
TRANSCRIPT OF AFTERNOON PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

TUESDAY, 3 DECEMBER 2019

(10th day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH QC

Counsel Assisting: Mr Michael Tovey QC
Ms Amber Harris

OPERATION SANDON INVESTIGATION

PUBLIC EXAMINATIONS PURSUANT TO PART 6 OF THE INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION ACT 2011

Every effort is made to ensure the accuracy of transcripts. Any inaccuracies will be corrected as soon as possible.

1 UPON RESUMING AT 2.07 PM:

2 <GEOFFREY NORMAN ABLETT, recalled:

3 COMMISSIONER: Yes, Mr Tovey.

4 MR TOVEY: Could I be given just one minute, sir?

5 COMMISSIONER: Yes, certainly.

6 MR TOVEY: I've just got some new documents.

7 COMMISSIONER: Whilst you're doing that, the last document that

8 was produced was Ms Rome's notes of the meeting of

9 31 August 2018 and I'll make that part C of exhibit 97.

10 #EXHIBIT 97C - Ms Rome's notes of the meeting of 31 August

11 2018.

12 COMMISSIONER: How are you feeling, Mr Ablett?---I'm okay, sir.

13 I've got a little bit of arthritis in my feet playing up,

14 but I'm okay.

15 Otherwise you're okay?---Yes, sir.

16 MR TOVEY: Before we adjourned I think we were looking at 3638.

17 COMMISSIONER: I think it was 3639, Mr Tovey.

18 MR TOVEY: It was 3638 I think, sir. That was the handwritten

19 one.

20 COMMISSIONER: The notes of Ms Rome, yes. Thank you.

21 MR TOVEY: If you look at that you'll see that that's a note of

22 the meeting of 31 August at the Botanical Gardens in

23 Cranbourne at the cafe there. In the course of that note

24 there's reference to "Megan and Geoff to meet and brief

25 Sammy". Do you know any Sammy, who that might

26 be?---Probably Sam Aziz, I would imagine.

27 Yes. "And Megan and Sam to meet Geoff tomorrow at 3.30 and Ray

28 to get letter to Geoff today." So it's the case, is it

29 not, that following that meeting on 31 August you met with

1 Megan Schutz and Geoff Ablett the next day - sorry, with
2 Megan Schutz and Sam Aziz the next day to brief Sam
3 Aziz?---I don't remember being with Sam Aziz but I know
4 Megan briefed him.

5 In the course of that you'll see there's a note saying that you
6 and Megan were planning to meet him the next day at 3.30,
7 Saturday, to brief him. Now, you did that, didn't you?
8 You and Megan Schutz met with Sam Aziz to brief him in the
9 lead-up to the H3 vote?---I don't remember the meeting.

10 Did you do it?---I don't remember meeting with Sam, no.

11 Do you deny it?---I don't remember meeting him.

12 COMMISSIONER: You may or may not have?---I may not have, sir,
13 yes.

14 MR TOVEY: And reference is there to you and Ray. Sorry, Ray
15 getting a letter to you today. That's the letter that was
16 to be used in the course of debate the following Tuesday
17 before the council?---Yes, it was in relation to the whole
18 of Hall Road being made a priority road because of safety
19 measures for the full length of the road.

20 And you provided that letter to Sam Aziz who moved the
21 motion?---I don't recall giving him the letter.

22 Do you deny it?---I may or may not have. Not denying it
23 because I can't remember.

24 In any event on 4 September Sam Aziz moved the H3 motion
25 supported by Councillor Crestani and there was a motion
26 put which was an alternate motion to the council officer's
27 report to impose requirements on Dacland to construct an
28 interim signalised T-intersection for which they would
29 have to pay. That accords with your recollection as

1 you've already told us?---Yes, I remember Megan changing
2 the recommendation before it got to Sam.
3 And you disqualified yourself; is that right?---Yes, I declared
4 a conflict of interest, yes.
5 But you voted on who would chair the meeting?---No, I usually
6 stand, declare a conflict, turn and walk, and as
7 I've found out since - - -
8 No, but before you declared a conflict was it the case - and
9 this has been the subject of recorded discussions that are
10 already before us - was it the case that the vote would go
11 on who would be nominated as a replacement and who would
12 be nominated to chair the meeting?---I'm not sure of the
13 order. I usually stand up and once I've declared my
14 conflict I just turn and walk to the door and then people
15 start nominating.
16 COMMISSIONER: So you wouldn't participate in the vote as to
17 who should be the chair in your absence?---No, I don't
18 ever recollect sticking my hand in the air, sir. I just
19 stand up, declare my conflict and leave the room.
20 MR TOVEY: Okay. Is it still your position that you didn't
21 have any interest in the H3 issue per se?---Could you
22 repeat that, please, sir?
23 Yes. Is it still your evidence that you did not have any
24 interest in the H3 issue?
25 COMMISSIONER: What do you mean by "interest"?
26 MR TOVEY: Were you concerned about the outcome of the H3 - -
27 -?---It was going to be what it was because I was out of
28 the room and there was a serious debate between Councillor
29 Rowe - a robust debate between Councillor Rowe and

1 Councillor Aziz which went on for a long time, and then
2 I think a decision was made from memory and then a
3 rescission motion was made to hear it again a fortnight
4 later and the same robust decision - sorry, robust debate
5 took place.

6 COMMISSIONER: Mr Tovey, are you moving on from the notes?
7 You're not going back to the notes?

8 MR TOVEY: Yes, I tender those.

9 COMMISSIONER: That's 97C. But I just want to ask you one
10 question about those, Mr Ablett. There you'll see a
11 reference in the middle of it to "costs of signs", that's
12 the signage that was going to be put up. Do you remember
13 what signage it was going to be?---No, sir. I don't even
14 remember seeing the sign.

15 And then there's a handwritten note, "Money was a
16 'donation'"?---I don't remember what that was about.
17 Who was going to pay for the signage?---I don't know, sir.
18 Yes, Mr Tovey.

19 MR TOVEY: Now, you were conflicted, of course, in respect of
20 this?---I was out of the room.

21 Of that vote?---Yes.

22 The reason you were out of the room was because you were
23 conflicted?---Yes.

24 And you knew it would be corrupt for you to influence the
25 vote?---To go in there and talk about it, yes, sir.

26 Well, to influence the vote in any way if you were conflicted?
27 Wasn't it the situation that it would be corrupt for you
28 to influence the vote?---As I said, Megan changed the
29 recommendation to her liking and handed it to Sam. Is

1 that what you are referring to?

2 No, what I'm saying is do you concede that if you were
3 conflicted it would have been corrupt for you to be
4 involved in trying to influence the vote?---In the chamber
5 when the robust debate was on, yes.

6 At any time. You've already told myself and the Commissioner -
7 - -?---I have explained to the Commissioner I didn't pay
8 enough attention to influencing something outside chamber
9 and that's when I thought declaring a conflict of interest
10 and not being in the room I wouldn't influence the vote on
11 that decision. But Megan put the recommendation together
12 that went to Sam.

13 COMMISSIONER: The transcript will speak for itself, Mr Ablett,
14 but my memory is that - - -

15 MR TOVEY: Page 780 it is, sir.

16 COMMISSIONER: Yes. Are you speaking of the passage where
17 Mr Ablett said that he wouldn't have sought to influence
18 anyone outside the hearing room?

19 MR TOVEY: At page 780 Mr Ablett said it would be corrupt to
20 promote a vote in favour of Mr Woodman and that he never
21 talked to any other councillor or asked them to vote in a
22 certain way?---I didn't.

23 Now, was that - - -?---I didn't talk to other councillors and
24 Megan gave the recommendation to Sam. She asked me
25 briefly and then she went away and did her own
26 recommendation.

27 Are you sticking to that, though, that - do you still agree
28 that it would be corrupt for you to talk to another
29 councillor about voting in a certain way?---We do talk

1 about all sorts of matters in pre-council. That's why we
2 have them as to why someone might want to vote one way or
3 another way on all issues before we go into council, and
4 that's why we also have forums where issues are discussed
5 with the CEO and all councillors are present with
6 officers.

7 We'll move on. Was there a councillor called Duncan?---Duncan?

8 A planner called Duncan Turner.

9 And was he somebody who had presented a report in respect of
10 H3?---Excuse me, I can't remember, sir.

11 Could we go to 3429, please, Mr Commissioner. These are texts
12 taken off your mobile phone. We start on the evening
13 4/9/18 at 7.06 pm. That's during the council meeting, is
14 it not?---That would be, sir, yes.

15 Then from you to Councillor Aziz - - -?---I believe Megan
16 Schutz sent a text to Councillor Aziz during the meeting.
17 I didn't send anything during the meeting to Councillor
18 Aziz.

19 So the text, "On legal advice we're not changing the permit.
20 Then read out the highlighted bits"?---That's my
21 recollection, sir.

22 Sorry, this is on Aziz's phone. So, "On legal advice we're not
23 changing the permit. Then read out the highlighted bits."
24 You had been in regular contact, had you not, with Megan
25 Schutz up to this?---Yes, sir.

26 And it would appear from that that he's being coached in
27 real-time as to how to present what was being put before
28 the meeting on that day?---I believe he'd spoken to Megan.

29 COMMISSIONER: Just be clear, Mr Tovey. Under the heading

1 "Party", the phone number there is whose phone?
2 WITNESS: I was text a lot by - - -
3 COMMISSIONER: Just a moment, Mr Ablett?---Sorry.
4 MR TOVEY: I'm just somewhat confused about this. I had a
5 different understanding. Excuse me. (To witness.) So
6 these are messages being received on your phone - -
7 -?---From Megan.
8 Yes, from Aziz?---No, from - - -
9 Sorry, on Aziz's phone - - -?---From Megan Schutz.
10 From you?---On Aziz's phone from me?
11 Yes?---No, I was of the understanding that Megan Schutz texted
12 Sam Aziz.
13 COMMISSIONER: Just one step at a time, please. Whose phone
14 number is that listed under "party"?---That's my number
15 from to - - -
16 That's your mobile number ending in 542?---Yes, sir. But I did
17 not text Sam Aziz during the meeting. Megan Schutz did.
18 How did she come to do that with your phone?---I don't know.
19 This is a message, is it not? Have I followed correctly? This
20 is a message - - -
21 MR TOVEY: I just want to make sure that's the case.
22 COMMISSIONER: (To witness.) This is a message on your
23 phone?---Yes.
24 How did Ms Schutz come to do that?---My understanding is that
25 she did, sir. But if that says it was from mine, it was
26 from mine. I'm sorry, I thought it was Megan Schutz,
27 that she said she was going to text Sam.
28 MR TOVEY: Was it the case that Megan Schutz wasn't with you
29 during the meeting?---No.

1 MR WALLWORK: Excuse me, sir. May I rise to seek to clarify
2 one matter without disrupting?

3 COMMISSIONER: Yes.

4 MR WALLWORK: There is some confusion as to these records and
5 I believe that this is Councillor Aziz's phone, so
6 therefore there needs to be some clarity - - -

7 COMMISSIONER: I'm sorry, I want to be clear about what you're
8 saying. What do you understand is Mr Aziz's phone?

9 MR WALLWORK: On my instructions sir, I am instructed and
10 I think I'm correct with the nods at my learned friend's
11 end of the Bar table, that these phone records that are
12 now before the councillor - - -

13 COMMISSIONER: Yes.

14 MR WALLWORK: Are those which have been extracted from
15 Mr Aziz's telephone and therefore there needs to be some
16 clarity as to, "On this date did you, Councillor Ablett,
17 send this message to Councillor Aziz as is recorded on
18 this document?" That's how I read it.

19 COMMISSIONER: I'm sorry, to be clear, your instructions are
20 that what appears under the "message" heading - - -

21 MR WALLWORK: I'll put it this way, sir. This is a message,
22 I'm not sure whether to or from is of much clarity at this
23 point under "party". It's certainly going to the number
24 ending 542 and on my instructions, and I believe this is
25 the case, that these are phone SMS messages extracted from
26 Councillor Aziz's telephone and therefore it's open that
27 these may be messages which have gone to him. Some of
28 them may be from this witness; I'm not sure. But it's not
29 the records, as I understand it, of Councillor Ablett, and

1 I've got nods at the other end of the Bar table.

2 MR TOVEY: That's what I was putting.

3 COMMISSIONER: Okay. So let's start again.

4 MR TOVEY: I'll start again with the witness. (To witness.)

5 Now, the phone number ending 542, that's your number; is

6 that right?---Yes, sir.

7 So 542 has an incoming; all right? Sorry, Aziz's phone, which

8 this is extracted from, has an incoming from 542 and in

9 real-time you are coaching him or, sorry, your phone is

10 coaching him, "On legal advice we're not changing the

11 permit. Then read out the highlighted bits."

12 COMMISSIONER: So just to be clear, the message is on Mr Aziz's

13 phone.

14 MR TOVEY: Yes.

15 COMMISSIONER: Mr Aziz's phone shows that the message has come

16 from - - -

17 MR TOVEY: Mr Ablett's phone.

18 COMMISSIONER: The phone number ending 542.

19 MR TOVEY: Yes?---I don't remember doing that, but if that's

20 what that says. I thought Megan Schutz text him.

21 Well, there's only two possibilities, aren't there? Either you

22 sent it or Megan Schutz is with you and she sent

23 it?---Because she said to me, "I'm going to text Sam".

24 During the meeting?---Yes.

25 And this is a meeting in respect of which you were conflicted

26 and you are discussing that with her?---Yes.

27 And you had declared your association with her of itself a

28 conflict?---Yes.

29 All right. In any event from your phone - did you give your

1 phone to her to take away somewhere?---No.

2 All right. So this is either by you or in your presence during

3 the meeting - - -?---She wasn't with me.

4 Mr Aziz is advised, "On legal advice we're not changing the

5 permit. Then read out the highlighted bits." He's being

6 coached intimately, is he not, as to how to do the

7 presentation?---I thought that was - - -

8 Do you agree with that proposition?---I agree with that

9 proposition, but I thought it was Megan who sent the

10 email.

11 COMMISSIONER: But now that you see this - - -?---Yes.

12 On your phone? Do you recall at any stage Ms Schutz being in

13 your company when you left the hearing room whilst a

14 motion was being debated about which you had a conflict -

15 - -?---No, sir.

16 Where she was giving you instructions to send something to

17 Mr Aziz?---No, she wasn't with me, but we were on the

18 phone together. She rang me.

19 So you might have got advice from her on the phone and then

20 sent this message?---Might have by the look of that, but

21 I thought it was Megan who sent it. But it could have

22 been me.

23 Whether or not it was at Ms Schutz's instigation or otherwise,

24 do you not see here this is the most flagrant abuse of the

25 conflict situation that you were in?---Yes, sir.

26 What's the explanation for it, Mr Ablett?---I shouldn't have

27 done it.

28 But why did you do it?---To assist Councillor Aziz.

29 Why?---For the overall benefit of Hall Road.

1 Not because you had some obligation to Mr Woodman to do
2 it?---No, I don't believe so. I was pretty committed to
3 getting all the things done, working with Ray to get all
4 the safety things done for Hall Road, which are being
5 happening now.

6 MR TOVEY: To send that instruction you would need to be very
7 familiar with precisely what had been sent to Sam Aziz,
8 wouldn't you?---I had some idea - - -

9 Because you're telling him to read out the highlighted
10 bits?---He would have read out the recommendation. There
11 was a computer on that I was watching.

12 MR WALLWORK: Mr Commissioner, I'll just raise one matter which
13 may be of assistance to you. It would be clearer if the
14 records revealed when it was that Mr Ablett left the
15 meeting, left the room, because at the moment we have a
16 message that was sent at 7.06.29 but it has not been
17 established, apart from trying to work out - - -

18 COMMISSIONER: Yes.

19 MR WALLWORK: As we have all had trouble with these records,
20 whether Councillor Ablett would - I beg your pardon,
21 I have to use the microphone. Mr Tovey has been using the
22 microphone. I have to use it. I just raise the matter
23 that we have to establish that.

24 COMMISSIONER: Do you mean these might have been sent whilst he
25 was still in the meeting?

26 MR WALLWORK: It's just unclear, sir.

27 COMMISSIONER: But would that make it any better?

28 MR WALLWORK: I'm not saying it would make it better or worse,
29 sir, but it would certainly provide some clarity around

1 these matters.

2 COMMISSIONER: Yes. Do the minutes - Mr Tovey, do we have the
3 minutes of that meeting? Perhaps that can be looked at
4 and we'll come back to that, Mr Wallwork.

5 MR WALLWORK: We are not sure what agenda item was before
6 council at that particular time.

7 MR TOVEY: Page 1000.

8 COMMISSIONER: Are you going to come back, Mr Tovey, to the
9 final entry on that page which relates to a later date?

10 MR TOVEY: Yes.

11 COMMISSIONER: Very good.

12 MR TOVEY: Page 1000. (To witness.) So was it 7.33 pm that
13 you left the chamber? So it would appear that this is a
14 text that you are sending during the council meeting
15 before the issue arises rather than whilst he's on his
16 feet; do you understand?---Yes.

17 Could we just go back, please, to 3429? So your phone is
18 coaching his phone, "On legal advice we're not changing
19 the permit. Then read out the highlighted bits." You
20 agree that that was the case?---If it's on that, yes.

21 And then again from your phone to his phone, "Take Duncan on."
22 To the best of your knowledge was Duncan the council
23 officer who prepared the report?---To the best of my
24 knowledge, yes.

25 All right. Then at 8.39 pm Aziz sent to your phone a
26 notification, "Got through it just!!"?---I might just need
27 my screen rolled up a little bit.

28 Yes. So those communications, do you agree, you generated? If
29 you were in the council meeting at the time that those

1 items were sent, it had to be you who was sending them,
2 didn't it?---I can only go on what's there and I don't
3 recollect sending them, but if they're on there I must
4 have. But I thought it was Megan that sent the text.

5 If we just go down then. Then there is an incoming to
6 Mr Aziz's phone from your phone; is that right?---I can't
7 see Sam's name. You might need to scroll down a bit
8 further, is it?

9 And is that something which has been forwarded to you which
10 says, "Geoff, I suggest Sam forwards the SCWRAG letter on
11 to the CEO copied into all the other councillors who also
12 receive the letter with an email as follows. Then his
13 request is on record," and then a draft communication with
14 the CEO is there?---You might just need to scroll up a
15 bit, please.

16 Yes, if you just scroll it up a bit. "In light of the legal
17 advice provided by you this afternoon and correspondence
18 received from SCWRAG, can you please go back to council's
19 legal adviser and ask him if the alternative wording of
20 the resolution as suggested by SCWRAG would overcome the
21 issues he raises in his advice? If not, can he please
22 recommend an alternative wording that still achieves the
23 objectives of the community?" Now, is that something that
24 was forwarded? Was that a message, firstly, from Megan
25 Schutz which you forwarded on to Mr Aziz?---Yes, I would
26 say it came from Megan.

27 And that was on 13 September; all right? So you are there
28 being used as an intermediary between Megan Schutz and Sam
29 Aziz?---Yes.

1 And you were being used by Megan Schutz to promote her client's
2 interest. That's why she's contacting you, isn't it?---To
3 get to Sam, yes.

4 And you happily did that, even though you were
5 conflicted?---I didn't happily do it, no.

6 But you did it?---I don't remember sending it to Sam but if
7 it's up here I must have. But I remember getting messages
8 from Megan.

9 Well, you did send it to Sam, I suggest, because a little bit
10 later you've sent it to his private email and you say, "Hi
11 mate, check your private email." Is that right?---Well,
12 I must have if it's there, yes.

13 And it's his private email, not his council email. Just look
14 at the next line at 10.55?---I beg your pardon?

15 If you look at the entry for 10.55 on 13 September, that's you
16 telling Sam to check his email to make sure he's got
17 it?---That's from my phone, yes.

18 And again if you look at the 15th, two days later, again
19 I suggest to you what's come to your phone, incoming, is
20 another message from Megan Schutz saying, "Geoff, I'm
21 writing Sam some words for Tuesday which will cover off on
22 the council legal advice, SCWRAG letter and Dacland legal
23 advice and save him from having egg on his face. Can you
24 please let him know? It is important that we confirm that
25 the notice of rescission will be heard on Tuesday night
26 and that Sam can move a motion in response to the proposed
27 rescission seeking a new resolution that cures the
28 fairness issue with the resolution of 4 September.
29 Thanks, Megan." Is that something that she sent you?---If

1 it's on the screen she would have.

2 So she is telling you that she's writing the script. "I'm

3 writing some words for Sam for Tuesday." Tuesday is the

4 next council meeting?---Would be.

5 Yes. You are talking about the H3 intersection coming up

6 again?---Yes.

7 The first motion which was moved by Mr Aziz and passed on the

8 casting vote of Mr Smith was found to be illegal, was it

9 not?---I'm not sure if it was found to be illegal.

10 I don't remember that bit.

11 It had to be - - -?---Was it found illegal, was it?

12 Yes, it was found to be illegal and then it had to be rescinded

13 and that's what you're there talking about?---There was a

14 rescission motion put forward after the first meeting.

15 I don't think it was found to be illegal. I think there

16 was a rescission motion put in so it was reheard a

17 fortnight later.

18 Sorry, was there some legal advice that it was illegal?---Not

19 to my knowledge.

20 In any event, there was a notice of rescission and you refer

21 there to the unfairness - sorry, "the new resolution cures

22 the fairness issue". What was the fairness

23 issue?---I don't remember, sir.

24 Was the fairness issue that Dacland ended up finding itself in

25 a position where as a result of the earlier resolution it

26 had to pay money which previously Woodman interests were

27 going to have to pay?---The talk after that we had was

28 that the policy at Casey should be changed so that if you

29 have developers on each side of the road they should pay

1 50 per cent each and then we wouldn't have situations like
2 this.

3 COMMISSIONER: Mr Tovey, if I've understood what the chart
4 means, are we still dealing here on 15 September with
5 what's on - under "message" with what's on Mr Aziz's
6 phone?

7 MR TOVEY: Yes.

8 COMMISSIONER: So does that mean Mr Ablett, without altering
9 the message he has received from Ms Schutz, just forwards
10 that - - -

11 MR TOVEY: Just forwarding, yes.

12 COMMISSIONER: That message that was to him on to Mr Aziz.

13 MR TOVEY: Yes. (To witness.) That was what was happening,
14 wasn't it?

15 COMMISSIONER: Did you follow that?---I can't remember sending
16 the message to Sam Aziz, but if it indicates here I did,
17 then I did.

18 MR TOVEY: Well, you see at the very end you get the message
19 from Megan Schutz, this is about her writing Sam some
20 words for Tuesday, you get that at 5.55 and then at 6.09,
21 shortly after that, Aziz sends you a message saying, "Got
22 it, man." Now, would you accept that what you've done is
23 you've forwarded that message to him?---I must have.

24 COMMISSIONER: Isn't that, Mr Ablett, a clear misuse of your
25 position as a councillor to be a conduit for the passage
26 of important information in relation to an issue where you
27 have a conflict of interest?---Yes.

28 Why do you think you did that?---In the best interests of the
29 overall safety of Hall Road.

1 Do you see, Mr Ablett, that the reason we have a conflict of
2 interest principle is that when you do something like
3 that, that is when you breach your obligations under the
4 conflict of interest, no one will ever know whether the
5 reason you've done that is because of some altruistic
6 motive in the interests of the community or because of
7 the conflict that you're in because you are amenable to
8 the influence of the person with whom you have the
9 conflict? Do you understand that that's the problem that
10 arises every time a councillor acts inconsistently with
11 their duty?---Yes, sir.

12 MR TOVEY: One of the things that you and others used to call
13 Mr Woodman was the "blood man" or the "blood donor"; is
14 that right?---No, I've never called him that, sir. Not to
15 my knowledge. Could you say those terms again, please?

16 Blood man or blood donor?---Blunt man?

17 Blood?---Blood man?

18 Yes?---No, I never called - - -

19 Or blood donor?---I never called him blood man.

20 COMMISSIONER: If you're moving on to something else, we better
21 just regularise those exhibits.

22 MR TOVEY: Yes, thank you.

23 COMMISSIONER: I will make the phone messages from Mr Ablett to
24 Mr Aziz's phone, those on 4 September '18 will be exhibit
25 98A, those on 13 September will be 98B, and those on
26 15 September 98C.

27 #EXHIBIT 98A - Phone messages from Mr Ablett to Mr Aziz's phone
28 on 4 September 2018.

29 #EXHIBIT 98B - Phone messages from Mr Ablett to Mr Aziz's phone

1 on 13 September 2018.

2 #EXHIBIT 98C - Phone messages from Mr Ablett to Mr Aziz's phone
3 on 15 September 2018.

4 MR TOVEY: I just need to work out the sequence of some
5 matters. Could the witness please be played tab 113.
6 That's exhibit 32.

7 (Audio recording played to the Commission.)

8 COMMISSIONER: The next Tuesday night you disqualify yourself
9 on the basis of conflict; right?---Can I just say with
10 that I was looking at the whole of the safety of Hall
11 Road.

12 On the next Tuesday night you disqualified yourself on the
13 basis of conflict, did you not?---Yes.

14 Here you are, would you agree that it's an appropriate
15 description of what occurred during this call that you are
16 coaching Mr Aziz as to what he's to do the next
17 Tuesday?---I was explaining to Mr Aziz that Labor had put
18 forward something that would ultimately create - - -

19 No, I understand what you're explaining to him - - -

20 COMMISSIONER: Mr Tovey, let the witness answer.

21 WITNESS: That this was exciting to me because Labor had
22 promised to fix up all of Hall Road and the statistics
23 that Ray Walker had shown of accidents and bottlenecks and
24 black spots, this was not so much about H3 because if we
25 had H3 built and we put Hall Road as a priority as a
26 safety measure, then Labor would fix up all of Hall Road,
27 as they're doing at the moment. And I did have a general
28 discussion with Rex, as I would with any topic, and they
29 said, "No, we're not changing our minds." I said, "That's

1 fine."

2 COMMISSIONER: So that long answer is perhaps an answer as to
3 why you might have been coaching Mr Aziz. But the
4 question was were you coaching him?---No, I was explaining
5 to him the benefits of - - -

6 No, you've just told us what you were doing?---Yes.

7 Were you coaching him?---I was informing him of a good outcome
8 if we got that over the line.

9 MR TOVEY: And you were telling him you would get other
10 councillors in line?---I did talk to him about the
11 benefits of that, but they were quite adamant they wanted
12 to vote the way they wanted and that's the way it goes.

13 You said you could get Rex over. Did you get him over?---I had
14 a quiet chat. No.

15 All right. And what about Tim, did you get him over?---No.

16 But you tried?---We had a general chat the same as we would
17 with any topic. But I did not twist their arms and they
18 stayed voting the way they did.

19 Who was the "blood man" that you referred to?---It must have
20 been Mr Woodman, but I don't ever recall calling him that.
21 That's pretty unusual?---I honestly don't remember calling him
22 blood man, ever.

23 It's a pretty unusual name, isn't it?---It is. I don't know
24 why I would say that. I don't ever recollect calling him
25 the blood man.

26 Well, other people referred to him as the blood donor. Does
27 that resonate at all with you?---I've never called him the
28 blood donor. That doesn't resonate with me. Maybe others
29 have called him that.

1 Was it a reference to people sucking his blood?---I don't know.

2 COMMISSIONER: When you say you're going to get a councillor
3 over - - -?---Talk to them about changing their vote with
4 an educated explanation as to the benefits of that, with
5 the whole completion of Hall Road, Westernport
6 intersection, Evans Road intersection, duplication of the
7 road with the H3 done, and also we had moved Hall Road
8 over as a priority road in Casey, that that would trigger
9 Labor to put in funds to do the whole of Hall Road as
10 they're doing at the moment.

11 But when you say "to get him over", you're to try to get him to
12 change his mind?---Change his mind with good evidence
13 and - - -

14 I thought you told me yesterday or the day before that you know
15 you wouldn't do that. You had a conflict of interest, you
16 couldn't do that?---This was in the context of the whole
17 of Hall Road, sir, not H3.

18 You don't think you had a conflict of interest that precluded
19 you from doing this?---Not at the time I didn't, but now
20 I do.

21 MR TOVEY: But this was all a Woodman thing you were doing,
22 wasn't it? I just want to give you every opportunity.
23 Weren't you doing this at the behest of Mr Woodman?
24 Weren't you accepting directions to your understanding at
25 the behest of - just before I play you the next tape,
26 I just want to give you the opportunity. Do you deny that
27 you were doing these things to favour Mr Woodman?---I was
28 working with - - -

29 No, just simply yes or no?---Yes.

1 You did it to favour Mr Woodman?---Yes, and to get it done
2 quickly to get the right outcome.

3 Having heard that from you, we'll go to 113. Sorry, 114.

4 COMMISSIONER: Is this a previous exhibit, Mr Tovey?

5 MR TOVEY: The previous exhibit was exhibit 32. That's already
6 been numbered. Then I think this one has been exhibited
7 previously as 33. No, this is also part of 32.

8 COMMISSIONER: Thank you.

9 (Audio recording played to the Commission.)

10 MR TOVEY: So that's you talking to Mr Ablett, isn't it?

11 COMMISSIONER: Mr Aziz.

12 MR TOVEY: My apologies. Mr Aziz?---That is, and - - -
13 And at that stage you spoke to him about needing an alternative
14 resolution?---Yes.

15 And when you said "they're working on it", that was
16 Mr Woodman?---Megan. Megan Schutz.

17 Megan Schutz, who was working for Woodman?---I said "they're",
18 but I meant Megan.

19 Moving along, on 14 October of 2018 Mr Woodman emailed you
20 attaching an Excel spreadsheet, Victorian police
21 statistics for injuries and fatalities on Hall Road,
22 didn't he?---Could have, yes.

23 And that was so you could advocate in the background to get the
24 Hall Road H3 issue up for him. That's why Mr Woodman was
25 sending it to you?---It was evidence of getting Hall Road
26 fixed up safer, yes.

27 You forwarded that to Mr Aziz, did you not, as you did with all
28 these things? I suggest you did?---I'm not sure. Did I?
29 If you've got it there, I did.

1 And then we'll just go on. On 14 October you forwarded -
2 sorry, Mr Woodman forwarded an email to you. Could we
3 look at page 1191 and 1192? I think we might have to
4 start down the end and come back. Now, are those the
5 stats that Mr Woodman emailed to you?---I believe they
6 would be, sir.

7 And if you go back to the previous page, do you see from
8 yourself to Sam Aziz, "Attachments are Cranbourne West
9 collisions data." So you've sent it on to him?---Yes.

10 On the next morning, the morning after that, I'd suggest that
11 you were observed at Watsons' office in Mornington
12 conversing with Mr Woodman and Ms Schutz?

13 COMMISSIONER: Mr Tovey, the document you just taken Mr Ablett
14 to, is that already an exhibit?

15 MR TOVEY: Exhibit 33, yes.

16 COMMISSIONER: I think it would be helpful if you identify the
17 exhibit.

18 MR TOVEY: I'm sorry, I forgot to.

19 WITNESS: Sorry, did you ask me a question?

20 MR TOVEY: Yes. You were observed by surveillance - -
21 -?---Okay.

22 The next morning attending Watsons' office in Mornington.

23 COMMISSIONER: That's 15 October?

24 MR TOVEY: That's 15 October conversing with Woodman and
25 Schutz, and then on 16 October is what was a critical
26 meeting in respect of H3?---Was that a council meeting?
27 Yes, that's a council meeting?---Okay.

28 And at that meeting you at 6.31 pm declared a conflict. The
29 council officer's report came up with a proposal - sorry,

1 supported a proposal by Dacland to delay the construction
2 of the intersection, H3?---Okay.

3 As you had already discussed, you will agree, Mr Aziz moves an
4 alternate resolution referring to accident data which you
5 have provided to him and a letter from SCWRAG and he's
6 sought to have - not have it deferred, indeed to have it
7 commence construction immediately and not to support the
8 request. Now, you're aware that was the nature of the
9 motion that you had been working towards supporting for
10 some time leading up to this?---I'm aware that's what was
11 produced on the night, sir, yes.

12 And I thought you had indicated before that you agreed that you
13 were acting at Mr Woodman's behest - - -?---Yes, no, I saw
14 it on the screen, yes.

15 So you were working towards supporting this motion?---Yes, as a
16 step to doing the whole of Hall Road.

17 Could the witness please be played tab 26? That's exhibit 34,
18 sir.

19 COMMISSIONER: Thank you. What date is this, Mr Tovey?

20 MR TOVEY: If you can just bear with me, sir, while I resurrect
21 this file.

22 COMMISSIONER: Yes.

23 MR TOVEY: This is a phone call between Megan Schutz and
24 Mr Ablett at 8.58 am on 16 October of 2018, so this is on
25 the day of the vote.

26 COMMISSIONER: Yes.

27 (Audio recording played to the Commission.)

28 COMMISSIONER: So that's you and Megan Schutz working hand in
29 glove to get the motion passed that night, is it not?---It

1 is, and it also takes into consideration the whole of Hall
2 Road.

3 And indeed she was going to send you the
4 recommendation?---It said that in there, yes.

5 It's apparent, I suggest to you, to anybody who reads this that
6 they had control of the whole process, did they not,
7 Woodmans?---I beg your pardon?

8 Woodman and Schutz had control of the whole process through you
9 and Aziz?---Mainly I spoke to Megan Schutz, yes.

10 But you understood that they controlled the process this
11 time?---Yes, but deep down I also wanted it fixed for the
12 safety of Hall Road because of the stats that Mr Walker
13 was presenting.

14 In the course of that conversation one of the things you dealt
15 with was matters relating to the mayoral race which was
16 coming up in, what, 13 days I think or something like
17 that?---Might have. I think it was raised, yes.

18 And you were discussing that with Megan Schutz?---It was in
19 conversation, yes.

20 And you were doing that because - were you doing that because
21 it was your understanding that Mr Woodman had significant
22 pull in respect of who voted for whom to get the mayoral
23 job?---No, that was more or less done by councillors.
24 They sorted that out by lobbying each other. If I said
25 something, then that would be just me mouthing off
26 incorrect. He didn't choose mayors.

27 In view of the last answer - sorry, the first answer the
28 witness gave to my question relating to that conversation
29 I did not propose to go into the detail of the

1 conversation as I have with others, sir. But if there are
2 matters that are of concern or of particular concern, we
3 can go back to it.

4 COMMISSIONER: Yes. It's adequate for the moment, Mr Tovey.

5 (To witness.) I just wanted to ask, speaking of mayor,
6 you were elected mayor in your first year on
7 council?---Yes, sir.

8 Had you had any previous experience in relation to council
9 affairs?---No, not in relation to council affairs but
10 I had been the Australian regional manager for the
11 Hawthorn Football Club for a long time, working on a
12 number of boards and flying around Australia talking to
13 people, doing business plans and stuff. So it was a
14 matter of getting used to - and I managed to do that in a
15 couple of weeks. The different way that council runs
16 their meetings was the only real stumbling block. But as
17 far as mixing with people and experience in life and
18 community, I'd had a lot of that.

19 And again were you supported by a bloc of councillors for that
20 purpose?---There were five councillors who came to me and
21 said, "Would you like to be mayor?"

22 Yes?---And I didn't have any - I didn't know them, and
23 I thought, "Why not?"

24 Did the voting, though, go along party lines?---I was an
25 independent. Yes, it was more Labor people and, as
26 I found out later, the Liberals had six and Labor had five
27 and I wasn't involved in politics at all at that time.
28 And so I guess to get the numbers in their eyes, because
29 I just walked in the door, they asked me if I wanted to be

1 mayor, would I be mayor, and they knew my experience, they
2 asked me all about it and they said, "Well, you've just
3 got to get used to the way we run meetings and that will
4 be okay."

5 Is that uncommon, that someone in their very first year as a
6 councillor becomes mayor?---As it turns out, I believe it
7 is, sir.

8 Is it a good thing, do you think, that someone with no
9 particular council experience - - -?---It depends on - no,
10 in some States you can't. I believe in Tasmania you
11 can't. You need to do one or two years before that
12 happens. It happened so quickly I didn't give a lot of
13 thought to it. But public speaking and stuff like that
14 I was quite used to and working with officers was quite
15 good, so it was quite smooth considering.

16 Yes, Mr Tovey.

17 MR TOVEY: Was it the fact that right through 2019 when Woodman
18 related issues came up, Megan Schutz would prepare you and
19 Mr Aziz in the similar way to we've just seen?---I don't
20 think there was anything more prepared than the one you've
21 just shown.

22 Well, that's probably as prepared as you're ever going to get;
23 you would recognise that, wouldn't you?---I recognise
24 that, yes, sir.

25 And indeed there were conversations, I suggest to you,
26 immediately after this where Ms Schutz was complaining to
27 you that Sam Aziz wasn't up to it, to use a neutral
28 phrase, he hadn't stuck to the script?---I believe she had
29 used that phrase. She did say something to me about that.

1 During this period of time there were also discussions between
2 you and her about the content of the minister's letter in
3 respect of C219. She was interested to find out what the
4 minister's response had been; do you recall
5 that?---I don't recall it, but I'm sure you've got a copy
6 there.

7 In any event I don't want to go diverting to it at the
8 moment?---Okay.

9 But the situation was if she on behalf of Mr Woodman was
10 interested in something where you could help out in
11 respect of the council, you would do what you
12 could?---I talked to her about it, but she also spoke to
13 Sam as well.

14 But you'd do more than talk. We've had examples already,
15 haven't we, where you've approached the CEO or you've
16 approached other councillors; that's what you were
17 doing?---What I failed to recognise was I thought being
18 out of the room I wouldn't have a conflict of interest,
19 but as was pointed out to me last Thursday I should have
20 been a lot more aware of the conflict of interest away
21 from council. I thought conflict of interest would be
22 just in the room and that was something I should have
23 understood a lot better. And I get on well with Amanda
24 now. That was just a short-term thing. I want to please
25 state that. Those conversations happen in workplaces, but
26 we're on very good terms with all councillors now.

27 Before I work out whether I need to play further tapes or not,
28 do you still agree with the position that by this time, by
29 the time H3 came up, you were thoroughly prepared to

1 conduct council business in the way that Megan Schutz and
2 Mr Woodman wanted you to?---I knew - I spoke to Megan
3 about the H3 and believe it or not, sir, I also had the
4 overall safety aspects of the whole of Hall Road at heart.

5 COMMISSIONER: Just try and answer Mr Tovey's question, though,
6 Mr Ablett?---Yes, yes.

7 You understand what you're saying; that by this time you were
8 prepared to do what Mr Woodman and Ms Schutz wanted in
9 relation to matters at council in which they had an
10 interest?---Not take orders from them, but I thought by
11 helping with - listening to the recommendation, if we
12 could get Hall Road to a stage where the Labor money could
13 come in quickly, which it has, it would fix it up. And,
14 yes, I did assist them.

15 MR TOVEY: The situation - and I thought you'd already agreed
16 with this - was that wherever you could and they asked,
17 you'd assist them?---I would talk to them, yes.

18 You would agree with that proposition?---I would talk to them,
19 yes.

20 And you would give them what assistance you could?---Assistance
21 and, again, my mistake was I thought if I was out of the
22 room - - -

23 COMMISSIONER: Don't worry about your mistake?---Yes.

24 Do you agree with counsel?---Yes, I assisted, yes.

25 I thought you told me on the first or the second day you were
26 in the witness box that you clearly understood that having
27 a conflict of interest meant you couldn't work on your
28 fellow councillors outside the council room?---I did say
29 that, sir.

1 And now you've had your attention drawn to the fact - -
2 -?---I have, yes.
3 You were doing that?---Yes. I hadn't remembered that bit.
4 MR TOVEY: And indeed when you were first asked about this you
5 said that doing that would be corrupt, and you know now it
6 was?---It'd be a form of corruption, yes. I did say that.
7 Can I just clarify one point. I talk to councillors all
8 the time about every issue and give them evidence, but
9 I don't see that as a form of corruption.
10 But it is if you're operating for somebody in respect of whom
11 you have a conflict of interest?---It's a different
12 circumstance, yes, sir.
13 All right. So we might get through this reasonably quickly
14 then. Did you speak to Councillor Crestani in November of
15 2018 about whether or not she would stand in for you
16 during certain council proceedings?---For me?
17 Yes?---I can't remember the conversation, but - - -
18 Did you report back to Ms Schutz that you had Ms Crestani under
19 control and I can just tell you Ms Schutz in a recorded
20 conversation indicated that you reported that you were
21 like a ventriloquist in respect of Ms Crestani?---I was
22 like a ventriloquist?
23 Yes. Is that what you told her or is that an exaggeration by
24 her?---I don't think I ever used those words.
25 No, I'm not suggesting you necessarily did. But in any event -
26 - -?---No, I never used the word "ventriloquist".
27 What I'm suggesting is you complained to her - - -?---She's a
28 very strong woman who always votes her own way.
29 All right. So did you convey to Ms Schutz that in respect of

1 some issues you had secured her support?---I can't
2 remember saying that, but you would never change her view.
3 She's a very strong woman. She'd vote the way she always
4 wanted.

5 COMMISSIONER: It sounds to me, Mr Ablett, like you don't
6 accept that you conveyed to Ms Schutz and hence to
7 Mr Woodman that even though you would absent yourself from
8 the council room on a motion where you had a conflict of
9 interest, you could count on Ms Crestani's vote to do what
10 you would have done had you been present?---No, she would
11 do - she's the sort of - a very strong woman and always
12 votes her own way.

13 MR TOVEY: I think this is already exhibited, tab 81 on
14 22 November. Exhibit 43, Mr Commissioner.

15 COMMISSIONER: Thank you.

16 MR TOVEY: Could we have tab 81 played, please.

17 (Audio recording played to the Commission.)

18 COMMISSIONER: I see the time, but I think we might sit on,
19 Mr Tovey.

20 MR TOVEY: Yes. (To witness.) At the end of that conversation
21 he says to you, "We've both lost a shitload of money
22 because of Cranbourne West all because of this
23 intersection," and was that the situation, that you had
24 "both lost a shitload of money"?---No, I hadn't taken any
25 money from him, and I wasn't - - -

26 What was he referring to you both losing a shitload of money,
27 do you think?---As I said earlier, I thought we might have
28 been buying some horses if he got some money out of it.
29 You understood, did you not, that there was going to be - he

1 was going to provide funds to help your business if C219
2 got over the line? I think you've already told us - -
3 -?---That's the way I took it, sir.
4 Yes. But he's there talking about the intersection as well.
5 Were you on some arrangement with him in respect of the
6 intersection?---Which intersection is that, sir?
7 H3?---No, I was assisting trying to get it done and I thought
8 if it got done sooner then we could get the whole of Hall
9 Road built, so that's why I was helping.
10 But one of the things he said to you, you had lost a shitload
11 of money, you had both lost a shitload of money, not just
12 because of Cranbourne West but he also mentions because of
13 this intersection?---No, I wasn't - - -
14 Why did he say that to you if there hadn't been some
15 arrangement between; do you know?---He never made any
16 promises to me or pledges about it. I don't know why he
17 said that.
18 What's happening there is you're going to be absent from a
19 meeting and Amanda Stapledon is going to be conflicted out
20 and Rosalie Crestani has come to you and indicated that
21 she's wavering; is that right?---That's right, yes, which
22 is most unusual for her because she's pretty strong-minded
23 and makes her own mind up.
24 COMMISSIONER: You keep saying that, Mr Ablett - - -?---But it
25 didn't happen on that.
26 You not only didn't say that; you said the opposite. You made
27 it very clear, didn't you, that Ms Crestani was waiting to
28 see what you wanted her to do?---In that, sir, yes.
29 Which is it? Is she a strong independent person or was she

1 somehow - - -?---I would say that was an exception to the
2 rule.

3 Just let me finish. Just let me finish. Was she a strong and
4 independent person or was she someone who was prepared to
5 do what you wanted?---She's a strong, independent person
6 who votes her own way, but in this situation, reading
7 that, she did ask me, which is rare for her to say, "I'll
8 vote your way." She normally makes up her own mind.

9 MR TOVEY: In this case you discussed, did you not, the fact
10 that you didn't want to lose the chair?---Yes, that was
11 said, yes.

12 For the purposes of this vote that affected Mr Woodman; is that
13 right?---Yes.

14 And Rosalie was expecting a phone call from you tomorrow to
15 tell you what she could put forward; true?---Mmm.

16 You have to say yes or no, not just "mmm"?---Yes.

17 Because she gets the casting vote and then you went on to
18 explain that even though you're conflicted, you still got
19 to vote on who would chair. Is that right?---Which is
20 unusual, yes.

21 All right. So that's the opposite of what you told me a little
22 earlier on, isn't it?---In most cases I walk out and not
23 vote.

24 But what about where Mr Woodman's interest was involved? You
25 would do what you can to assist him by not walking out
26 early as you normally would?---And in this case - - -
27 Sorry, do you agree with that?---Yes.

28 COMMISSIONER: In this passage you are actually telling or
29 asking Mr Woodman to tell you what he wants and you in

1 turn will tell Rosalie what she has to do; that's how it
2 reads, doesn't it?---Mm-hm.

3 Well, what's going on there, Mr Ablett?---I wanted to get the
4 intersection done so we could do the whole of Hall Road
5 which has been mentioned in some other texts.

6 MR TOVEY: But it wasn't the situation that you were going to
7 get him to tell you what she was to say and any conditions
8 he wanted, to use your words, "any conditions you
9 want"?---Yes, but what I had in mind was - - -

10 No, just listen. Were you going to get her to vote for any
11 conditions that Woodman wanted?---I was going to talk to
12 her about it, yes. Not any conditions he wanted, but the
13 road safety issues.

14 You say in these words, "We're accepting it with whatever
15 conditions you want in the acceptance"; all right?---I did
16 say that in that phone call, yes.

17 All right. So that only means one thing, doesn't it: that you
18 were totally subject to his direction?---Plus my own
19 thoughts on road safety, but they're not in there, yes.

20 But you agree with my proposition?---Yes, I agree with you,
21 yes.

22 This, I might indicate, Mr Commissioner, was a phone call
23 between Mr Ablett and Mr Woodman on 22 November of 2018,
24 just for the purposes of the transcript.

25 COMMISSIONER: It's already an exhibit, is it not?

26 MR TOVEY: It is already an exhibit, yes.

27 COMMISSIONER: I wonder whether we could go back to the very
28 start of that conversation, please. You see there,
29 Mr Ablett, line 6?---Yes.

1 You're saying, "I'm looking after her a fair bit." Do you see
2 that? Were you looking after Rosalie a fair bit?---When
3 I say that I mean treating her like a good person, yes.
4 In what sense were you looking after her?---Just being a good
5 friend.
6 All right. Just go on a little bit, please. What does that
7 piece mean at line 15 to 16, Mr Ablett? "So what I was
8 going to ask you, if you don't mind, is just to send me
9 something, exactly what you would expect to be a fair
10 thing, cause she'll be chairing the meeting." What was
11 that about, Mr Ablett?---Which line are you on, sir? Down
12 the bottom. I would say all the aspects of the road
13 safety to get that intersection built.
14 No, no, this is about what Mr Woodman might send you as a fair
15 thing in exchange for you getting Rosalie to chair the
16 meeting. That's got nothing to do with the safety
17 requirements, has it?---I don't know. "Just send me
18 something, exactly what you would expect to be a fair
19 thing."
20 "Cause she'll be chairing the meeting"?---No, I don't know what
21 that means. There were no promises or anything.
22 On the face of it, it's got rather a sinister interpretation,
23 hasn't it?---It does look that way, but it's not that way.
24 You were asking Mr Woodman to give you a bribe in exchange for
25 you getting - - -?---No.
26 Just let me finish?---Sorry.
27 In exchange for you getting Rosalie to chair the meeting?---No,
28 I wasn't asking for any money. He's never given me any
29 money.

1 So what was the "fair thing" that you were hoping for from
2 Mr Woodman?---A fair argument.

3 A fair argument?---On safety.

4 Because Rosalie's chairing the meeting?---Evidence or things to
5 talk to her about.

6 Yes, Mr Tovey.

7 MR TOVEY: In racing circles, if you're talking about giving
8 somebody a fair thing, it's normally a sling, isn't
9 it?---A fair thing may be a tip or anything. I'm not
10 going to mention - go into racing terms.

11 You mention in the course of your conversations with Mr Woodman
12 Wolfdene and Wolfdene's involvement in the H3
13 intersection; is that right?---If it was there
14 I would accept that, yes.

15 And you talked about Dacland being on one side and Wolfdene
16 being on the other?---Yes.

17 Now, there was Elysian Estate and Alara Estate on one side and
18 Lochaven which was Dacland's development on the other
19 side; is that right?---Yes, sir.

20 And to your knowledge did Wolfdene have an ownership role in
21 respect of Elysian Estate or Alara?---Could you just
22 repeat that question, please?

23 Yes. Did Wolfdene have an ownership role in respect of Elysian
24 Estate or Alara?---I'm not sure. I only knew that John
25 Woodman was involved.

26 And you knew that was through an interest that Wolfdene
27 had?---Well, I would think that Wolfdene would be
28 doing - was it Alara? I think Wolfdene would
29 be - I presumed it would be Wolfdene, yes.

1 I just want to know what your understanding of - in the course
2 of the conversation you talked about the Wolfdene side of
3 the road. What did you mean by that?---The Watsons side.
4 All right.

5 COMMISSIONER: But you understood that Mr Woodman had a
6 financial interest of some sort in the H3 planning
7 issue?---Yes.

8 MR TOVEY: And indeed I'd suggest to you that on 24 November of
9 2018, a couple of days after this conversation that you've
10 just been taken to concerning Councillor Crestani, you
11 told her that Wolfdene were happy so long as the culverts
12 were part of the H3 construction. Did you tell her
13 that?---I don't remember saying that, but if - - -
14 That would be consistent. If that was the case, that's
15 something that Mr Woodman would have told you to relay to
16 her?---I don't remember saying culverts to councillor
17 Crestani.

18 All right. If you did say something about culverts, it would
19 have been something that Woodman had told you because she
20 didn't know about it independently of him?---No, I'm not
21 able to say. I also would have spoken about the road
22 safety aspect of it.

23 Now, in order to assist Mr Woodman in the way we have
24 described, you also, did you not, approached Mr Patterson
25 to put forward the Woodman agenda in respect of the H3
26 Intersection and Hall Road and then reported back to
27 Mr Woodman and Ms Schutz?---I'm not sure what you're
28 asking me. Was that to do with making Hall Road a
29 priority or - - -

1 Did you approach Mr Patterson in respect of Hall

2 Road?---Overall to make it a priority because of
3 the number of accidents on it.

4 Following that discussion, so making Hall Road a priority would
5 have made the construction of the H3 intersection a
6 priority as well, wouldn't it?---Yes, and also get the
7 millions of dollars from the Labor government.

8 All right. Then I'd suggest to you that on 27 November of 2018
9 you had another one of those conversations with Ms Schutz
10 where you were discussing the H3 intersection and the
11 various strategies that were being used to have it
12 constructed quickly?---Yes.

13 On 28 November do you agree that you and Ms Schutz discussed
14 the H3 intersection and you reported back to Ms Schutz
15 that Ms Crestani was then on side and that you would let
16 her know what Patterson's position ultimately
17 was?---I don't recall it, but you'd have it.

18 Could we play tab 226, please?

19 COMMISSIONER: Is this an exhibit, Mr Tovey?

20 MR TOVEY: I don't think it is, Commissioner. So, this is a
21 conversation between yourself and Megan Schutz on
22 28 November of 2018.

23 (Audio recording played to the Commission.)

24 MR TOVEY: So you were there talking to her about the H3
25 intersection?---Yes, I was.

26 And the fact that you were going to talk to Glenn, who was
27 Glenn Patterson, the CEO?---Yes, and that was about the
28 whole safety aspect of Hall Road.

29 And you were saying to her, "Look, he's going to think I'm

1 there for the residents. I'm not there for you."?---Well,
2 I was there for the residents, but I did say that on the
3 phone.

4 So you were saying to her, "I'll hide from Mr Patterson the
5 fact that really I'm doing it at your behest"?---It came
6 out that way on that, but realistically I was - - -
7 That's the truth, isn't it?---It's part of the truth, yes.
8 Yes.

9 COMMISSIONER: That will be exhibit 99, phone call between
10 Mr Ablett and Ms Schutz, 28 November 2018.

11 #EXHIBIT 99 - Excerpt of phone call between Mr Ablett and
12 Ms Schutz, 28 November 2018.

13 MR TOVEY: On 16 February of 2019 you had a conversation with
14 Mr Woodman, did you not, about the prospect of getting a
15 discounted house and land package for your
16 daughter?---Yes, along with a whole lot of developers and
17 Davis Porter, a whole range of people.

18 He indicated to you, did he not, that in view of what you had
19 done for him he would give you - he would arrange for you
20 to get somewhere between 50 and 70,000 off?---Everyone at
21 that time, every - - -

22 No, I'm just asking you?---Yes, he did, along with a lot of
23 others.

24 Did you ultimately go through with that?---No, sir.

25 No. What you were discussing with him was indeed a package at
26 Brompton Lodge, was it?---We looked at Brompton Lodge,
27 Pavilion, then we went to Lynbrook and the best deal was
28 Davis Homes, 180,000 off a home and land package, which
29 was much better than John could possibly come up with.

1 I didn't believe I had a conflict in asking what his
2 prices of blocks were so we could compare them to others.

3 COMMISSIONER: When you were talking to Mr Woodman about the
4 possibility of him finding a block of land for you out of
5 Brompton Lodge - - -?---Suggesting some, yes.

6 Did he say to you that he would get you a good discount on a
7 block in view of what you had done for him in relation to
8 Brompton Lodge?---No, sir. He said, "Everyone's doing
9 discounts on blocks at the moment and the best I can do
10 for you is I can get 50,000 or 60,000 off a \$400,000
11 block." Porter Davis it was, and who had the best deal of
12 180,000 off a block, slightly smaller than the one
13 Mr Woodman was talking about, but a brand new house on top
14 of that. So, there was no promises of anything. It was
15 just looking at land and there was nothing sinister in
16 that, sir.

17 Do you feel that you'd ever done anything for him in relation
18 to Brompton Lodge?---No, I did admit - I think I said
19 I sat in some meetings I shouldn't have.

20 But you are quite sure he's never acknowledged to you that
21 because of what you'd done for him at Brompton Lodge, that
22 you would get a discount?---No, sir. No, I'm very
23 convinced of that.

24 MR TOVEY: Could I have played to the witness tab 104 which is
25 exhibit 54. (To witness.) Tab 104 is a conversation
26 between yourself and John Woodman on 9 March this year.
27 This immediately follows a conversation - indeed, when
28 I say immediately follows, I think this is part of a
29 conversation - yes, this is part of a conversation in

1 which initially you and he were discussing the 50 to
2 \$70,000 discount?---Okay.

3 I just say that so you know the context.

4 (Audio recording played to the Commission.)

5 WITNESS: I can explain that.

6 MR TOVEY: What you say there is you can't say much over the
7 phone. So he raises with you the fact that you had been
8 pushing Brompton Lodge and he owes you and you say, "Well,
9 look, I can't say much over the phone"?---No, can
10 I explain what happened?

11 Yes, please?---We had the acting CEO in at the time and
12 Mr Woodman rang me and said one of our officers, planning
13 officers, had gone out and stopped work on the grounds
14 that he could do that without any planning reason; what
15 should he do. I said, "Look, all I can do is give you the
16 phone number of the CEO and you will have to take it up
17 with him." The CEO apparently - and I didn't follow this
18 up - went out and saw Mr Woodman, looked at the works, it
19 fitted the plans that they were doing and the acting CEO
20 said, "No, your workers can go back to work." And John
21 was appreciative of the fact that I had given the phone
22 number and he - not me - he and Steve Dalton, the acting
23 CEO, had sorted out a way to keep people working. So they
24 were able to keep building rather than being held up for
25 three months, which was what was suggested by the planning
26 officer at the time. So I wasn't involved in any of those
27 talks. I merely gave him, as any councillor, I put him
28 onto the man who's in charge of the organisation's
29 day-to-day running.

1 I agree that if it's the truth that is an explanation that
2 might be blameless, might not?---It is the truth.
3 When did that occur?---In the transition from when Mr Tyler
4 left until Mr Patterson was elected, I believe. I'm not
5 sure. I don't think it was Glenn. I think it was Steve
6 that went out.
7 But what you've described to me is totally legitimate?---It is.
8 But what you were talking to him about was something that you
9 couldn't say over the phone?---I'm not sure what that was.
10 I can't answer that.
11 Perhaps that was just because you had a guilty conscience about
12 your corrupt relationship with him?---No, no.
13 COMMISSIONER: And you think that act of providing Mr Woodman
14 with a phone number - - -?---Yes.
15 Meets the description of you pushing for what he wanted at
16 Brompton Lodge?---No, I'm saying I gave him the phone
17 number to sort the issue out, if it could be sorted out
18 with the acting CEO.
19 You I think have told us you had been voting in favour of
20 Brompton Lodge motions that advance Mr - - -?---Not on
21 purpose.
22 But you had been doing that for 10 years, hadn't you? You had
23 started - those issues - - -?---I think there were five
24 meetings I sat in, sir.
25 But those issues started back in 2010, didn't they?---Brompton
26 Lodge, I believe so, yes; 2010, yes.
27 I see the time, Mr Tovey.
28 MR TOVEY: Just one final matter. This is nothing much in the
29 scheme of things, but on 1 March there were a series of

1 phone conversations about your medical bills. Did you
2 have your wife take some medical expenses to Mr Woodman's
3 office, to Ms Little there, for payment?---I can't
4 remember that, sir, no.

5 Possible?---No.

6 It's not a matter I propose to go into any further, sir?---My
7 wife's medical bills? No, I don't recollect that at all,
8 sir.

9 I have no further questions. Excuse me, Mr Commissioner. No
10 further questions.

11 COMMISSIONER: So you have completed your examination?

12 MR TOVEY: Yes.

13 COMMISSIONER: Mr Wallwork, what is your position in relation
14 to Mr Ablett? You are welcome to pursue any matters you
15 want to elaborate with him now or you can defer that until
16 the completion of such evidence as we would be calling in
17 public hearings. Do you have a preference?

18 MR WALLWORK: Sir, can I just take some very brief instructions
19 on that, given the time of day that we are at?

20 COMMISSIONER: Yes, certainly. I'm not suggesting you have to
21 do it now. If you wanted to come back tomorrow, you are
22 welcome to do that too.

23 MR WALLWORK: There is the issue between tomorrow and then
24 deferring to the end of the proceedings. We had envisaged
25 that there might be this issue, given the way the
26 proceedings had been unfolded as far as the timetabling
27 was concerned. That's now a separate issue. So if you
28 may excuse me for a moment. In preference,
29 Mr Commissioner, we would seek to defer until a later

1 date.

2 COMMISSIONER: Yes.

3 MR WALLWORK: I anticipate that that would be some time in
4 the new year.

5 COMMISSIONER: Yes, I can indicate I will make a more formal
6 announcement before the end of the week, but I anticipate
7 there will be further public hearings at the last week of
8 February and early March, and at that time some of the
9 witnesses that we were hoping we would be able to call now
10 will be deferred until then.

11 It's also anticipated that in those hearings we
12 will seek to call some expert evidence in relation to a
13 number of the reform issues that need to be addressed
14 concerning council issues and concerning campaign
15 donations both at a local government and at a State level.

16 MR WALLWORK: Yes. I note in this case of course that we have
17 the concatenation of elections now at the same time.

18 COMMISSIONER: Yes.

19 MR WALLWORK: Which is an issue.

20 COMMISSIONER: Very good. You have made your position clear.

21 MR WALLWORK: Defer generally, sir.

22 COMMISSIONER: The solicitors to the Commission will be in
23 touch with you in due course about a time when that will
24 be convenient.

25 MR WALLWORK: Yes, thank you, Mr Commissioner. We are indebted
26 to you.

27 COMMISSIONER: Thank you. Mr Ablett, I won't release you from
28 the summons because as you have heard the investigation is
29 ongoing. We have other witnesses to be called and it

1 might be that we would need to re-call you in relation to
2 some issue that emerges. Hopefully that won't be the
3 case. But until we have completed the hearings we will
4 not be in a position to release you from the summons. So
5 you will be advised when we can release you. In the
6 meantime what's been arranged, as you have heard, is at
7 some point in the new year your counsel will have an
8 opportunity to examine you, if he wishes to lead any
9 additional evidence from you that hasn't yet emerged. It
10 might be that there are interested parties who may want to
11 cross-examine you. If that is the case I will hear
12 applications from them and determine whether or not
13 there's some issue upon which they should be permitted to
14 cross-examine you. But none of that is going to take
15 place this year. If you have an interest in looking at
16 your evidence or a video of your evidence you need only
17 get in touch with IBAC officers and they will make
18 arrangements for that to occur. I just remind you,
19 however, that there remains an order for witnesses out of
20 the hearing until they are called, which means you are not
21 at liberty to discuss with any other witnesses, either
22 those that have been called or that are likely to be
23 called, you are not at liberty to discuss the content of
24 your evidence or their evidence?---Yes, sir.

25 Do you follow?---Yes, sir.

26 Very good. Thank you for your attendance, Mr Ablett?---Thank
27 you.

28 <(THE WITNESS WITHDREW)

29 MR WALLWORK: Mr Commissioner, one final housekeeping matter.

1 We do seek to maintain the access that we have to the
2 transcripts and the documents of the Commission.

3 COMMISSIONER: Yes.

4 MR WALLWORK: I understand my instructor and his firm have
5 given the undertakings for confidentiality.

6 COMMISSIONER: Yes.

7 MR WALLWORK: And I freely give the same undertaking to you and
8 to IBAC as well as far as I'm concerned that they will not
9 be released beyond our own use.

10 COMMISSIONER: Yes. That access can continue, Mr Wallwork.

11 MR WALLWORK: Thank you, sir.

12 COMMISSIONER: Adjourn the hearing until 10 am tomorrow
13 morning.

14 MR WALLWORK: As your Honour pleases.

15 ADJOURNED UNTIL WEDNESDAY, 4 DECEMBER 2019 AT 10.00 AM

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