---Yes, yes, yes.  
6 Was that coming from the general manager?---I believe so, yes.  
7 And was it, "It's time for a restructure," or whatever the type  
8 of words were, the nature of that thing?---Well, I think  
9 the gentleman that's mentioned in there as part of Fit for  
10 the Future, I think that position would be made redundant  
11 or the GM - yes, it was part of a restructure and the GM  
12 said that position will be no longer.  
13 And that could be a restructure possibly for Murray Shire  
14 Council as it is now or even on a merged situation?---Yes,  
15 either/either, yes.  
16 Thank you.  
17 MR BROAD: The general questions I want to ask you start with  
18 this question and that's this. Do you think that the  
19 current councillors are dysfunctional and cannot operate  
20 together?---Councillors or council?  
21 Let's start with councillors?---The councillors, no, we can  
22 work together. Yes, we can work together.  
23 Do you differentiate between councillors and council?---Yes, I  
24 did, didn't I? Well, I did say that, didn't I?  
25 COMMISSIONER: What's the difference? In a sense - - -  
26 MR BROAD: That's what I'm trying to see what that is. Are you  
27 talking about the corporate body or - - -?---As far as the  
28 corporate body goes and the decision making processes that  
29 are in place at Murray Shire and I've said it numerous  
30 times. The decisions that came out of the place, I  
31 believe, by and large were the right ones. So from that

1 aspect, I don't see it as being a problem. Councillor to  
2 councillor, councillor to staff, there's some work that  
3 needs to be done in that area and I think OLG are the  
4 appropriate people to do that. And I've also said that I  
5 believe honestly that every councillor at Murray Shire is  
6 there for the betterment of their community. It just  
7 needs to be - it needs someone to come in and say, "Look,  
8 yadah, yadah," and we are the ones with the - - -

9 COMMISSIONER: But if someone doesn't do that, the gigantic  
10 clash of personalities remains?---Well, you know - well,  
11 it does, but I think we're that far into it now, I think,  
12 and this process right now would be a giant wake-up call,  
13 I think. And it's never going to be, but it's workable.  
14 I believe it's workable despite our differences.

15 MR BROAD: Can I take you through each of the terms of  
16 reference and ask for your views? The first of the terms  
17 of reference is whether the elected representatives,  
18 that's the councillors, and staff, have since the  
19 appointment of the current general manager complied with  
20 applicable laws, codes, administrative procedures and  
21 policies and have fulfilled its and their duties, powers  
22 and functions, particularly in relation to relationships  
23 between the councillors, the general manager and senior  
24 and other staff?---There's a lot of questions in that  
25 question.

26 I know. We can happily separate them if you want to?---Look,  
27 by and large I think we have except for the codes. I  
28 think there's some work needs to be done on the codes.  
29 But, look, once again I always felt that it was a bit of a  
30 storm in a teacup and some of the trivial codes of  
31 conducts that went up to OLG were exactly that trivial.

1 Now, in a normal set of circumstances you wouldn't bother,  
2 but because there was such a long history of this sort of  
3 stuff, it got out of hand, it just got out of hand.  
4 I will just develop that very quickly. There were a number of  
5 code of conduct complaints where the reviewer sent them  
6 back to resolve by alternative means or to resolve through  
7 either yourself as Mayor or the general manager. Were you  
8 able to do that?---Certainly tried and I believe in some  
9 instances, yes, we were. Not in all, but in some we were.  
10 Can you name any instances where you - - -?---I knew you were  
11 going to ask me that. No, I can't. Look, are you asking  
12 me did the message get through? I think so. I think so.  
13 Can I move to the second term of reference?---Sure.  
14 What I would be seeking is your view as to whether the Council  
15 has since the appointment of the current general manager  
16 complied with its work health and safety obligations as  
17 the general manager's employer?---Yes.  
18 The last of the terms of reference is whether the elected  
19 representatives have been and will continue to be in a  
20 position to direct and control the affairs of council in  
21 accordance with the Local Government Act and other  
22 relevant Acts so that Council may through its charter and  
23 the provisions of the Local Government Act and otherwise  
24 fulfil its statutory functions and obligations and I  
25 suppose that looks to the past and looks to the  
26 future?---I'd say yes. Look, there are some things that  
27 I'm not happy with and I've conveyed that today. But  
28 apart from that, I think so.  
29 The Council is currently suspended. Would it be your view that  
30 the suspension should come to an end and that councillors  
31 be reinstated in their roles?---I do believe that, yes.

1 COMMISSIONER: But you are also saying perhaps with some, I  
2 don't know, hard-hitting advice or whatever you want to  
3 call it?---Well, I think so, and that is required in a lot  
4 of areas. And just to give you an example, when the  
5 Minister made the announcement that Murray Shire was to be  
6 suspended, I think that within one hour - and I wasn't  
7 even aware of it - my council-owned iPad and phone, all of  
8 my email contacts, a lot of data, was clinically removed  
9 by remote control. Now, as I understand it, I'm still a  
10 councillor suspended. I have emails from constituents. I  
11 have contacts. But it all had been removed and I have no  
12 email - council email access. And I think that sort of  
13 behaviour needs to be addressed because that to me is a  
14 tit for tat. And I don't have to explain to you people  
15 how that process can only happen. There's only one way it  
16 can happen and we all know that. It goes right across the  
17 board. I think if I were to give a bit of a - am I out of  
18 order giving an overview - - -

19 Yes, go for your life?---I think the secrecy surrounding the  
20 terms and conditions of the GM's employment need to be  
21 addressed and I think a level of transparency in relation  
22 to those matters needs to be conveyed to everyone  
23 involved. But councillors have a legal right to  
24 understand what's happening with the GM.

25 Yes, I understand that. You have made that point, yes?---You  
26 know, and that needs to be addressed. All of this stuff  
27 in here needs to be reinstated immediately and I think sit  
28 us down and have a chat to us and I think we'll be fine.  
29 We've only got until September or September, March?  
30 September - March - - -

31 Who knows?---Yes, well, exactly, who knows. Look, I feel bad

1 for the community and I publicly said we did it to  
2 ourselves and we did - we did. Yes, I reckon it won't be  
3 easy, but I think we can do it. We have some - I think  
4 this stuff about different sides is very worrying for me.  
5 I've never - you know, I could nearly go to a council  
6 meeting and tell you how every councillor was going to  
7 vote and that's not a bad thing. I mean, that just comes  
8 with, you know, years and years. I know that - well, I  
9 think I know they're political beliefs and up until this  
10 Council that wasn't an issue, but I think it's slowly but  
11 surely crept into it a little bit where their political  
12 views are having an effect on decisions. You know, people  
13 might say the same of me, so, anyway.

14 MR BROAD: I have got no further questions.

15 COMMISSIONER: All right. We will give you that phone number  
16 and you can - - -?---Yes, sure.

17 The person outside will just give you the number?---Sure. All  
18 right.

19 Thanks very much?---We're done?

20 Yes, thanks for coming?---Thank you. No worries. See you.

21 <(THE WITNESS WITHDREW) 2.25 PM

22 Councillor Campbell.

23 <GENEVIEVE CAMPBELL, sworn and examined:

24 When did you become a councillor?---2012, September.

25 That was your first time?---Definitely.

26 MR BROAD: Councillor Campbell, in the first part of this  
27 council term, you did not hold a position, but  
28 from September 2015 on, you have been elected as  
29 Deputy Mayor?---That's correct.

30 Can I ask as a new councillor whether you underwent an  
31 induction program in respect of your responsibilities the

1 manner in which council operated, generic matters about  
2 the council?---At our first meeting in Mathoura we had a  
3 bit of a workshop where we went through with the general  
4 manager and he explained the whole thing about council.  
5 We were given a big blue folder that had different  
6 sections in it relating to the affairs of council.  
7 So you were - - -?---Yes, I believe we were given enough  
8 information at the time, plus I attended workshops prior  
9 to getting on council.  
10 Those are the ones run by the Electoral Commission?---Yes,  
11 that's right.  
12 And Office of Local Government?---That's correct, yes.  
13 COMMISSIONER: They have given you as much as they can?---Well,  
14 they don't tell you about the baptism of fire, but, yes,  
15 they gave us - we were well aware of what we were getting  
16 into in broad terms.  
17 MR BROAD: Was it a baptism of fire?---Totally, yes, it was.  
18 In respect of the issues that council had to deal with?---No,  
19 not the council issues. I do want to address Murray Bank  
20 which is what John Polkington brought up when he said he  
21 didn't know about a development application. Prior to  
22 being on council, I did have issues with the planning  
23 department which is probably one of the reasons why I did  
24 get on council because I - - -  
25 Was that one of your sort of platforms?---Well, yes, I suppose  
26 it is. It is no secret I was trying to get a farm fence  
27 around a rural property. I had to put a DA in. I wanted  
28 to string three wires around a rural block. My insurers  
29 had said, given where, the location of the block, that I  
30 needed to advise Murray Shire that they wouldn't be joined  
31 in a joint claim should something happen because I should

1 be able to protect my boundaries. I had to get someone to  
2 draw up the plans of what a gate looks like and what I was  
3 going to do.

4 You had to put a DA in?---Yes, I did, and extensive DA for a  
5 farm fence. So I made it known I was going to run for  
6 council. I had approached council at a meeting. One of  
7 the former employees of Murray Shire before he left told  
8 me that they would just - it's a stalling process that  
9 they were applying to me. I addressed that with the  
10 previous general manager, Greg Murdoch, who just blushed  
11 and said nothing. So when I had been to the Deniliquin  
12 things that the local government provided, I noticed a  
13 change in attitude from the Murray Shire Council  
14 executive. I rang the GM, Greg Murdoch, and after six  
15 emails which I've got, my construction certificate was  
16 granted. I was under no illusion it was because they must  
17 have thought I had a chance of getting on council.

18 So you had a view about the way the staff  
19 operated?---Definitely.

20 Could I ask you this question? You were required to put in a  
21 development application. Fencing a rural property wasn't  
22 seen as exempt from that process?---Well, it was in a  
23 heritage area. I had been given advice that, you know, it  
24 wasn't a (indistinct) in the Heritage Act. But I watched  
25 my neighbour. What started - like tipped me over the  
26 edge, I suppose. My neighbour built a brick fire wall on  
27 the boundary of his house and that was okay. Yet I'm  
28 trying to put three wires around my property and I have to  
29 go to all this trouble.

30 So I assume there was a building on the property?---Well, I had  
31 advised Council that the neighbour was building on my

1 property. They more or less said that was my problem.  
2 I am trying to find out why it was a heritage area?---Because  
3 it's directly opposite the border of Echuca and there's a  
4 lot more to that story too, but it's in a river  
5 environment. It doesn't - like it's set back from the  
6 river.  
7 All the rules about rivers and setbacks - - -?---Well, that's  
8 another story which I'll get to.  
9 We are not there yet?---It's coming up.  
10 I'm trying to explore where you saw councillors been at the  
11 time of your election and you basically said you have had  
12 a baptism by fire. In respect of yourself and  
13 councillors, there were nine of you elected. How did  
14 things pan out at the start?---No problem. I didn't  
15 personally, anyway. Yes, not an issue.  
16 Did that change?---Yes.  
17 When did it change?---It probably changed when I - I've got it  
18 here - it's changed with this Murray Bank Development  
19 application in Trent Road and that was on 15 October.  
20 What year?---2012. It changed with the executive.  
21 Hang on a minute. You only got elected in September?---Yes, I  
22 know. I know. I didn't last long.  
23 So that's a particular development application?---That's right.  
24 We won't go just for a moment just yet. It went all up and  
25 down, but that was where you say it started?---With the  
26 executive, it did, and carried on with a few of the old  
27 school councillors that had been there for some time. But  
28 I personally didn't have a problem.  
29 How was the change or what was the change?---A ratepayer  
30 approached me regarding a development next to their  
31 property and had some concerns. I took it as a newly

1 elected councillor and fairly passionate about what I do,  
2 that I would investigate. Prior to this, I got all the  
3 council agendas. I paid for them prior to being a  
4 councillor for several years, so I had - I've got boxes  
5 full of council agendas and I read most of them, fairly  
6 roughly, but I look at things and if I think it concerns  
7 me, I have a bit of a read. I put a rescission motion in  
8 about this application and I was fairly new at what I was  
9 doing, so I - - -

10 Was the application already approved?---No, they had to - the  
11 applicant had objected because they hadn't been given  
12 grounds to meet properly with council. There was some  
13 business between the applicant and council so they left it  
14 open again.

15 So hang on a minute. There was an existing DA?---Existing DA.  
16 Not determined?---That's correct.

17 So you don't need to rescind anything at this point?---Pardon?

18 There is nothing to rescind at this point?---No, they put in  
19 the - sorry, pardon me. Sorry, they put in the agenda,  
20 they had put in the application and it got passed. I put  
21 a rescission motion in after I found out more information  
22 and then it went pear shaped.

23 You put the rescission motion in, but it was all in the right  
24 time?---Yes, yes, did all that.

25 It's not like years ago or anything?---The reason I put the  
26 rescission motion in was because the offending shed was  
27 put in. Well, the council documents had given us a  
28 picture of the shed and the real size is a much larger  
29 diagram. They had buildings over survey lines. There's  
30 lots of things in there that I thought might - - -

31 So there was a lot of issues with the DA?---There was a lot of

1 issues in that DA, right?

2 Then what happened? You put your rescission motion in?---Well,

3 I put the rescission motion in and I also brought with me

4 a 2006 Murray Shire Council agenda which relates directly

5 to this property with the original DA.

6 So was this a modification to a DA or a new DA?---It was a

7 change sort of in the use, but it was against all their

8 original development applications.

9 That was six years prior, wasn't it?---That's right. So Simon

10 Arkinstall, the planning man, said - I presented the DA

11 and said, "This is going against your original purpose of

12 this block." And he said, "I'll have to check the

13 authenticity of this document." I said, "It's your own

14 generated document in its entirety and I suspect there

15 wouldn't be a court that wouldn't say that was your

16 document." He took the document away and everything

17 stopped on this development application and I've got a

18 letter from a Mr Bill Gardiner, an email, that said Simon

19 Arkinstall had actually phoned him on the next day to ask

20 him if he would withdraw his objections of 2006 to do with

21 this DA. And he said he then asked Simon why he was not

22 notified of the application and Simon's response was:

23 "Council staff probably considered it not necessary to

24 notify me." I questioned why council staff did not - did

25 consider it necessary to notify me of the 2006 application

26 and also the more recent application to construct a

27 manager's residence adjacent to the entrance.

28 Hang on. Whoa. That's just too much detail?---Sorry. Anyway,

29 this chap said that really what Simon did was go out and

30 ask if he would withdraw his original objection.

31 In 2006?---Yes, but my complaint is I need to be given correct

1 information to ascertain how I am going to vote. Then it  
2 was alleged that I had some sort of relationship with the  
3 ratepayer who come to me to ask me - or he didn't ask me,  
4 but he had concerns and he had lodged with the Shire an  
5 objection and I just - I'm there to represent the  
6 ratepayer.

7 What was the assertion?---The Mayor thought that I might have  
8 had too close a friendship, somehow that I had more of an  
9 interest in it than just trying to get good outcomes for  
10 our residents. I haven't got an issue with either party.

11 What happened with the rescission motion?---It disappeared.

12 Did it go on?---The rescission, well, the withdrew the  
13 development application, but I wasn't advised until the  
14 next meeting and I rang the general manager and the Mayor  
15 about what's happening with this rescission motion because  
16 I had to meet an appointment in Mildura on that day.  
17 Nobody - neither of those gentlemen told me that they had  
18 withdrawn it the week before. So subsequently I came to  
19 this office here to the council meeting, had to leave  
20 early to be in Mildura by 6 o'clock.

21 So the actual DA was withdrawn?---Yes.

22 So whatever the resolution happened for didn't matter because  
23 there was no DA?---That's right.

24 What happened then?---Well, they just thought I was a  
25 troublemaker.

26 No, but in relation to that, that's the end of that file in the  
27 sense the DA itself?---That's the end of that file. It  
28 come back to us I think about 12 months ago or so  
29 and - - -

30 As a new DA?---As a new DA.

31 What happened then?---And that was approved because five beats

1 four every time.

2 So you are basically saying that somewhere about October 2012,  
3 there was a feeling that had generated towards  
4 you?---That's correct, and also in my file note here, I  
5 think it was the next day the planning department rang me  
6 and told me one of my development applications wasn't  
7 valid. I'll have that here somewhere.

8 One is your own?---Well, I wrote down the exact time Simon  
9 Arkinstall rang me.

10 Yes, but it's your own DA?---Yes.

11 COMMISSIONER: (Indistinct) I was just making sure I  
12 understand?---Yes, sorry, yes.

13 MR BROAD: Let's explore - - -

14 COMMISSIONER: (Indistinct)?---Anyway, I have got all the  
15 documents. It doesn't matter.

16 MR BROAD: So rather than try and look at individual  
17 development applications because that's not really what  
18 we're here for?---No, I realise that.

19 Let's look at relationships. And so what you say is, as about  
20 mid-October, there was a relationship developing between  
21 yourself and one or more councillors in a sense that you  
22 were seen as rocking the boat?---Yes.

23 In the ongoing period, what's occurred? Has there been a  
24 disintegration of your relationship with some councillors?

25 COMMISSIONER: But let's just put in a little bit of time  
26 perspective too. Prior to the new general manager. So  
27 that was October 2012, after?---Yes, a couple of weeks.  
28 Well, really it wasn't - I didn't really have either  
29 (indistinct) relationships. I sensed some councillors  
30 weren't happy with my questioning. It wasn't personal.  
31 It was just I need to know and as I have seen here over

1 the last few days, clearly other councillors aren't happy  
2 when they're left out of information. Well, I've been  
3 used to that for quite a long time. I have to drag it out  
4 of people, if I'm told. I'm excluded from information.  
5 They say I'm a bully. Well, I'm bullied by exclusion.  
6 I'm not told things. Poor old Councillor Weyrich now has  
7 got a complaint about being left out and everything is  
8 secret. Well, I've been doing that for the last few years  
9 and that's okay.

10 So is there differential information available to  
11 councillors?---Yes.

12 How does that occur?---I have no idea because I don't get the  
13 information. I get the agenda and what's in there. But  
14 other things, I don't know. I don't know anything about a  
15 lot of things that were spoken about here in the last two  
16 days. The first time I've heard of it. I didn't know,  
17 like, the general manager's agreement. I didn't know the  
18 mediation - - -

19 You didn't know there was one?---I knew the Mayor had  
20 negotiated a return to work, but I didn't know there was.  
21 I didn't know nothing about it, but then I'm not the only  
22 one there either. But there's plenty of things.

23 I think the Mayor was the only one?---Yes, but there's many  
24 things along the way which I suppose I haven't - well,  
25 like the Kirribilli agreement with the Mayor and the  
26 Deputy Mayor, I knew nothing about it, well, that  
27 the Mayor was going to step aside and let Councillor  
28 Bilkey take over the role. I knew nothing about that.

29 Kirribilli, right?---Sorry, yes.

30 (Indistinct words)?---Well, you know, and verbal reports I do  
31 question because unless it's written - verbal - I've asked

1 for the meetings to be minuted, to be taped, whatever, so  
2 that you're accountable.

3 In 2013, I think it was, there was a by-election?---M'mm.

4 You had two new councillors. You had councillor Bilkey elected  
5 and Councillor McKenzie, again in a period prior to the  
6 appointment of Margot Stork as the general manager, can  
7 you give us an outline of where you stood in relation to  
8 the council or where you perceived yourself as being in  
9 relation to other councillors?

10 COMMISSIONER: Just hang on. Hold on that question. Just with  
11 all the references before about not getting information,  
12 was that really from the time in October 2012  
13 onwards?---Probably in the start I probably wasn't aware  
14 of how to get information and no-one really took you aside  
15 and said, "This is what goes on." Like, you were left to  
16 work it out yourself and that's fine. But as it  
17 progressed steadily, definitely the information - like we  
18 just weren't part of the group.

19 And was that before the point that Mr Broad just mentioned,  
20 like before the election of the two new councillors or  
21 after?---Geez, I can't remember actually. I can't really  
22 recall, but I don't - I don't have an issue with any of -  
23 really that's - people's behaviour I can't control that,  
24 if you know what I mean. I see there's different people  
25 and that's fine and we're all elected, but we're elected.

26 Yes, so, I mean, Mr Broad's question was 2013, new councillors  
27 come in, can we pick it up there?---Yes, I suppose debates  
28 got a more - people had different views, definite views.  
29 There was, you know, sometimes things thrown around a bit  
30 which probably wasn't - - -

31 What do you mean?---Well, I don't know, just an offhand comment

1 here and there. It wouldn't have been ideal, but it was  
2 by and large I think meetings - and, look, I really would  
3 rely more on the evidence of the people who sat and  
4 watched them because when you're in the thick of it,  
5 you're busy writing stuff, you are busy sort of taking  
6 everything in. I don't know that they were - I don't  
7 know. I haven't been to other council meetings, so I  
8 don't know what the measure is against it.

9 MR BROAD: Councillor Bilkey used to the expression "hurly-  
10 burly". Is a council meeting - does it involve a bit of  
11 hurly-burly"?---It just depends what the topic is and how  
12 passionate people are about it or their views. But we  
13 really didn't get much across the line anyway.

14 COMMISSIONER: Because of the split?---Well, yes, definitely,  
15 and the Mayor with the casting vote. I believe that they  
16 used that vote, both of them, more often than that.

17 MR BROAD: Did you come onto council, apart from these issues  
18 about some developments, did you come onto the council  
19 with strong views on particular matters?---I had strong  
20 views regarding the ratepayer and their representation and  
21 I think we should all be treated equally. I did have very  
22 strong views about that.

23 COMMISSIONER: And you say that you should all be treated  
24 equally, what do you mean by that?---Well, the good part  
25 about being on council is I have realised I'm not the only  
26 one that's, you know, been given, I suppose, I don't know,  
27 misinformation is not the right word, but there is plenty  
28 of aggrieved ratepayers out there with differing issues  
29 and the thing is you seem to suffer retribution. And, you  
30 know, I think there's been a culture in this council for a  
31 long, long time and I really just - - -

1 About what?---Well, I don't - I think probably a bit much. But  
2 some people have probably been in the job too long.

3 MR BROAD: Are we talking about councillors?

4 COMMISSIONER: Or council staff?---Probably councillors. I  
5 don't know. I just see the culture of if you're in the  
6 right - in the right group of people you seem to get the  
7 benefit.

8 MR BROAD: Did you come on to council with a view to changing  
9 that culture?---I didn't realise it was - well, I thought  
10 I could make a difference and I could speak up for some  
11 people who didn't have a voice.

12 So that wasn't one of your principal reasons for coming onto  
13 council?---I was always interested in council business. I  
14 never had time to be able to put time in to taking on the  
15 role and I was very interested to make it fair and  
16 equitable for everybody.

17 The election of councillor McKenzie, what was the effect of  
18 that in respect of yourself? Did that serve as a benefit  
19 to you being able to pursue your views?---Some of it was a  
20 benefit. Some wasn't. He had strong views on different  
21 things. But, yes, there would have been some benefit that  
22 he would share some of my views.

23 I mean, at that point what we have heard is the five/four split  
24 from then on for a while until councillor Burke?---Well,  
25 councillor - - -

26 So before that?---Well, every councillor - we went - no, well,  
27 we ended up being a group because we weren't all with the  
28 five. But you will see on the - you know, no doubt you  
29 have all the resolutions of council and the voting  
30 patterns and you will see that councillors moved around a  
31 bit sometimes on our side. You know, we've had plenty of

1 heated debates going home because the four of us arrived  
2 here together. The debates going home were some fairly  
3 sooky debates.

4 About?---About resolutions that one of us had.

5 Would it be what sort of issues? DAs or other things

6 or - - -?---Yes, probably DAs.

7 DAs usually cause a lot of issues in lots of councils?---Yes,  
8 well, they do, they do. Look, I don't know. I got into a  
9 fair bit of strife going home, but I sat next to the beer  
10 fridge.

11 What, in the council chambers?---No, no, I wish.

12 In the car?---In the car going home.

13 Can I move forward to the process of appointing the general  
14 manager and you have been here each day so far and you  
15 will have heard the evidence by the councillors?---I have.

16 Can we first deal with the issue of the discussions with

17 Mr Blackadder?---Yes.

18 Can you respond to those matters?

19 COMMISSIONER: And even before that engagement of

20 Mr Blackadder?---Well, it was - there was a few  
21 consultants and council settled on Mr Blackadder. They  
22 all come in highly qualified.

23 So you had no particular issue one way or the other?---No, no  
24 issue, none at all. And then he profiled most of the  
25 candidates on a Hogan profiling system, which is all a bit  
26 new to me. I have concerns looking back when I have had  
27 to access material on allegations made against me and  
28 coming across different material I now have some concerns  
29 on the appointment of Mr Blackaddder, but that's history.  
30 He told me - councillor Weyrich said before that, you  
31 know, something about Mr Blackadder had Margot as his

1 preference. Well, I would have thought they all were  
2 equally eligible to be successful candidates for Murray  
3 Shire. It come to down to three candidates who were all  
4 fairly good in their own right. Some of us had different  
5 preferences for different - you know, as you can imagine.  
6 It's alleged in the Macleay Report that I took no notice  
7 in the interview process. Well, because I keep every  
8 document that comes my - or most of. This is the - this  
9 is the document on the interview process with the general  
10 manager, Stork. I have got all her notes in here that I  
11 took which if you can decipher them you are quite welcome  
12 to read through them or copy them or whatever. And I  
13 think Margot ended up - you know, she was one of my ticks  
14 down the line. All her qualifications and everything  
15 there along with the other applicants. To say I took - I  
16 wasn't involved in the interview process is, in my  
17 opinion, an outright lie and I'm just pleased I kept all  
18 my diary notes. And, furthermore, the next question will  
19 be about turning my chair. That is an absolute nonsense  
20 and if you've seen the table at Mathoura - at Moama how it  
21 comes into one end at the angle, I'm pretty sure I sat  
22 next to councillor Anderson on my left and I don't even  
23 know who was on my right, whether it was John Pocklington  
24 or who. The applicant sat to the left of me and there is  
25 no way known I have turned my chair on any of the  
26 applicants. I totally refute those comments.

27 MR BROAD: So let's make it very clear. There have been  
28 essentially two allegations. One allegation which tends  
29 to stem from the Macleay Report to the effect that you  
30 turned your back when Margot Stork was  
31 interviewed?---M'mm.

1 And your response is?---No.

2 The other allegation that we have heard this week is that when  
3 all candidates other than your preferred candidate were  
4 interviewed, you turned your back in respect of each of  
5 them.

6 COMMISSIONER: Or at least more than once?---No, incorrect.

7 And do they know who my preferred candidate was? You  
8 could have asked them that. Although at the very end,  
9 Stephen Blackadder went around each councillor actually  
10 and asked them. Everyone said who they - who their - so,  
11 yes, that's probably not going to work. But, anyway, I  
12 totally refute that comment - those comments by those  
13 councillors - totally. And also the way the table is that  
14 you sat at, tell me how we're going to turn our chairs  
15 when they've got arms on them and we're going to back on a  
16 table that's back against us, like - - -

17 You could move it out, I guess, but anyway, that's not the  
18 point?---Yes, well, yes, whatever, but I totally refute  
19 that and I just wonder why they can - - -

20 I think it is the general manager said that also as

21 well?---Well, probably and the rest have picked it up.

22 MR BROAD: Can I go backwards and be a little bit more generic  
23 about the role of Mayor and councillor? Can you give us  
24 your views on what the respective roles of a Mayor, a  
25 deputy mayor and a councillor are?---Well, I believe -  
26 it's not necessarily what happens, but I believe the Mayor  
27 should lead the council. He should promote more  
28 leadership and cohesion within the council. I think it's  
29 his job to make sure everyone is cohesive and he should be  
30 the spokesperson to the media and reflect council's views  
31 and he's probably got a hell of a lot of other jobs that I

1 don't know about.

2 In respect of other jobs, what do you understand to be the  
3 decision making power of the Mayor?---Well, he has the  
4 casting vote ultimately and, you know, in matters of  
5 emergency he has got extra powers. But other than that, I  
6 don't know that he has a lot more.

7 So he hasn't got power alone ordinarily to bind the  
8 council?---I beg your pardon?

9 He doesn't ordinarily have power to bind the council?---No, but  
10 as the leader - the leader of the team - I would expect  
11 that he would do his best to, you know, not to - well, you  
12 wouldn't want to be overriding a divided set-up. If you  
13 see a councillor with some sort of issue, I would think  
14 you would approach them and see if you could resolve.

15 I think you may have misinterpreted my question. What I am  
16 leading to is this. At meetings, councillors deal with  
17 the business of the meeting. Do you agree with  
18 that?---Councillors deal with the business, yes.

19 Councillors deal with the business.

20 COMMISSIONER: Councillors, yes?---Yes, yes, totally.

21 MR BROAD: And in dealing with that business, they pass  
22 resolutions?---Correct.

23 But other than that manner of dealing with business, my  
24 question is, does the Mayor, leaving aside an express  
25 power, have other power to bind the council?

26 COMMISSIONER: When can the Mayor bind the council if at all  
27 outside of it?

28 MR BROAD: In other words, resolution to enter an agreement on  
29 behalf of council?---I think only in emergency situations.

30 Going back to the role of the Mayor at meetings, what do you  
31 understand his role or her role at meetings to be?---Chair

1 the meeting.

2 And?---Facilitate appropriate discussion and - - -

3 COMMISSIONER: You have already said, of course, he has the  
4 casting - - -?---Yes, that's right.

5 MR BROAD: And to maintain order?---Maintain order, definitely.

6 COMMISSIONER: Did they?---Pardon?

7 Have the Mayors done that?---Most times, yes.

8 MR BROAD: And what sort of issues have not been

9 controlled?---Oh dear. Oh dear. The sewerage tank  
10 facility, the PDFNL. Some of those big issues.

11 I'm talking about just in the meetings, not so much the issue.

12 The hurly-burly of the meeting, do you think it was

13 controlled?---Sometimes it'd be, you know, councillor

14 yelling at councillors. Councillor Pocklington didn't, I

15 believe, didn't have the authority over council like

16 councillor Weyrich. He had a more orderly approach or he

17 just seemed to control them a lot better, councillor

18 Weyrich. I don't think councillor Pocklington - there

19 might have been more headstrong councillors, if I can use

20 that term.

21 That applies to everybody. Everybody had to be controlled at

22 one time or another?---That's - well, somewhere, yes. Not

23 everybody, I don't think. I'd say councillor Anderson

24 never had to be controlled. Councillor Murphy, probably

25 not. I'm just flicking through. Councillor Burke,

26 probably not. So it probably only applied to myself. Not

27 so much councillor Bilkey. So probably the accused people

28 for the Mayor to be making - telling us to, you know - - -

29 Do whatever?---To discontinue our conversation or else not

30 allow us to speak for his reasons or he was closing, you

31 know, that's the end of the meeting and you say, "Well,

1 hang on, I've got some more issues." "Well, the meeting's  
2 closed." Yes.

3 Were the meetings volatile?---No, not really. Some were, some  
4 weren't.

5 Were they volatile because of contentious issues coming before  
6 council?---Probably and that was mainly based on no  
7 information or not getting the information you require.  
8 That's probably where it come unstuck.

9 COMMISSIONER: You have said that a number of times already.

10 In a sense, is that part of the - - -?---Yes.

11 That's not a criticism?---No.

12 But I am saying is that sort of - when you try and summarise  
13 some of these things which we have to to some extent,  
14 that's part of your big beef so to speak putting it in  
15 ordinary terms?---Yes, definitely, yes. No, that is a big  
16 deal with me. The information and making sure it's  
17 correct information.

18 MR BROAD: In order to obtain information, you appear to have  
19 lodged a number of questions on notice?---That's correct.

20 Do you regard them as appropriate?---Yes.

21 COMMISSIONER: And, you know, you are being criticised about  
22 the extent. You understand the questions about it?---Yes,  
23 no, I've been criticised. They say the tone and all that.  
24 Yes, I think - and I know you're going to tell me - I  
25 really wanted information on the Picola Football District  
26 League and I just couldn't get it. And I personally  
27 believe, and go out and asked ten people in Mathoura, that  
28 there was an existing conflict between the president and  
29 the Mayor and this is - this was part of our settlement on  
30 that.

31 Why did you think there was a conflict between them? What was

1 your evidence?---Well, the president of the Picola  
2 Football League used to play football for Mathoura, I  
3 think. I'm not sure of all these details because a lot of  
4 it's rumour, but that was the big deal. There was pot-  
5 shots in the press or lots coming from Mayor Weyrich that  
6 had inflammatory jargon in the press about Picola Football  
7 League. And, well, for instance, when we had the first  
8 meeting about this, they were confidential and they went  
9 and invited the president of the Mathoura Football League  
10 into confidential where the Mayor proceeded to tell him  
11 the comments I made about why I was against Murray Shire  
12 supporting this action. And they carry on about  
13 confidential, well, you know, print it in the front page  
14 because there's no such thing if it's detrimental to  
15 certain people.

16 MR BROAD: I think there was an issue that Mr Railton should  
17 also have a right?---Yes. Well, if we're going to spend  
18 all this money, I would expect to hear both sides of the  
19 story and also the Picola Football Netball League were the  
20 governing body of that league. And Mathoura Football Club  
21 was the one team in that league. All the rest of the  
22 clubs, I think there's about 17 of them, are in our  
23 adjoining shires. So not only is the might of the Murray  
24 Shire taking on the Picola Football Netball League who are  
25 the governing body who everyone says in all the  
26 documentation had the final say on the grand final. We  
27 are also disadvantaging all those little clubs belonging  
28 to that league and I find that appalling. And Tom's  
29 right. Football clubs are the fabric of their  
30 communities, but Mathoura had the opportunity to have a  
31 grand final here a couple of years ago and they handed it,

1 I think, to Deni or somewhere and they had some sort of  
2 agreement between clubs and all I wanted to hear was  
3 Mr Railton's side. The whole issue was over a safety  
4 issue with the light poles. I have since found  
5 documentation actually which I can get if you like within  
6 Mathoura.

7 Just tell us first?---That there's grants available for that  
8 sort of thing, that if we had gone to our local member we  
9 would have had grants to remove those poles. They knew  
10 about these safety issues long ago. Why wasn't it done  
11 then? Why did we start to - and also why wouldn't our  
12 council work with the Picola Football Netball League  
13 12 months, two years prior and say, "What have we got to  
14 do to our grounds to get them up to scratch?" Why  
15 wouldn't you have worked with the governing body.

16 I understand that you also wanted to find out the amount of  
17 money that had been paid in respect of the  
18 costs?---Totally.

19 Was that not disclosed to you?---No.

20 What was missing?

21 COMMISSIONER: We have seen the resolutions. There was two. I  
22 think there was two resolutions. The first one came up  
23 and said, 20,000-odd, whatever the number was?---That's  
24 right. The first one said 20,500 or 300.

25 Whatever, yes?---There was 3,000 whatever that was spent prior  
26 to that that - - -

27 Which they then told you about as an extra resolution?---Told  
28 us about it after we brought it up. They said in the  
29 document that the solicitors had given us a break of, you  
30 know, on goodwill of 25,000 or 20,000-odd.

31 Yes, I remember that, yes?---Yes, so I was given information

1 and it's only rumour because I haven't got the access to  
2 find out if it's true or false that Netball Victoria have  
3 picked up that amount because I find it amazing and it's  
4 such a goodwill gesture. There was also - - -

5 Does that matter, though?---Well, just tell me how it is? I  
6 don't care what - just - - -

7 But in terms - just - I am just testing - - -?---No, it  
8 probably doesn't matter. No, no, it probably doesn't  
9 matter in the big picture and I didn't bring that up.

10 No, that's all right?---But I'm au fait with - you know,  
11 honesty seems to be brutal in some people's minds. I just  
12 want to hear the facts and this is ratepayers' money.  
13 This is not our money and I have a big issue with that.  
14 And the ratepayers should know for 25,000 - we are  
15 fighting in the Melbourne Magistrates Court which I would  
16 wonder why it is not in Albury or New South Wales. But  
17 the resolution of council was that Murray Shire take on  
18 the Picola Football League. Well, Mathoura Football  
19 League were the ones listed in the Melbourne Magistrates  
20 Court to take on the Picola Football League. So I don't  
21 believe we even went with our resolution.

22 No, I mean, but the reality of what happened was that the  
23 council said, "We will fund the litigation," because the  
24 Mathoura Club had to be the party in the proceedings  
25 against the league and we don't need to go into the issues  
26 about it, but I'm just saying I understand that's what  
27 happened. And then so the council says, as Mr Broad said,  
28 there is power for a council to do that, to say, "We will  
29 contribute some of our funds to your legal action," so the  
30 legal action is actually theirs, but it's being funded by  
31 the council. I think that's what happened?---That's what

1 happened, but I got the affidavits to that action and even  
2 though it wasn't our council staff's affidavit, there was  
3 an affidavit put in that said that Mathoura Football Club  
4 were lending the money off Murray Shire and they were  
5 going to repay it all back had it been unsuccessful and  
6 whatever. When it was brought to the attention of the  
7 general manager that that really wasn't correct, that we  
8 weren't going to fund the 15,000, they were going to fund  
9 their own 5,000 and the 5,000 was the agreement was the  
10 repayment, not the 15, there was a little bit of - well,  
11 that wasn't received that well. And the letter came back  
12 to say that when the solicitors found that that  
13 information was incorrect in the affidavit that they  
14 decided not to rewrite it because it was a cost issue and  
15 unless it was going to go before the courts then they  
16 would re-adjust that affidavit.

17 MR BROAD: Before we leave that, and I don't know whether we  
18 can take it much further, I think the upshot of what you  
19 have said is that you were not satisfied at the quality  
20 and the amount of information you received?---Yes, and I  
21 was - I was not satisfied that I was given the right or  
22 any reason why the president of the Picola Football  
23 District Netball League wasn't allowed to present a view  
24 to council.

25 So there is not the getting the view and then understanding  
26 exactly what the deal was?---What the real - yes.

27 What the deal was in terms of the cost and what the deal was in  
28 terms of the repayment or the agreed amount?---Well, it  
29 was - that was secondary because I had the information to  
30 go on and that. The real deal was what the issue was with  
31 the Picola League not giving the grand final to Mathoura

1 and what the issue was with the ground, so that (a), we  
2 would have it right for the next time round. Councillor  
3 McKenzie said, "Give them 20,000 and we'll get the ground  
4 ready and we'll have it next year," because the time we  
5 went to court with this, we were about six weeks out from  
6 the grand final. So it was, you know, we've got  
7 other - - -

8 All right, got it?---Right. So my big deal was Shane Railton  
9 was not allowed to address council.

10 It's the information thing, really?---Well, yes, the whole  
11 (indistinct).

12 And hearing his side?---Totally.

13 MR BROAD: I will go a couple of steps back and deal with the  
14 issue about how council operates and is it your  
15 understanding that the general manager has a role of  
16 implementing the decisions of council?---Yes.

17 There is a differentiation between what are known as  
18 operational issues which are those issues that fall under  
19 the general manager and staff and those which fall under  
20 the role of the councillors. Do you understand the  
21 difference between those sort of issues?---Most times, but  
22 if I don't, I'm told that they're operational or, like, if  
23 I'm not getting it right, someone's telling me.

24 COMMISSIONER: (Indistinct words)?---Yes. So I rely on - if  
25 I'm not understanding that properly, someone is going to  
26 tell me and I take that on board and I respect that to.

27 In some of the instances where you have asked for information,  
28 I presume you have been told that type of response to your  
29 questions with notice and some of those issues?---Yes,  
30 well, that they were, yes, not to be - not to be asked, I  
31 suppose, or whatever, so, yes.

1 MR BROAD: Going back to the PDFNL litigation, there was an  
2 allegation that I understand was explored by Janice  
3 Macleay that you had undermined the general manager in  
4 carrying out a resolution of council in respect of that  
5 matter. Do you know what that relates to?---No.  
6 I think I have asked you about the role of the general manager  
7 in implementing decisions and I dealt with operational and  
8 policy issues. Do you have concerns about the  
9 implementation of council's decisions?---In what way?  
10 By the general manager and staff?---Can you tell me that  
11 question again?  
12 COMMISSIONER: Do you think resolutions have been implemented?  
13 Do you think the staff are doing their job?---There were  
14 some that - some that I didn't think were being  
15 implemented and some I didn't know that weren't  
16 implemented, but I got a code of conduct when I found out.  
17 Against you?---Against me when I - it's - anyway, you'll bring  
18 it up - about I asked - someone fell over in the street.  
19 I went to their assistance with a couple of other people.  
20 A staff member come out to assist, you know, with  
21 anything, because it was outside the shire offices on an  
22 uneven footpath and he went back and got a drink of water  
23 for the lady and, you know, helped her to her feet. Had  
24 to do a bit of a quick dressing. Went to the chemist,  
25 fixed her up, blah, blah, took her home. There was a lot  
26 to that story. And I said to the staff member who was  
27 indigenous, I said, "It's a shame you didn't come to the  
28 LGAN conference," because there was a resolution at  
29 council prior to that that we offer any indigenous staff  
30 members a chance to attend this LGAN conference in  
31 Narrandera. And he looked at me blank, so I realised that

1           that's probably not the right question to ask him without,  
2           you know, it was just - - -  
3   What, because he is a staff member?---Yes, but I had a code of  
4           conduct placed on me because I was interfering in the  
5           staff matters. The general manager had decided that even  
6           though that resolution was passed to offer that to the  
7           indigenous employees that that was a staffing matter or  
8           something, it wasn't going to happen. If I had been told  
9           that, you know, emailed whatever, that management has  
10          decided that it's not going to be - that resolution won't  
11          be implemented because of, you know, operational issues.  
12          No worries. I didn't know. I just thought it was a bit  
13          of a shame he didn't go because it was a fantastic  
14          conference and, you know, the travel arrangements, he  
15          would have got a ride with - well, I don't know.

16   MR BROAD: Are you saying there was a resolution to - - -?---To  
17          offer that to - - -  
18          - - - to offer indigenous staff that?---That's right.  
19   And you were operating on that basis when you made that  
20          comment?---Yes, yes, councillor Murphy and councillor -  
21          and myself were the two, you know, that - and I think  
22          councillor Murphy made comment at the time that that was -  
23          you know, that's happened in the past to give them  
24          opportunity, and that sort of went through, no worries.  
25          And I just assumed they had all been - wrongly assumed  
26          because it was a resolution of council. So there's  
27          another couple of thousand in your code of conduct  
28          coffers.

29   In relation to access to information, you were here on Monday  
30          when Mr Hurst gave evidence about the right of councillors  
31          to information?---Yes.

1 You have actively sought information and one of the methods you  
2 have used is the use of GIPA, the Government Information  
3 (Public Access) Act?---Correct.

4 I understand that's been the subject of a complaint?---Correct,  
5 that's a code of conduct.

6 Now, it raises a question in relation to - I think the  
7 allegation raises a question of the purpose of seeking  
8 that information and the allegation is to the effect that  
9 it was for an improper purpose. It was to embarrass the  
10 general manager and to embarrass the Mayor?---Not at all.

11 Why were you seeking it?---I was seeking that information  
12 because we couldn't get that information.

13 COMMISSIONER: What is it first? What was it?---Well, I really  
14 wanted to - - -

15 MR BROAD: It was credit card expenditure.

16 COMMISSIONER: The credit card expenditure?---Well, that was  
17 one, yes, and I wanted to know about fuel expenses. I've  
18 got a bit of an issue with fuel and if I don't get the  
19 information, I can't - I can't - - -

20 What was your concern about that? I mean, because that's  
21 getting to the point where it's fairly specific and it's a  
22 very small - - -?---Yes, well, the fuel was very specific  
23 because - - -

24 I mean, I am just interested to understand why you wanted  
25 it?---Well, our fuel cards, we don't run log books. We  
26 don't have to put regos down when we collect fuel.  
27 Odometer readings -which I believe odometer readings now  
28 might be recorded. I really don't know. I find that when  
29 - I just think that's good housekeeping and we should be -  
30 we should be across all that.

31 MR BROAD: But if it's good housekeeping, isn't it an

1 operational matter?

2 COMMISSIONER: This is some of the issue that - - -?---Righto.

3 Well, let me just put it to you. Why isn't that an operational

4 matter?---It might be an operational matter, but as

5 whether I'm a councillor or a ratepayer, I think I've got

6 a - I've got a right to know what we're spending on those

7 things. Well, that could be operational, but I still

8 think we should know what the accounts are.

9 MR BROAD: Can I ask you two questions that follow? One, does

10 council have a fraud policy?---Do they have a what?

11 A fraud policy. Fraud?---I don't think so.

12 Because you would expect that policy to have checks and

13 balances in place to protect against improper

14 use?---That's right

15 That's a policy issue. Would you agree that's a matter for

16 councillors?---I think councillors should be well aware of

17 those sort of issues.

18 COMMISSIONER: I think what the suggestion is to - - -?---Did

19 we have it?

20 MR BROAD: Yes, yes.

21 COMMISSIONER: I mean this is the proposition, I suppose, is a

22 lot of the information you are seeking is very specific

23 information and the allegation from the - or the assertion

24 from the general manager and others is that we ended up

25 spending so much time getting - delving into that sort of

26 detail we were taken away from our duties. Councillors

27 should be thinking about the broader picture into policy.

28 You have heard us talk about that before. And so

29 therefore what the question of Mr Broad is then is there

30 is an example. If you thought, for example, that all that

31 stuff - that there wasn't enough accountability about

1 credit cards or things like that, maybe one way is to  
2 start thinking about a policy and about how that could be  
3 addressed at the council or it should be particular type  
4 of - if you're concerned about fraud, if that's what you  
5 thought there was or theft or that sort of thing, then you  
6 could bring in those checks and balances as a group as a  
7 councillor. That's the type of - - -

8 MR BROAD: That's what I was looking for?---Right, yes, yes.

9 COMMISSIONER: So, I mean, that's the response - that's the  
10 sort of area that you've got to address in a sense.

11 That's the question?---Well, I also paid the fee and was  
12 well aware if the time constraints on finding that  
13 information out that they would charge me more money.

14 I paid for those and yes, I would suggest that I probably  
15 got value for money.

16 MR BROAD: That's a GIPA application?---Yeah, that's right.

17 An access application?---Yep.

18 COMMISSIONER: Which is different - - -?--- I didn't  
19 realise - - -

20 MR BROAD: Which is a different - you're entitled as a member  
21 of the public - - -?--- Yep.

22 - - - to make an application for access?---What as a councillor  
23 or not?

24 COMMISSIONER: Well, you can.

25 MR BROAD: As a councillor you can.

26 COMMISSIONER: Absolutely. But I think we say the same thing.

27 But the position is that you are a member of the public  
28 and you're a councillor so when you put a GIPA application  
29 you are doing no more than doing it as a member of the  
30 public. The fact that you're a councillor so be  
31 it?---That's right.

1 That's as simple as that?---That's right.

2 You would probably agree with that?---Yeah, I do.

3 It's just the way it is?---Yeah, that's right. I didn't think

4 - I found that absurd to think that I was - that was only

5 wrongdoing when that was my right to put in a GIPA

6 application and I note that the former mayor and newspaper

7 articles was also - had lodged GIPA applications and

8 I didn't think that was - I didn't realise that was

9 anything untoward or seen to be offensive to some people.

10 MR BROAD: Did you consider requesting a report to council; one

11 in respect of expenditure and two, in respect of the

12 checks and balances in place?---I think we tried to do

13 that actually. I think Cr Burke, because he was an ex-

14 government auditor, he had massive problems, issues with

15 our checks and balances and I'm pretty sure we had tried

16 and tried to get an audit committee going. Didn't get

17 across the line.

18 COMMISSIONER: So then you got the problem of the voting about

19 whether you can get it across - - -?--- No, we can't. We

20 can't get it over anyway.

21 No, that's what I'm saying, and then you get into

22 that - - -?--- And the mayor of the day used to, you know,

23 well known with ratepayers. Five beats four every time.

24 That's right?---So you know, we just had to deal as best we

25 could to get information because to think we were going to

26 be able to get it across at a council meeting, definitely

27 not. It was only at their pleasure if we were allowed to

28 be the winner.

29 That would have been frustrating?---Oh, well, you know, first

30 time ever we get to get a free kick on 19 January, no one

31 shows up and I've been coming to the football match for

1 the last three years.

2 MR BROAD: There is another matter I'd like to deal with, with  
3 you and that is the use of questions on notice?---Yep.

4 You pursued questions on notice in relation to a number of  
5 matters?---I used to. I think I've slowed up on that.

6 COMMISSIONER: (Indistinct) what you said a moment ago?---Well,  
7 when Greg Murdoch was the general manager that was the  
8 normal past of council and we could speak freely without  
9 fear or favour and I didn't know that was such a big deal.  
10 The new general manager came in and all of a sudden, out  
11 of nowhere, without really being told, we were told no  
12 questions on notice. And I said, "Well, it's still on in  
13 our meeting practice No, 13 or 17 or something that  
14 questions without notice come up. Now, all of a sudden  
15 and I don't know why, they're back on" but I really don't  
16 have a lot to say about it.

17 MR BROAD: Can we just explore that for a moment? Are you  
18 saying you were told you can't have questions on  
19 notice?---That's right.

20 Who told you that?---The general manager.

21 Which one?---Margot Stork.

22 COMMISSIONER: Was that from the time that she started?---No,  
23 we'd been doing it - I was going to say got away with it -  
24 but we'd been - - -

25 No, you were - - -?--- No, that was part of the council thing  
26 and I think if you look in our meeting practice at  
27 questions without notice, it was still on there and  
28 I think it was listed as 13 or 17.

29 When you say that - when you were told that?---Somewhere along  
30 the line and we couldn't have questions without notice.

31 Just try and put that just for a second - the general manager

1 started in 2013 April?---April 2014.

2 Fourteen, I mean, sorry?---I'd say that look, I don't know,  
3 I wouldn't have a clue. I think we probably went for  
4 about four or five months maybe. I don't know. But they  
5 stopped and also given - - -

6 And that was for all councillors?---Yeah.

7 Did you receive an email or was it just - how did that  
8 happen?---Geez, I can't remember, you'll have to ask -  
9 I don't know.

10 That's all right?---I could find it.

11 But you say it happened - could you just make a note of that  
12 later on?---Righto. Yeah, so we had to put everything in  
13 writing and I believe that there was a reason for  
14 everything in writing and yeah, you had be very careful of  
15 how you framed your questions which, you know, given the  
16 WorkCover and also I go back and nothing's been said about  
17 it yet, when you refer to the councillors and councillor -  
18 when Peter Hill told Cr MacKenzie of that threat some four  
19 months after the - woops.

20 MR BROAD: It is no good saying when Peter Hill told Cr  
21 MacKenzie - - -?--- Sorry.

22 - - - of that threat. It's not implicit from what you're  
23 saying what that threat was?---Sorry.

24 COMMISSIONER: Is that the business about the affidavit?---Yes,  
25 yes.

26 We will get to that. Let's just get back to the - let's put  
27 that down, I'm not - - -?--- No, you're right.

28 I want you to be able to say whatever you want to say?---Where  
29 am I?

30 We will bring you back, don't worry, it's okay. We will mark  
31 that one down to make sure it gets ticked off. I know

1           what you're talking about?---Sorry.

2 MR BROAD:   So we go back to questions on notice?---Yep.

3 You say that there was a restriction on being able to ask

4           them?---That's right, questions without notice there was.

5 You also say that you had to put matters in writing and email

6           them. Now, can I ask you whether in saying that you are

7           talking about the councillor interaction policy that came

8           about after the intervention by WorkCover?---No, I think

9           that was prior. I'm pretty sure that was prior. Anything

10          we wanted raised in council in the business agenda we had

11          to email that through to get that, and that's only -

12          usually we got an email back to say that one wasn't

13          happening or this one. They were all censored and - - -

14 COMMISSIONER: Have you got some examples of that?---Yeah,

15          I would have. If I can get into my iPad.

16 So they were just - - -?--- Actually they're in that - I'm

17          pretty sure the Office of Local Government, I don't

18          whether you've got them, but they'll be in plenty of those

19          reports on the general manager's complaints about my

20          emails. I'm pretty sure there's plenty of things in there

21          that she found not appropriate or I don't know.

22 So she'd say "That's not appropriate, it's not going

23          on"?---Yeah, yeah.

24 So she'd make the decision?---That's right.

25 Yes?---That's right.

26 MR BROAD:   So we're talking about business at meetings.

27 COMMISSIONER: Yes?---That's correct.

28 To get on - - -?--- Oh, to get onto the meeting to have it

29          debated or to have it brought up because the last time I'd

30          put in and I really started to go slow because I was going

31          nowhere, and I didn't wanted to be antagonising anything

1 I didn't know what I was antagonising but I brought up an  
2 issue in relation to Burgundy Court and I was told unless  
3 I formed a motion on that issue, I wasn't - and I just  
4 wanted to speak about it and get some information from the  
5 directors concerned or from the council on some issues  
6 relating to ratepayers in that area.

7 MR BROAD: One of the allegations made about you which was the  
8 subject of investigation by Janice Macleay was that you  
9 and other councillors had engaged in conduct designed to  
10 tie the general manager up in low level administrative  
11 functions and to distract from her role as general  
12 manager?---No.

13 You deny that?---I totally deny that.

14 You're referred to the 5-4 voting pattern. The relationship  
15 between councillors in the period following the  
16 appointment of the general manager. Can you describe what  
17 was going on amongst the councillors and whether it was  
18 affected by the appointment of the general  
19 manager?---I don't think anything changed. I know what  
20 changed for me personally but I can't speak on behalf of  
21 the other councillors but things started to deteriorate -  
22 well, prior to that, you're going to get to it, but that  
23 meeting in November that I called, I wrote to the general  
24 manager in November to have a meeting with councillors  
25 because I saw things spiralling out of control and nobody  
26 was trying to arrest it and I wanted to facilitate a  
27 meeting to get some respect and cordial conversation and  
28 just to try and get some, whether you'd call it conflict  
29 resolution or what, but not that I saw it as my place to  
30 call that meeting, but no one was stepping up to stop the  
31 nonsense and I saw that meeting as just a way of trying to

1 get some harmony back in the council.

2 COMMISSIONER: Was that between you and the general manager or  
3 between councillors?---Well, no, I saw - I saw her - some  
4 of the - well, I saw bad behaviour on - well, I don't know  
5 whether it's bad behaviour but some antagonistic - - -  
6 By?---By the general manager directed at councillors and  
7 I wanted it stop and I wanted to just get everyone to take  
8 a deep breath, air their views and move on because it was  
9 putting our council - - -

10 So just putting it bluntly, you called the meeting really to  
11 deal with what you thought that the way the general  
12 manager was operating, as opposed to between  
13 councillors?---No, - - -

14 You tell me what - - -?--- No, no, probably all across. All  
15 across. The general manager was agreeable and asked for a  
16 list of - - -

17 The issues?--- - - - what my issues were, and I wanted it on a  
18 certain date to give Cr Burke time to get back from  
19 wherever he was, I can't remember but I know there was an  
20 issue about trying to get whatever councillors, I wanted  
21 it open to all councillors so we could have a meeting that  
22 wasn't - like just to have a sit down, not so much a cup  
23 of tea meeting but sit down and have a discussion and  
24 I listed the topics that I personally just, you know,  
25 wanted to discuss.

26 Did you have a list? Did you give her a list?---Yeah, I gave  
27 her a list, yep, yep. You've - off, you know, Janice  
28 Macleay or someone's got it.

29 Yes. So you gave that list with the request?---I sent the  
30 email list of the topics that I wanted discussed and  
31 I can't remember how many I got through. I think I only

1 got through about three or four. Every question I asked  
2 the response was "I'll take that on notice", and then it  
3 went pear shape.

4 The GM walked out?---Yes.

5 MR BROAD: I've got a note taken by the general manager of that  
6 meeting. That was the meeting on Monday 24 November 2014.  
7 I will show you that and ask you to read through it and  
8 ask you for your views on the correctness of that or  
9 otherwise?---Yep. I'd have to check my - I don't believe  
10 this is the correct account and I would have to check what  
11 my list was that I sent email to the general manager  
12 because I didn't digress from that list and to say that  
13 she didn't respond and just took notes is incorrect.  
14 Everyone - every question I asked she said "I'll take that  
15 on notice", yeah, because that gave me the indication to  
16 move on to my next question. So if she didn't respond and  
17 just took notes, how would I know the answer to ask the  
18 next question, but I don't believe that was quite - No.2  
19 I agree with. They asked about a staff member that she  
20 was emailing her mistakes to us. I didn't think we got  
21 anything - I thought councillors had nothing to do with  
22 staff. I do remember asking that question, but I don't  
23 think that first one was - I'd have to check my notes on  
24 that one and I'm happy to send you a copy.

25 In the lead up to that meeting, there were a number of emails  
26 that passed between yourself, the general manager and with  
27 other councillors. I assume you generally recall  
28 those?---Between myself and other councillors?

29 Yes. I understand - well, essentially my understanding is that  
30 you requested a meeting with the general manager?---Yep.

31 That there was some interplay about that?---Yeah, yeah,

1           definitely.

2   That as you'd moved forward, other councillors indicated their

3           ability to attend?---Correct.

4   Then the mayor acted to forestall the meeting?---Totally, yes.

5   I will show you an email of 19 November 2014 sent by Cr Weyrich

6           was then mayor, and also your response which was sent at

7           1.52?---M'mm. Well, that's incorrect too. Yep, got that.

8   That's correct?---Yeah, that's right.

9   Your response was brief?---Totally.

10   "No worries, I shall be forced to take my concerns to the

11          press"?---Correct.

12   What were you going to take to the press?---Nothing.

13   An idle threat?---Very much, yep. I was just frustrated with

14          his - with his lack of wanting to right - not wanting to

15          see some progress.

16   Perhaps this might be a good moment to deal with matters

17          involving the press. What's your understanding about

18          council's position in relation to contact with the

19          media?---I believe that councillors, if they wish, can

20          speak to the media, but it should be the mayor's

21          responsibility to report on matters of council's position

22          and probably put out any good reports and yeah, I don't

23          really - well, I don't normally read the paper anyway,

24          I just get told about it when I need to be.

25   Is it appropriate for a councillor to use the press to

26          criticise council?---Well, it's not appropriate for anyone

27          to bring council into disrepute but I see sometimes the

28          levels of frustration spill over and I have also, in

29          matters relating to the press, sent out personal letters

30          to people affected where the mayor has - like adjoining

31          councils, has taken pot shots at them that isn't the

1 reflection of Murray Shire councillors.  
2 So you say that sort of thing's occurred?---That's right.  
3 Have you had much contact with the media?---No, but I rang the  
4 media and contacted the media some time ago when I had a  
5 pecuniary interest charge levelled at me with an adverse,  
6 you know, finding. I rang the media to tell them that and  
7 I also advised them that I'd be tendering a submission and  
8 the reporter said, "Why are you telling me?". I said,  
9 "Well, the fan club's going to tell you anyway", and I'd  
10 like you to know firstly from me, and that's that. And  
11 I note he rang me back about a week later and said "Yes,  
12 the fan club's anonymously dropped off that finding and  
13 there was quite a bit on Facebook that a ratepayer thought  
14 they needed to show me the comments from Cr Bilkey's wife  
15 on Facebook regarding my pecuniary interest charge and in  
16 answer to that, I would - I believe what I voted on, which  
17 is - I know this is not about me in that respect - that  
18 all councillors may well have a pecuniary interest charge  
19 regarding the changes to our LEP. There was many and  
20 varied and Cr Bilkey does live on the riverbank and  
21 I thought - and I'm just wondering whether that's where he  
22 self-reported after the meeting.

23 COMMISSIONER: The - - -

24 MR BROAD: As a councillor - sorry.

25 COMMISSIONER: The pecuniary interest has gone on - - -?---

26 Well, I could lodge pecuniary interests on each one and  
27 I don't think - there's probably one or two councillors  
28 that might not be - - -

29 You ended up in the spotlight - - -?--- I was in the spotlight.

30 - - - (indistinct)?---And I think that was retaliative from

31 basically it was another slur on my character assignation

1 from certain councillors.

2 MR BROAD: Is there an element of character

3 assignation - - -?--- Totally. In the press there is.

4 COMMISSIONER: The general manager would say you're doing that

5 to her?---No, I'm not and I've never been to the press

6 with any - - -

7 MR BROAD: Not so much the press, just generally?---No. No,

8 I don't - I'm representing the ratepayer.

9 She may not say that, but that's - - -?--- Well, regardless of

10 what - and I'm no doubt, some people might say that in

11 council. I need to represent the ratepayer because that's

12 my job I thought, number one, was represent the ratepayer,

13 and I need to get clear and concise answers from them and

14 you know, have - - -

15 COMMISSIONER: Just on that point because we started it before

16 earlier about the rights, and you heard probably the

17 discussion a couple of times, that difficult position

18 between - you'd become a councillor, you represent the

19 ratepayers and at the same time you've got this duty to

20 the corporate entity, so to speak. Now, if you've got a

21 duty to the corporate entity and you're losing five-four

22 all the time it starts to become a hard act to deal with

23 because what you think you're not representing the

24 ratepayer?---No, no, - - -

25 I mean, how do you balance that sort of - - -?--- Oh, well,

26 I do the best I can. That's simple. I do the best I can.

27 But I think it would be difficult?---Well, it is but, you know,

28 someone's got to do it.

29 But then you've got to learn - you've got to have that balance

30 between doing it for the ratepayer - - -?--- I had a bad

31 night on Tuesday night.

1 - - - (indistinct) corporate body and knowing where the balance  
2 is that?---That may be right and probably Tuesday night's  
3 probably not a good night to visit me. That's about it.  
4 I get over it quickly but Tuesday night's not good.

5 MR BROAD: Let's explore character assignation. How has that  
6 occurred?---Well, from information in the press left right  
7 and centre, it just doesn't stop. Facebook. Facebook and  
8 most of the derogatory comments come from councillors'  
9 wives or family members and good luck to them, I don't  
10 have Facebook, but my children do and plenty of my friends  
11 do, and I just think it's unrelenting with the nonsense  
12 that comes up and it's purely to cast you in a bad light.  
13 One of the questions we've been dealing with of course, are  
14 leaks, and I suppose the first question is whether or not  
15 you've leaked anything to the media?---No, I haven't. Not  
16 that I'm aware of.

17 There have been a number of leaks that have been drawn to the  
18 Inquiry's attention, one of which was the leak of the  
19 mediation agreement?---Well, I don't know that - when was  
20 that leaked? I don't know anything. I'm a bit like Tom.  
21 I don't know that was leaked.

22 We've heard allegations that it was?---Well, I don't believe it  
23 was.

24 The other one, of course, was the Janice Macleay report.

25 COMMISSIONER: That was obviously?---Well, that was - that was  
26 obviously leaked, and that would have been leaked by  
27 someone wanting to cause certain councillors a fair bit of  
28 grief, but I don't agree with the Janice Macleay report so  
29 as much as - you know, is that best you can do. Well,  
30 I don't agree with that report at all. I know what I've  
31 done and I think I've acted honestly and with integrity

1 and I don't accept that.

2 MR BROAD: You are saying that you're one of the councillors  
3 affected by that?---I totally am.  
4 Councillors MacKenzie I assume?---Yep.  
5 Councillor Moon?---Definitely. Definitely.

6 COMMISSIONER: You had your pictures splashed in the paper and  
7 all that?---That's right. So what.  
8 (Indistinct)?---Yeah. I know, it's bad. I'm lucky my family  
9 don't live here. They hear about it and most ratepayers  
10 have some - a bit of fun at my expense.  
11 How long have you lived here? Have you lived here - - -?---  
12 I've lived her 20 something years. I rang a business for  
13 22 and a half years, 24/7. I do know anybody who drinks  
14 out there because of my business. Yes, I know a lot of  
15 ratepayers. I've - yeah, I love it.

16 MR BROAD: Do you have a tough skin?---Totally. Yes, I do. It  
17 doesn't say that's right though, the behaviour.  
18 I'm not suggesting in any way that it is?---M'mm.  
19 It's just the evidence you gave suggested that you were  
20 somewhat immune to it?---I have to be. I have to operate  
21 without bias.  
22 In the way that you've conducted yourself as a councillor, have  
23 the leaks affected you?---Well, they're coming from the  
24 same place. You know, good luck to them and I'm not big  
25 on confidential - I mean, I accept confidentiality and  
26 totally adhere to it, but - and business of council, you  
27 know. Like you talk about the Deep Creek sewerage tank.  
28 I would suggest none of these ratepayers in this room knew  
29 anything about that. They knew I'd been censured. They  
30 knew that it was - you know, I'd done something terrible.  
31 They didn't know what it was about. I was out of the

1 country when that was - that press release was released.  
2 I didn't even know - I didn't know I was censured. So it  
3 didn't really affect me because I didn't know, and I don't  
4 read the papers and unless a ratepayer wants to tell me  
5 how bad I am, it's not my concern.

6 What's the effect of the censure to your mind?---I think that  
7 would be a massive - yeah, that's bad but in this case  
8 I addressed council when they were - before I think the  
9 censure motion was on. I don't know. I addressed council  
10 anyway.

11 COMMISSIONER: After the censure motion?---No, I reckon it was  
12 before because I had a chance to, you know, say - - -  
13 You must have been addressing the report presumably  
14 (indistinct)?---Well, I was addressing the report, yeah,  
15 that's right, and I just - I took no notice of that  
16 censure motion because I looked around the table and saw  
17 the ones casting judgment that really had no regard for  
18 the environment, for our river, the people, you know, like  
19 there's a lot of kids play out there at that Deep Creek  
20 marina, if one of them had of been in contamination with  
21 raw sewerage. Good luck. I thought it was scurrilous  
22 that they expected me to beg for mercy, it wasn't going to  
23 happen and I think I might have told them. Phil Higgins  
24 was there. He'll be able to tell you.

25 MR BROAD: So as far as you're concerned and I don't want -  
26 I can explore the Deep Creek issue a bit more now. It was  
27 - do I assume it was an issue of a pollution risk or a  
28 health risk?---It was both.

29 Can you give your views about the Deep Creek issue?---I went  
30 out to see that with three other councillors.

31 COMMISSIONER: Just before you get onto exactly that. I asked

1 the other councillors, "Did you ever see the court  
2 proceedings relating to the matter" - you heard me talking  
3 before about the bigger issue versus the smaller  
4 issue?---Yeah. No, I saw an issue there at some stage in  
5 council relating to a sheep wash station or something,  
6 some litigation which had something - which was a Deep  
7 Creek issue. That was all. There was nothing - we didn't  
8 know - - -

9 Nothing about this issue, right?---No, no, no.

10 So okay?---I saw it as an attempt to bind this up with that  
11 issue, whereas I believe - there's a lot more issues out  
12 there concerning sewerage and all sorts of things that  
13 weren't brought up. It was this sewerage tanks sitting  
14 precariously on the side of the Murray River.

15 Just before getting (indistinct) I want to know with the way  
16 we've been talking about it that there was the bigger  
17 issue about the litigation and then there was this  
18 specific issue about this tank which they said was there  
19 temporarily and the issue that Cr MacKenzie brought up was  
20 "What are we going to do about that tank because that's an  
21 immediate pollution problem"?---Well, if a child died from  
22 contamination tell me what the bigger issue is? I don't  
23 think the issue at all was to do with litigation, but  
24 I think it was tangled up in an attempt to silence - - -

25 Who by?---Well, the letter's come from Simon Arkinstall, but id  
26 So that's an assertion more about the council staff in that  
27 sense?---Well, it wasn't meant to be but I'm just saying  
28 council and I'm not sure who directs the play, but the  
29 letter came from Simon Arkinstall to threaten - - -

30 Yes, I understand that but just before - just so - I mean, the  
31 litigation was about bigger issues than the one tank. It

1           was about all sorts of (indistinct)?---Oh, yeah, no,  
2           I think that's the whole - - -  
3    It's a whole thing in itself?---That might be another 10 year  
4           trial. That is not for me to know.  
5    Whatever, that's correct?---I don't care. It's not my issue.  
6    So the point was, this was about that tank?---This is about  
7           that tank.  
8    (Indistinct) and that's what it's about?---That's it.  
9    Right. The question was and your answer was you went to a  
10           meeting?---Well, I - no, I didn't go to a meeting. I went  
11           to have a look at this tank.  
12    Sorry?---Yeah, sorry.  
13    The way you were putting it?---Yep, when we were looking at  
14           that tank a person drove up who I do know who that person  
15           is, and you know, "What are you doing" bla, bla, bla. We  
16           said "We're looking at this" and apparently it had been  
17           there for, I think, 2009 and I have a document - - -  
18    It doesn't matter it was there for a numbers of years?---Yeah,  
19           anyway, it was there for a hell of a long time.  
20    Yes?---And this person said "Do you want to look at the  
21           sewerage treatment facility?" because prior to that this  
22           went through the sewerage treatment facility. I don't  
23           know what the other councillors said, but I know I said  
24           "Yes" because prior we'd had a verbal report about that  
25           facility and being a verbal report, my first place to go  
26           to is I don't believe it and I wanted to see for myself  
27           this facility, this treatment plant. So if looking  
28           through that facility is a misdemeanour, well, I'm guilty.  
29           But that facility, in my opinion and I really, you know,  
30           I'm only a lay person, it was a state of the art facility.  
31           I was told it was a gold standard New South Wales gold

1 standard facility. I remember when I used to take people  
2 out to Deep Creek in my business that I had prior, that  
3 was a beautiful green oasis because they used to - all the  
4 - when they treated the effluent the water, in some  
5 countries is drinkable, they used to, you know, they had  
6 beautiful lush green lawns out there. They used it all  
7 for the lawns and the beautification of where the  
8 houseboats tie up, all that sort of stuff.

9 But apparently, for whatever reason, that facility  
10 had shut down and also the waste from that facility, you  
11 know, the only thing that didn't break down was hair and  
12 you'd probably get, I don't know, like you'd be flat out,  
13 you know, like it was a very, very, very good recycling  
14 facility which really wasn't what we were told in my  
15 opinion, because it was a verbal report, I don't  
16 think - - -

17 But that's moving into then way from the tank issue?---Yeah,  
18 that's a bit away from the tank.

19 You've (indistinct)?---But I wanted to look into that  
20 treatment.

21 MR BROAD: Can I interpose a question? How did you actually  
22 come to be out there at Deep Creek?---Because Cr  
23 MacKenzie, I don't know, rang, emailed, whatever, and  
24 wanted councillors to come out and look at what he'd, you  
25 know, the ratepayer had whatever, I don't know how all  
26 that started. So I don't know how it worked, but I know  
27 I had worked that day and I had rang to say about "Were we  
28 going out to look at this thing on the way home from work"  
29 and I just remember, I contacted Cr Burke. I was a bit  
30 cranking about it that not only do I have to work, I have  
31 to organise everything as well, and I think I might have

1 got home from work and someone, you know, MacKenzie come  
2 around and had Cr Moon with him, picked me up. We grabbed  
3 Cr Burke on the way out and went out to look at this tank.  
4 Simple as that.

5 Did you communicate your intent to go out there to other  
6 councillors?---Probably not. No, I didn't I rang Cr  
7 Burke.

8 Right?---And he was the only one I rang, I think.

9 The extent of the discussions with the person out there?---Yep.

10 What did they involve?---The sewerage tank. The - - -

11 COMMISSIONER: So you looked at the tank and then - - -?---

12 Yeah, had a look at the tank. Looked around.

13 And the tanks a tank. You see what it is?---Yeah, yeah. See  
14 all that.

15 Then the person drove up and said "Do you want to have a look  
16 at this sewerage system"?---Well, yeah, it was a pretty  
17 non-event conversation until he said, "I've got the keys  
18 to the sewerage treatment plant, do you want a look". And  
19 I know I said, yes. I don't know - - -

20 Then what happened?---We went and looked at the sewerage  
21 facility.

22 Then what did you talk about is the question?---Oh, no, well,  
23 I've just checking it out. It was all new to me. They  
24 had, you know, backup generators. Alarm systems. How the  
25 big tanks, you know - I got a - I got a - - -

26 Full tour of the facility?---Yeah, full tour of the sewerage  
27 facility, and you know, all the people that did the work  
28 on the treatment plant were all local contractors.

29 I could tell you who they were actually, and not a lot but  
30 I was very, very impressed on how you could, you know, all  
31 the alarms were rigged so that they would go through to

1           peoples' phones or however it would work and it was an  
2           amazing facility.

3 MR BROAD: I will show you some photographs. Did you take  
4           those photographs?---Yeah. Yep. Probably did. I'm  
5           pretty good at taking photographs.

6           When did you take those?---I don't know.

7           Was it about the time of the inspection or - - -?--- I've got  
8           no idea.

9           (Indistinct words)?---Yeah, no, I don't know. I don't know.

10          It should have it on my iPad when I took them.

11          (Indistinct)?---Yep.

12          Did you overhear conversations between Cr MacKenzie, Moon,  
13          Burke as he then was, during the course of that  
14          attendance?---Not really. Just that I think we were all  
15          pretty impressed. Councillor MacKenzie wasn't that  
16          impressed because he works in the abattoirs or you know,  
17          whatever had something to do with the same sort of thing  
18          as they use in abattoirs. He sort of knew a lot more  
19          about it, but I was pretty impressed.

20          COMMISSIONER: Did whoever it was that was taking you out, did  
21          he talk about the litigation?---No.

22          She he just took you for a tour?---Yep.

23          Said, "Here's how it works"?---Yep, yep, amazing.

24          Because by now, I think, (indistinct) is what all the arguments  
25          about?---Yeah, that's right. I get all that. That's all  
26          right, but no, definitely not. Definitely not. Well, you  
27          know, I was roaming around a bit on my own. We were all  
28          sort of just - - -

29          Looking around - - -?--- - - - looking around, checking it out.

30          Like a site inspection - - -?--- Well, it was very much but it  
31          was very interesting. I've never seen anything like it.

1 It was really good. And also its - well for me anyway,  
2 I'm a first time councillor, I haven't seen these sort of  
3 facilities. I was just very impressed in how, you know,  
4 it all went through all the processes and come out like  
5 water at the end. Pretty good.

6 MR BROAD: To your knowledge, was there any planning  
7 application relating to the Deep Creek subdivision in  
8 council at the time?---No, but one come up later and I've  
9 got diary notes on it. I think it was the River as the  
10 Edge Development which I was against and I think every  
11 other councillor was for, but I took - I was a bit - - -

12 COMMISSIONER: That was a different DA, a different - - -?---  
13 Well, it was out at Deep Creek, yeah.

14 It was Deep Creek but a different DA for something else, wasn't  
15 it?---Well, I don't know.

16 It wasn't then, (indistinct)?---There's that much to do with  
17 Deep Creek, I don't know.

18 (Indistinct)?---Deep Creek has a lot of stuff going on.

19 It was a DA?---Yes, to do with - - -

20 That wasn't planning though?---Yes.

21 In the sense that - - -?--- Yeah, but that wasn't - that come  
22 up later but - - -

23 MR BROAD: How much later?---I'm not sure but it was discussed  
24 at - by granting approval it would be advantageous to our  
25 legal position which I don't see that's a reason to grant  
26 a DA.

27 COMMISSIONER: To the legal position about the other  
28 proceedings?---The other position, the other one going on  
29 out there and I found that - no, I didn't like that at  
30 all.

31 It didn't wash with you?--- No, and I took a fair few notes on

1           it, all on who said, what said.

2 MR BROAD: It is probably a little bit late in the day to go

3           through a number of emails. I think that's a matter for

4           the morning.

5 COMMISSIONER: We might stop here and then come back and finish

6           of Deep Creek. You were going to just check your notes

7           about an email on 24 November, can you just get

8           that?---Oh, yeah, definitely.

9 For 24 November?---Yeah, yeah.

10 I mean we've probably got it but - - -?--- Yep, yep.

11 Just do - - -?--- Definitely bring that in.

12 See you tomorrow?---Yes. Righto. I will just check here

13           before I go, it might be in here.

14 Sure. 10 o'clock tomorrow.

15 ADJOURNED UNTIL THURSDAY 7 APRIL 2016