
TRANSCRIPT OF AFTERNOON PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

WEDNESDAY, 4 DECEMBER 2019

(11th 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 2.02 PM:

2 <MEGAN ANN SCHUTZ, recalled:

3 COMMISSIONER: Yes, Mr Tovey.

4 MR TOVEY: All right, so you've listened to that taped
5 conversation between yourself and Mr Woodman?---Yes.

6 And you expressed, did you not, anger at Sam Aziz not doing
7 what you had asked him to do?---I think as I've said
8 previously this morning, that it was a typical
9 conversation between - - -

10 I didn't ask you whether it was a typical conversation. I'm
11 asking whether you are expressing anger?---Yes, but it's
12 not real anger. It's a jocular, blokey conversation,
13 off-the-cuff grandstanding with John Woodman. It's
14 not - - -

15 So when you called him a fool, a dickhead and a fucking idiot -
16 - -?---Yes.

17 You didn't mean any of that?---No.

18 Why did you say it? Just to be chummy?---Yes, I think it's the
19 style of conversation I ended up having with John all the
20 time, and I - you know, to have it played and broadcast
21 nationally now I am deeply ashamed of my conversations and
22 I - - -

23 Why are you assumed? According to you, it was just a - -
24 -?---Because it was a private conversation, but if I knew
25 it was going to be put on the internet and publicly
26 available I wouldn't have had the conversation, I wouldn't
27 have spoken like that, because those types of
28 conversations when they are made publicly available
29 completely obliterate your reputation professionally, and

1 I wouldn't have had it - I wouldn't have spoken like that
2 or - but, if I look at it, it's a - and I go back to
3 my - you know, the relationship I had with John, it was a
4 jocular, blokey, grandstanding type of rapport I had with
5 him. That's the way we spoke with each other, and I'm not
6 proud of it today because I've lost my whole - I've lost
7 my income, I've lost my ability to make an income for my
8 family today because I've been having those conversations
9 that have nationally been made available.

10 The conversations, though, speak for themselves, don't they?

11 The conversation is you - whether you are being jokey or
12 not - expressing displeasure at Aziz not following the
13 script?---It's not - - -

14 Isn't that the nature of the conversation - - -?---It's not a
15 serious conversation. It's not a serious conversation.

16 And why do you say that? Are you saying that because if that
17 conversation was serious it would indicate that you were
18 party to a corrupt arrangement? Is that the way you see
19 it?---I haven't been party to a corrupt arrangement.

20 I haven't - - -

21 COMMISSIONER: No, counsel is asking why you are saying it's
22 not a serious conversation?---Because of the nature - the
23 way in which John Woodman and I communicated with each
24 other is grandstanding. It really doesn't have much
25 meaning, any meaning. But what the conversation does
26 show, if you take all the grandstanding and jocularity out
27 of it, is that I didn't know whether the motion that had
28 been - the decision that had been made by council was in
29 support of the alternative recommendation or whether it

1 wasn't in support.

2 MR TOVEY: Yes, well, I don't know what that's got to do with
3 it. But, in any event, is one of the reasons you are
4 embarrassed about the conversation because, on the face of
5 it, that conversation looks, doesn't it, like you had
6 expected him to be a puppet?---There's a - - -

7 No, is that why you are embarrassed: because that's the way it
8 looks?---No, I'm embarrassed about the conversation
9 because I'm making disparaging remarks about someone and
10 it was - it's the type of conversation if you - it was a
11 private conversation that shouldn't be - the fact that
12 it's been made publicly available, but I can honestly say
13 now that it was - it was a blokey conversation, a
14 grandstanding conversation that I was having with a client
15 that I had that type of rapport with. That is all it is.

16 You are reporting back to the client about what had just
17 happened?---Yes, and I said - the fact is I didn't know
18 whether - I didn't know whether the decision was in
19 support of the alternative recommendation or against it.

20 And so the only information you reported to the client about
21 what had happened was (a) that it got passed and (b) that
22 Sam Aziz in moving the motion was a fool, a dickhead, a
23 fucking idiot and not following the script; that was the
24 information you were conveying - - -?---Yes, I was
25 grandstanding.

26 Do you agree, first of all, that was the information you were
27 conveying?---Yes, but I don't think I - I didn't say
28 the - - -

29 Could you just answer - - -?---Well, it needs to be put into

1 context, Mr Tovey, because - - -

2 I have asked you a question. The question is: were you
3 conveying those things to Mr Woodman?---Yes, but in a
4 blokey way. It wasn't a conversation that had much
5 meaning, other than I didn't know whether the motion had
6 been - which way the decision had gone.

7 And the essence of what you were conveying to Mr Woodman,
8 whether it was blokey or whether it wasn't blokey, was
9 Aziz is an idiot who had messed up and who hadn't followed
10 the script; true?---The conversation was a blokey
11 conversation.

12 I'm not asking you what the nature of the conversation
13 was?---Well, on the words, yes, that is what I was saying,
14 but in terms of meaning that about Councillor Aziz, no,
15 I don't mean that about Councillor Aziz. It was a
16 grandstanding type of conversation and it was - it was an
17 off-the-cuff conversation because I thought I was having a
18 private conversation.

19 But the nature of that conversation - - -

20 COMMISSIONER: Just a moment. What's that got to do with
21 anything, Ms Schutz: you thought it was a private
22 conversation?---Because if it - I wouldn't have behaved in
23 that way and sworn like that if I knew it wasn't a private
24 conversation.

25 You mean you wouldn't have lied if you thought it was a public
26 conversation?---I haven't lied.

27 Well, I'm sorry, I thought - - -?---It's - but having that - -

28 -

29 But, Ms Schutz, you have just been explaining that you said a

1 number of things to Mr Woodman which were not true, and
2 that's because it was a private conversation. I don't
3 follow you at all?---No. No, that's not what I'm saying.
4 Well, what are you saying?---That's not what I'm saying. I'm
5 saying that I was - the type of conversations I have with
6 John Woodman were jocular, blokey, off-the-cuff
7 grandstanding. That was the style of rapport we had got
8 into with each other. But the main thing I've said in
9 that conversation with him that is of any import, because
10 the rest is really - doesn't have a lot of meaning from
11 what I - in terms of my intention and what I honestly, you
12 know, thought was - I didn't know whether - what the
13 decision was.

14 I'm more interested in the fact that you said to Mr Woodman not
15 once but three times "what I asked him to do", "he didn't
16 do what I asked him to do", and then later "have you told
17 that dickhead what to do". Now - - -?---I - - -

18 Just a moment?---Sorry.

19 None of that strikes me as, to use your term again, advocating.
20 It again serves to emphasise that you were Mr Woodman's
21 instrument in doing what he wanted you to do; namely, to
22 tell Mr Aziz what he had to do?---I was Mr Woodman's
23 planning consultant who was instructed to brief and
24 advocate to the councillors what he wanted them to do,
25 yes.

26 And, as you have just explained, the nature of your
27 relationship was so close that you could talk to him this
28 way but in the context where you made it - it seems to
29 me - very clear that you had told Mr Aziz what you

1 expected him to do. That's the significance of the
2 conversation. Never mind the swearing and so on. That
3 might be explicable just in terms of your relationship;
4 I'm not interested in that. But it's your conversation
5 about what you were instructing Mr Aziz?---Yes.

6 Do you not see that?---Yes, I think I'm - I'm so mortified and
7 embarrassed and ashamed that this has been publicly
8 available - - -

9 It doesn't seem to me that you are mortified about the fact
10 that it emerges that you were telling Mr Aziz what to do.
11 Shouldn't you be mortified about that?---It was the
12 culture of the client. It was the culture of what was
13 going on. When I reflect on how I, you know, even
14 instructed Councillor Aziz - - -

15 But you were doing what Mr Woodman wanted you to?---Yes, I was
16 instructed to, yes.

17 And I haven't yet understood whether you ever made it part of
18 your business to understand why Mr Ablett and Mr Aziz were
19 the two champions, the two go-to councillors to whom you
20 should go to effect his wishes at council level?---I took
21 it on face value that they were the people he wanted me to
22 go - well, they were - I took it on face value when John
23 said to me, "Go and brief X," I went and briefed X.

24 Yes. Yes, Mr Tovey.

25 MR TOVEY: Are you embarrassed about that conversation because,
26 on the face of it, it indicates that you expected Sam Aziz
27 to be your puppet and he hadn't performed?---I didn't
28 expect Sam Aziz to be my puppet because he wasn't my
29 puppet. But when I spoke to John Woodman I had a blokey,

1 grandstanding type of conversation which is basically
2 mimicking his type of behaviour.

3 And that that conversation, you would agree, was a conversation
4 which indicated that - whether it was blokey or not, it
5 was a conversation which on the face of it seemed to
6 indicate that you saw Sam Aziz as your puppet who was
7 performing to a script?---It seems to indicate that.

8 In the course of that, at page 2, the discussion moved on to
9 whether Geoff was a sure thing for the mayoral
10 vote?---Yes.

11 This conversation is taking place, is it not, in October 2018,
12 around the time of the council mayoral elections?---So
13 I had Geoff ring me up on a number of occasions and - - -
14 I'm sorry - - -?---Sorry.

15 We'll just take it a step at a time?---Sorry, yes.

16 This conversation was taking place at around the time of the
17 mayoral - - -?---Yes. I think they are in November.

18 Yes, and so you were monitoring - you and Mr Woodman were
19 monitoring who was going to be mayor; is that
20 right?---Yes.

21 And then you indicated to him, "Rex voted with Gary. Tim voted
22 with Gary." Gary's is Gary Rowe, is it?---Yes.

23 "Rosario voted with Gary. Gary's got Susan's vote. Gary's got
24 Amanda's vote"?---Yes.

25 So at that stage you were looking at this as a litmus test of
26 how people might vote in the mayoral race?---Yes.

27 Okay. And then he says to you, "Darling, he hasn't got
28 Amanda's vote. I'm meeting with Amanda tomorrow." Is
29 that right?---Yes.

1 And then you say, "Well, he has at the moment," and then he
2 says, "Well, he hasn't got Amanda's vote." It's plain
3 from that that he was telling you that he was expecting to
4 change Amanda to vote for Gary?---I think I would have
5 thought when he said that, "Oh. Okay."

6 In the context, though, it's pretty apparent - I'm suggesting
7 it's absolutely apparent what he's saying to you is, "I'm
8 going to be meeting Amanda tomorrow"?---Yes.

9 "And don't count on the fact that she's still going to be
10 voting for somebody other than Gary"; that's what he's
11 saying to you?---When I read it like that, yes.

12 So that would indicate, would it not, that he was in fact
13 trying to manoeuvre councillors as to which way they would
14 vote in the mayoral election, to your knowledge?---Yes,
15 I haven't had - wasn't at those meetings, yes.

16 And I'd suggest to you this is one of a number of conversations
17 where you discuss mayoral prospects and the mayoral
18 vote?---Yes.

19 You agree with that?---Yes.

20 And I'd suggest to you that Mr Woodman was discussing with you
21 the fact that you and he should do whatever you could to
22 have his preferred candidates elected; is that the
23 case?---I'm not sure what I could have done to have his
24 preferred candidates elected.

25 COMMISSIONER: But is it fair to say, Ms Schutz, that you were
26 in effect Mr Woodman's right hand when it came to council
27 matters in which he had an interest?---When he wanted me
28 to brief councillors in relation to planning matters I was
29 the person who briefed them.

1 But he was also involving you in his intimate thinking about
2 who should get the mayorship?---To the extent that he
3 decided to - to the extent of the information he's given
4 me, that's what I know, yes.

5 To your knowledge, Ms Schutz, was that a normal part of
6 planning consultant's/lobbyist's role, to get that level
7 of intimate involvement with council; that is, looking at
8 each individual councillor, what their disposition was to
9 each planning issue in which a developer has an interest,
10 looking at who was going to be elected mayor and what
11 might be done to influence the outcome of the mayoral
12 election? Were they standard things that you've found in
13 your experience dealing with councils, or was this
14 unusual?---I haven't had a relationship with another
15 client like I've had with John, no. I do not have other
16 clients speaking to me about these sort of matters that
17 John spoke to me about.

18 But, leaving aside your conversations with Mr Woodman, do you
19 have any knowledge that this level of intimate
20 understanding of what council - the composition of
21 council, the way they think, who's going to be mayor, that
22 that's part of what developers normally do? You're
23 nodding?---If you have a - so with a rezoning, a planning
24 scheme amendment, you have to - there's three decisions
25 that council has to make. One decision is to request the
26 Minister for Planning to prepare - to authorise
27 preparation of the planning scheme amendment, the next one
28 is to send an amendment to a planning panel, and the third
29 one is to adopt an amendment before it goes to the

1 Minister for Planning for approval. In order to ascertain
2 whether you are going - if you don't get over that first
3 step the - - -

4 When you say "you", as a developer you mean?---Sorry, yes,
5 sorry.

6 Yes?---If the developer, the proponent, does not get over the
7 first step in the planning process of obtaining council
8 support to request the minister to authorise a planning
9 scheme amendment, the rezoning is - it's not going to go
10 anywhere.

11 I think we understand that. But I just want to take up your
12 acknowledgment or your suggestion that in your experience
13 this level of involvement and detailed understanding of
14 individual councillors was not unusual, this wasn't just
15 Mr Woodman and Casey?---No.

16 If that's a process that's going on in various places - -
17 -?---Yes.

18 We are talking about a process that creates a real risk,
19 doesn't it, that councillors are going to be put under
20 improper pressure?---I think if - like we were talking
21 earlier today, I think if there was more transparency and
22 accountability about who was briefing who and, you know,
23 what was being put, I think that would avoid the process.
24 But at the moment there's a lack of sufficient regulation
25 to ensure accountability and transparency.

26 But you accept then that, human nature being what it is, if it
27 is common for developers and their consultants and
28 lobbyists to engage in this level of understanding about
29 individual councillor's proclivities, disposition of

1 council in terms of who will be the next mayor and so on,
2 that that carries with it the real risk that unless it's
3 properly regulated councillors will be put under improper
4 pressure?---I think that's definitely what we can see
5 here.

6 Yes.

7 MR TOVEY: When I was suggesting to you that that conversation
8 was suggesting Sam Aziz was being treated as a puppet, the
9 simple fact was, was it not, that he did not even know
10 what intersection he was advocating about?---I wouldn't be
11 surprised if that was the case.

12 I'd suggest to you you knew that was the case?---Which - well,
13 yes, that rings a bell for me, that I said something along
14 the lines that he doesn't even - and that's why - I think
15 the reason I was so - you know, like, briefing so
16 aggressively is because I just - I was trying to get him
17 to understand what the decision was about.

18 That's fair enough?---And what the subject matter was.

19 Yes, but it was apparent that he didn't understand?---He seemed
20 to have a lot of things on his mind.

21 No, it was apparent that he didn't understand and you knew
22 that?---I don't think - I was trying my best to brief him.

23 But you knew that when he stood up he didn't even know what
24 intersection he was talking about?---When I saw the way he
25 spoke about the matter in the chamber, it appeared
26 strongly to me that he was not owning it and not
27 understanding what he was talking about fully.

28 So what was the hold, then, that Mr Woodman had on Mr Aziz?

29 First I will ask you this - - -?---Yes.

1 Did you - it is the opposite of integrity, is it not, for a
2 councillor to get up and advocate for something he doesn't
3 even understand at the direction of a developer?---So
4 integrity is about honesty.

5 Yes. So you would agree with that?---Yes, yes.

6 All right. And in the case of Mr Aziz what was it, as you
7 understood it, that would lead him to depart from his
8 obligation of integrity to assist Mr Woodman? What was
9 there about the association between him and Woodman that
10 would lead him to compromise himself like that?---This may
11 sound really naive, but I thought Sam Aziz was the
12 champion of this resolution because he didn't have a
13 conflict of interest.

14 Once you saw, though, Mr Aziz voting on something he didn't
15 even understand simply because Mr Woodman had asked him
16 through you, it must, I'd suggest, have occurred to you
17 that there'd have to be a reason for that?---I think the
18 way I - the way I saw it was I had this - I had a general
19 understanding that there was a bloc of votes that would
20 vote together. There was - - -

21 And who was the bloc?---Well, there was Geoff, Amanda, but they
22 were both conflicted, Wayne Smith, Sam Aziz, and then
23 I think there was other votes like Rosalie Crestani or
24 Susan Serey, Gary Rowe. You know, there was some Liberal
25 politicking going on, I think, between Gary - you know,
26 something. I don't know the full details, but there were
27 votes that were able to be persuaded, but I think the core
28 group, as I understood it, was Sam Aziz, Ablett, Amanda
29 Stapledon and Wayne Smith.

1 Could the witness please be played - - -

2 COMMISSIONER: I'll mark that last conversation, 16 October
3 '18, exhibit 103.

4 #EXHIBIT 103 - Phone call between Ms Schutz and Mr Woodman on
5 16 October 2018.

6 MR TOVEY: I now seek to play further conversation at 7.41 pm,
7 again on 16 October between yourself and Mr Woodman, and
8 that is at tab 9.

9 (Audio recording played to the Commission.)

10 MR TOVEY: All right. Now, on the first page of that - sorry,
11 on the second page of that you indicated that Geoff Ablett
12 does not have Flannery's votes?---Yes.

13 Is that right?---Yes, I'm trying to remember - yes.

14 At that stage were you aware that during the council meeting -
15 - -?---Yes.

16 Mr Ablett had been messaging Mr Flannery urging him to vote for
17 the motion?---No.

18 In view of the relationship between Ablett and Woodman, I take
19 it that's not something you would be surprised
20 about?---No.

21 Even though Mr Ablett was conflicted himself?---Yes. But
22 I think a councillor being conflicted, and it's probably a
23 shortcoming of the system, a councillor who is conflicted,
24 you know, there's a section in the Local Government Act,
25 section 79D, which allows a councillor who's conflicted to
26 still make submissions on a matter that they are
27 conflicted with. They just can't vote on it.

28 Do they have to announce their conflict?---Yes. Yes.

29 There's no section in the Local Government Act that says you

1 can declare a conflict and then go and achieve the same
2 result by working behind the scenes?---There's no
3 regulation in the Local Government Act relating to that.

4 COMMISSIONER: Mr Woodman's evidence was he thought it would be
5 unethical for anyone to do that. Do you
6 disagree?---I think it needs to be regulated.

7 Do you disagree?---It depends on the context, Mr Commissioner,
8 because, like, there's so many - there's such a wide range
9 of decisions that come before council and I'm just trying
10 to think of an example of - like, to say it would be
11 unethical in every single instance is a broad statement to
12 make without - - -

13 It might be unethical; it would depend on the circumstances.

14 Is that your view?---Yes, I think so.

15 Very good. Yes?

16 MR TOVEY: You go on at line 219 at the top of the third page
17 to say in respect of Ablett, "Yeah, he's the best. Out of
18 everyone he's the best person to be mayor. It's just a
19 pity he's bloody conflicted with us. I don't know why we
20 ever, ever declared a conflict in respect of him"?---Yes.

21 Did you say that?---Yes, well, it says I did, yes.

22 And was that a blokey conversation where you didn't mean to say
23 what you said or - - -?---I believe it's a blokey
24 conversation, but, I mean, when you read it there and you
25 look at it there, it looks like I'm heavily involved - - -

26 It does, doesn't it?---It does, yes, and I - I mean, I just
27 wasn't. I was - when I look at these conversations that
28 I've had with John Woodman and I read them, I just think
29 incrementally I got into this relationship with him, but

1 I wasn't - I wasn't paying off councillors and influencing
2 them with money or - I was briefing councillors in
3 relation to planning technical aspects. I was drafting
4 alternative recommendations which would allow an alternate
5 position to be supported, and I was having these
6 conversations with him as if I was in the thick of it, but
7 a lot of it I didn't even know was going on, and it
8 just - - -

9 All right. Let's just get back to what you said. You said,
10 "I don't know why we ever, ever declared a conflict in
11 relation to him"?---Yes.

12 And he says, "With him", and you say, "Yeah, it was
13 bullshit"?---Yes.

14 And then unfortunately the conversation breaks up?---Yes.

15 But what you have said there is, "I don't know" - sorry, before
16 I ask you that?---Yes.

17 You'd expect that the decision as to whether Ablett declared a
18 conflict was his decision; it wasn't your decision or
19 Woodman's decision?---No, it was his decision.

20 All right. But that statement is made on the supposition and
21 on the understanding that Woodman made the decision as to
22 Ablett declaring a conflict?---Mm-hm.

23 True? You have to answer yes - - -?---I know. I'm just trying
24 to think back, though, Mr Tovey, to what was - like,
25 I think at the moment I'm feeling - I'm feeling
26 like I - it's a conversation that just is so lacking in
27 clear thinking and - - -

28 You see, what you say to him is, "I don't know why we ever,
29 ever, ever declared a conflict in relation to him"?---Yes.

1 All right? Now, as you've said, people would expect that
2 Ablett would make up his own decisions as to whether or
3 not he declared a conflict. It wouldn't be a decision of
4 Woodman, would it?--No, under the Local Government Act a
5 councillor's got the obligation, yes.

6 But you assume there that it was Woodman's decision. Now, did
7 you assume that because it was something he had said to
8 you or what you had inferred simply because of the
9 relationship that you had observed between him and
10 Ablett?---It was a very close relationship. Like, Geoff
11 Ablett once said to me, "I'm a John Woodman man."

12 So are you there by making that answer saying that the
13 closeness of the association between Ablett and Woodman
14 was such that you would have expected that Woodman would
15 have directed him in respect of whether or not to declare
16 a conflict of interest?---I think Geoff hung off every
17 word Woodman said to him, really. I think he was - you
18 know, he really looked up to John Woodman.

19 So from your perspective, then, he seemed to be totally within
20 Mr Woodman's thrall?---Look, if John wanted him to do
21 something, you know, he would - Geoff would make himself
22 available, yes.

23 COMMISSIONER: That statement "don't know why we declared a
24 conflict", that seems to accord with the evidence the
25 Commission has received, though, that in 2015, shortly
26 after the Ombudsman's inquiry was under way, Mr Woodman
27 entered into a formal legal agreement with Mr Ablett in
28 relation to him looking after some horses in which
29 Mr Woodman had an interest, and Mr Woodman insisted that

1 there be a clause in that agreement that Mr Ablett had to
2 declare a conflict thereafter in relation to any council
3 business where Mr Woodman had an interest. Are you aware
4 of that agreement?---No.

5 But that accords - if that evidence is correct, that Mr Woodman
6 suggested that agreement should be entered into with that
7 clause in it, it would be right to then say, "I don't know
8 why we declared a conflict," and Mr Woodman had played a
9 pivotal role in that?---I don't - yes, it seems - to be
10 honest, I feel like this is all - like, you've just told
11 me about an agreement that I didn't know about that
12 Mr Woodman's had with Geoff Ablett, John's had an
13 agreement with Geoff Ablett about horses and he's required
14 in that agreement that Geoff has to declare a conflict of
15 interest. Geoff's declared a conflict of interest. Yes,
16 and then I've - but I didn't actually know about that
17 agreement.

18 No, but you knew that - you have told us earlier - - -?---Yes.
19 That you understood that there was some business relationship
20 concerning horses between Mr Woodman and Mr Ablett?---Yes.
21 Yes, I didn't know whether it was a business - I actually
22 thought that they owned a racehorse together, yes.

23 Yes, Mr Tovey.

24 MR TOVEY: Then you went on to talk about Ray Walker, and if
25 you go to the middle of the page at line 266 - - -?---Yes.
26 The question is, "Why is Ray nailing you" - 226. Sorry, did
27 I say 266? 226. I apologise. And it's broken up, so
28 I want you to just read that?---Yes.

29 But I'd suggest to you that what's being spoken about there,

1 you are asking him, "Why is Ray nailing you," and that
2 it's apparent that the way in which Mr Woodman was being
3 nailed by Ray Walker was because Ray had gone off alone in
4 respect of the way in which he was going to treat the
5 Morison Road issue, and then you've got Mr Woodman, down
6 at line 234, saying, "Fucked if I know. I'm sort of
7 shaken by it. I can't believe it." And then you say,
8 "Well, let's nail the prick"?---Yes, I don't know what
9 that's about because, I mean, Morison Road - I don't think
10 Ray had anything to do with the Morison Road stuff.

11 COMMISSIONER: Very hard to, Mr Tovey, given the level of - - -

12 MR TOVEY: Yes, that's why I have asked the witness to look at
13 all of it - - -?---Yes.

14 So that doesn't - - -?---I'm not sure what's going on there.

15 Yes, okay. Was Mr Woodman there saying that, "I'm sort of
16 shaken", he was shaken, or do you recall him saying to you
17 he was somewhat shaken about Ray taking an independent
18 view about some issue?---I don't know because Ray Walker
19 is very - like, in his views on community matters, his
20 views on the Cranbourne West rezoning and his view on Hall
21 Road community safety, he very much had his views.

22 Yes?---And I'm not sure - - -

23 All I'm asking you, are you aware of some issue in respect of
24 which he went off piste or took a different view to that
25 which Mr Woodman was taking?---Ray's position on the H3
26 intersection was that the two developers should be
27 delivering it together, and he didn't care who delivered
28 it but it should be delivered, yes, for the community, the
29 benefit of the community.

1 Yes?---Yes.

2 All right then. Then you go on to make the comment at line 253

3 that, "Aziz during" - - -?---Can we scroll down because

4 I can't see what you are referring to at the moment?

5 253?---Yes, I've got it now, yes.

6 And I think we have already covered this?---Yes.

7 That's you talking about the fact that Aziz clearly didn't know

8 what he was - had no idea really what the H3 intersection

9 even was?---Yes, I was - yes. I mean, after the

10 16 October meeting I was actually - I was just stressed by

11 it all and I remember - I'm pretty sure I said it to

12 Heath, "I don't want to be involved in this

13 particular" - "I don't want to be involved in this

14 particular item anymore," and I'm pretty sure after that

15 I wasn't involved in it. I just - I didn't know what was

16 going on in - - -

17 What was Mr Woodman's strategy and interest in respect of H3 as

18 you understood it?---Well, it started off - and I would

19 like to provide this context, and I'll try to be short

20 with it, but it started off in 2017, in December 2017, and

21 the objective was to have council release the funds for

22 duplication of Hall Road and the culverts - so RD09 and

23 RD02B I think the projects were called - and so I was

24 asked to and one of the Watsons engineers was asked to go

25 to council and find out what had - where the development

26 contributions were for those projects, and what came to

27 fruition was that we finally - we got hold of the priority

28 projects list from the council officers, and the council

29 officers, instead of prioritising residential

1 infrastructure, which included the Hall Road duplication,
2 they had actually taken the development contributions that
3 had been collected from the residential development, which
4 was nearly fully developed out, and then used the
5 residential contributions to fund MAB's employment roads
6 up in - on Thompsons Road, which also formed part of the
7 Cranbourne West DCP area, and, you know, the
8 contribution - the use of the contributions for employment
9 roads were really part of the strategy of council officers
10 because council officers were always against the
11 Cranbourne West rezoning. So by funding the employment
12 roads they were actually helping to, you know, get the
13 employment - - -

14 Okay, I understand. That's - - -?---And so the bottom line of
15 that was the funds weren't there, they weren't available
16 for three to five years for the Hall Road duplication. So
17 then Dacland and Wolfdene were talking with each other, on
18 my refreshing of my memory, to deliver the H3 intersection
19 together and the culverts et cetera. And then I remember
20 getting instructions in July 2018 that basically there had
21 been rumours that Dacland had gone to council officers and
22 were seeking to defer the intersection, and I was asked
23 then to go into council. On 3 August I went in and
24 inspected the council file, and Ray Walker came with me as
25 well, and I had been asked - Ray Walker by that stage,
26 I had been asked to employ him, to engage him on a
27 consultancy agreement for the period April to December
28 2018 to - it was actually - I was asked to engage him and
29 Verley to lobby council and State government and to gain

1 community support to lobby around Hall Road.
2 Who had asked you?---My recollection it was John's idea, yes.
3 So go on?---Yes, so we went in and inspected the file and the
4 council officers basically - you know, they
5 didn't - weren't forthcoming. They said vaguely there
6 were discussions that had gone on, but they weren't
7 forthcoming. But it became apparent that council officers
8 had pretty much provided Dacland with in-principle support
9 that they could defer the intersection without a bond
10 et cetera, and that's how it all ended up coming to the
11 council meeting in September.

12 And was it the case that, from your understanding, Woodman
13 interests didn't want it delayed because they wanted it
14 built quickly because that would give them the opportunity
15 to release a tranche of land ahead of time?---No, it was
16 more a case, and it happens all the time in the
17 growth areas, two developers having a stand-off, who's
18 going to have to bear the larger cost of delivering the
19 intersection, and it was that type of stand-off. And when
20 it became apparent that Dacland were trying to, you know,
21 slip through and defer it secretly when they had been - my
22 understanding is Watsons and Dacland, like, they had been
23 working together on the intersection.

24 We have heard a conversation between Mr Woodman and someone
25 else indicating that the building of the intersection
26 would trigger a release worth \$20 million?---Okay.

27 Was that something that you were aware of?

28 COMMISSIONER: "Were". "Were aware of". I think counsel is
29 asking at the time?---Not aware of at the time.

1 You were not?---No. No, that's the missing piece.

2 I understand what that means.

3 MR TOVEY: Was it the case in fact that initially the
4 proportion of costs between the two sets of developers,
5 that is Wolfdene and Dacland, was to be a matter of
6 negotiation?---Yes. Like, it made sense to - yes.

7 And they were then unable to reach an agreement?---I don't know
8 whether they were unable to reach an agreement.

9 Well, I'm just reading from the council officer's report of
10 4 September 2018?---Yes.

11 And perhaps, Mr Commissioner, we should have some precision
12 about this issue. So I'll have the witness have a look at
13 that page. This is the agenda for the meeting of
14 4 September, and this is page 982. Could we go over to
15 the - you will see that that is the council agenda. You
16 are familiar with the format?---Yes, I am, yes. Yes.

17 And if you go over to page 31, which I think is about five
18 pages in, page 986 on the database?---Yes.

19 All right. Do you see intersection H3 there?---Yes, yes.

20 And so this is the council officer's report?---Yes, this is
21 Kathryn Seirlis's report.

22 Which is going to be presented to the meeting?---Yes.

23 It gives a history?---Yes.

24 "Intersection H3 is needed because of development to both the
25 north and south of Hall Road. Subdivision permits both
26 Lochaven and Elysian Estates have a requirement to
27 construct an intersection at this location which services
28 their respective estate. Both estates are at critical
29 milestones," et cetera. "The developers are Dacland and

1 Wolfdene, represented by Watsons and Schutz
2 Consulting"?---Yes, so Dacland were also represented by
3 Charlton Degg.
4 By?---Charlton Degg.
5 Yes. Sorry, Schutz Consulting was for Elysian Estate?---Yes.
6 And it indicated as between Dacland and Watsons and Elysian
7 Estate there had been "an inability to reach an agreement
8 on delivering the complete signalised cross intersection.
9 Accordingly the whole project will be split into stages"
10 et cetera, et cetera?---Yes.
11 All right. And that's what Mr Woodman didn't want? He wanted
12 the building of the - he wanted two things, I suggest to
13 you, that becomes apparent from conversations you have had
14 with him. First of all, he wanted it not to be
15 deferred?---Yes.
16 And, secondly, he wanted Dacland to pay for as much as
17 possible?---Yes. Yes.
18 So then I want to take you to - - -
19 COMMISSIONER: That will be exhibit 104, council agenda for
20 September 2018.
21 #EXHIBIT 104 - Council agenda for September 2018.
22 COMMISSIONER: Are you going back to the phone call?
23 MR TOVEY: No. Could I tender that?
24 COMMISSIONER: Was that all that you wanted to ask?
25 MR TOVEY: That's all I wanted to.
26 COMMISSIONER: Could I just ask you, Ms Schutz, if you go
27 towards the end of it where you talk about
28 Mr Walker?---Yes.
29 Just go back a little, please. You refer to - you say,

1 "Mr Walker knows about you"?---Yes.
2 You were saying to Mr Woodman, "Mr Walker knows about
3 you"?---Yes.
4 What did you mean by that?---I think I was - I think I was
5 referring to - can I just have a look at the - - -
6 Yes, of course?---Sorry, a bit further up.
7 Line 263?---Yes. I think John was saying there that
8 councillors would be bowling up to him and saying, "You
9 know that you're - the alternative recommendation is being
10 driven by Elysian and" - - -
11 You are saying Mr Walker is aware of Mr Woodman's
12 interest?---Yes, just that he was a consultant. I'm not
13 sure John Woodman has - does he have a financial interest?
14 In any event go on a little, please?---Yes.
15 A few lines?---So I was basically, yes, Ray knew that Watsons
16 were the project engineers for Elysian; yes.
17 And then just go on, please. Then you make the point that
18 Mr Walker is his own man. He would just tell anyone who
19 fronted him, "It's none of your business who I talk
20 to"?---Yes.
21 And then I'm just interested in this next piece, please?---Yes,
22 "He will never, ever" - - -
23 "He will never, ever expose any of us." What did that
24 mean?---Yes.
25 What did that mean?---Can I think about that without pressure
26 on me?
27 Yes?---Would I be able to have a copy of that conversation, the
28 transcript, just so I can - because at the moment looking
29 at it - - -

1 Yes. We'll arrange for Mr Lewis to have that overnight for you
2 to have?---Thank you.

3 As you sit here, though, are you saying, Ms Schutz, you can't
4 think of what it was that Mr Walker knew about you or
5 Mr Woodman or both of you that you wouldn't want
6 exposed?---I feel under pressure and I feel like I need to
7 just relax and think about it.

8 All right. Counsel Assisting has already put to you that the
9 role you played in setting Mr Walker up in the position
10 and the financial arrangements and so on, there was a
11 level of confidentiality or secrecy about that; do you
12 recall that line of questioning?---I think when I - I've
13 actually refreshed my - I've refreshed my memory in
14 relation to Ray Walker.

15 Yes?---Just my relationship. I've gone back through all my
16 emails that I've had with Ray since I met him in 2015.
17 And I think Ray was originally - do you mind me going
18 through - - -

19 If you reflect on it overnight and you feel that any part of
20 this is going to be an answer to the question, "What did
21 you mean by not wanting to be exposed," by all means, but
22 otherwise I would prefer that you didn't?---I think it's -
23 Ray originally had an employment agreement in 2016, May
24 2016, with Swan Bay Developments, which I've already
25 talked about, and that had a confidentiality clause in it,
26 and I think I - I just thought, even though he was being
27 employed on a consultancy basis and he did have specific
28 work he was doing separate from his role as the president
29 of SCWRAG, it was just a perception that, you know, he was

1 doing consultancy work and it was all - you know, if the
2 president of the local community group is also doing
3 consultancy work and getting paid for it - - -
4 That puts him in a potential conflict position?---Well, it
5 looks - yes, and - - -
6 That will be about him being exposed?---Yes.
7 Do you think that's what you meant when you said exposing you
8 or Mr Woodman or both of you?---I think part of my - part
9 of my personality is I tend to - no, I think I need
10 to - I feel under pressure. I feel like I need to think
11 about it and reflect on it properly.
12 That phone call will be marked exhibit 105. The only other
13 thing I wanted to ask you, Ms Schutz, is you started off
14 the conversation by noting again your level of knowledge
15 about various councillors, including how Rosario feels
16 about Mr Ablett. You talk about Suzie - I take it that's
17 Serey - Amanda Stapledon and Ablett all having to withdraw
18 from the motion because they are all conflicted because of
19 one or more different types of conflict with
20 Mr Woodman?---Yes, I'm trying to recollect. Susan Serey,
21 I think - and I think it was John that said it to me,
22 Susan Serey and Gary Rowe were conflicted in relation to
23 him because he had - yes, he had donated - like, funded a
24 campaign or something for them.
25 So I don't think - although he had in fact funded Mr Ablett,
26 that wasn't the basis on which Mr Ablett was disqualifying
27 himself. But so he had three or four councillors that
28 were withdrawing from this motion because of a conflict
29 situation with Mr Woodman's interests - - -?---Yes, I'm

1 not sure of Rosario. Did you say Damien Rosario was - - -
2 No, I don't think she withdrew?---Damien Rosario, I thought you
3 said that he declared a conflict.

4 No. And if Mr Aziz had recognised what Mr Woodman acknowledges
5 was a conflict of interest he also would have had to
6 withdraw. So we would have had a council debating a
7 motion with half the councillors not there?---You wouldn't
8 have had a quorum.

9 Yes, all conflicted because of an interest that the developer
10 has, Mr Woodman?---Yes.

11 MR TOVEY: Mr Commissioner, could I suggest that in view of the
12 fact that the witness has said that she's having
13 difficulty because she's feeling under pressure, the
14 pressure isn't going to reduce any time soon, and it might
15 be appropriate to have a short break and perhaps she can
16 look at the transcript during that time. But it's
17 important that the witness be in a position where they can
18 do justice to themselves obviously, as you previously have
19 pointed out to witnesses.

20 COMMISSIONER: Yes, certainly?---Yes.

21 Are you able to make that transcript available to Mr Lewis and
22 his client now?

23 MR TOVEY: Yes.

24 COMMISSIONER: All right. We'll adjourn for quarter of an
25 hour.

26 (Short adjournment.)

27 COMMISSIONER: We may sit then until quarter past 4. Yes,
28 Mr Tovey.

29 MR TOVEY: Now, you've had the opportunity of looking at that

1 transcript? I'm sorry, you're nodding, but you have to
2 record something for the microphone because we have a
3 transcript?---Sorry, yes, I have looked at the transcript.
4 And you see at line 270 of exhibit 37 what's recorded on the
5 transcript is, "He will never - never, ever - he will
6 never, ever expose" and then when you hear it - -
7 -?---Yes.
8 What's audible on the recording itself, "He will never, ever
9 expose any of us"?---Can I have the transcript up here
10 again?
11 Yes?---Is that possible? Yes.
12 So we are up at line 270?---Yes. So my understanding of
13 looking at - actually, Mr Tovey, can I ask one question?
14 Do you know where at, for example, line 275 it's got,
15 "Yeah, and it was -" is that because - is the dash that
16 something's been retracted or is it just that that's the
17 conversation?
18 No, where something is missing out, as I understand it, it's an
19 - "audio malfunction" will be said. So all that means is
20 that "yeah, and it was" just means that the "yeah" comes
21 in and chops off the rest of the answer?---Okay. So my
22 understanding of lines 263 to 272 is that John was
23 referring to Dacland on October 16 - this is the
24 16 October meeting, bowling up to Ray and cornering Ray
25 and saying, "You know, you know that the resolution is all
26 about Wolfdene and you're just being used by Wolfdene and
27 Watsons."
28 Yes?---And me saying, "You know, Ray knows that we're" - like,
29 Ray was basically engaged between April and December 2018

1 to lobby on behalf of the community, to lobby the
2 community's interest - - -

3 Yes, but let's just keep to the - - -?---Sorry, but that's the
4 context for - I think what I was saying was that Ray would
5 never be telling Dacland that it was actually us engaging
6 him.

7 So you didn't want it to come out to Dacland or to anybody
8 else?---Well - - -

9 Did you?---Yes, I think it was the - yes, it was the Dacland.

10 But on reflection today, I mean, everyone knew
11 that - everyone knew that Ray Walker was working with me
12 in relation to the H3 intersection issue. So in saying
13 that - but that's what I think it was - that's why I said
14 it.

15 COMMISSIONER: Just so I understand you were saying you would
16 not expect Mr Walker to expose any of you to the fact that
17 you had engaged Mr Walker in the way in which you had to
18 promote aspects of Mr Woodman's objectives?---Yes, that he
19 was working with Wolfdene on this issue.

20 Is that unusual, is it, then? It would be unusual, would it,
21 for a developer to engage the head of a community
22 representative group and pay them to be advancing
23 arguments which support the developer's
24 interests?---I originally engaged Ray and Verley Walker.
25 It was then Ray through the scope of the agreement. Like,
26 when I go back to my written instructions that I gave Ray
27 it was Ray and Verley Walker lobbying on behalf of
28 community. But Ray then brought SCWRAG into - and had
29 meetings with SCWRAGs about the issues.

1 But, Ms Schutz, what I'm trying to clarify is was this an
2 unusual arrangement, that is that standing behind a
3 spokesperson for the community representative group is in
4 fact the developer paying that spokesperson; is that an
5 unusual arrangement?---I think a lot of community groups,
6 where the community's objectives align with a developer,
7 you will find a developer is resourcing them.

8 Yes?---Yes.

9 So that's another area where some transparency is
10 required?---Yes.

11 Because there will be - unwittingly there will be an assumption
12 made by different people discharging roles in the planning
13 environment that might otherwise think that particular
14 weight needs to be given to the voice of the community
15 representative group?---I think the thing with
16 the Cranbourne West rezoning, and this is my personal
17 view, but the Cranbourne West rezoning and the Hall Road -
18 safety of Hall Road were bona fides community objectives,
19 and I agree with you, Mr Commissioner, that it should just
20 be clear if a community group is being resourced by a
21 developer, for example someone's being paid money or the
22 like or someone's funding signage or a barrister at panel
23 or any of that sort of thing, then it should be disclosed.

24 And, Ms Schutz, you would understand that the reason we have
25 those legal requirements of disclosure of conflict of
26 interest is because if someone has received a benefit of
27 some sort so as to create a conflict, even if the person
28 was minded to do what they were doing even if they hadn't
29 received the benefit, the perception will be that the fact

1 that they have received the benefit might explain the
2 position that they are taking?---Yes.

3 And that's why we have the rule, don't we?---I mean, with
4 the Local Government Act where a councillor - yes, a
5 councillor has to disclose their conflicts of interests.
6 But then they can still make a submission. They can still
7 make a submission even though they have a conflict of
8 interest. But, yes, I think you need to - - -

9 In fact it's a question I asked Mr Woodman because he trotted
10 out the same argument that, "So long as the person has
11 made the decision they believe in, then it shouldn't
12 matter that there's been some money put in their pocket,"
13 to which I asked the question, "How will you ever know?"
14 How will you ever know what the reason is why a person has
15 taken up a particular position if they haven't disclosed
16 the fact that there's a potential influence to them making
17 that choice?---They must disclose it; I agree with you.
18 But unincorporated associations, my understanding is, and
19 non-registered lobbyists, there's no rules around
20 disclosure at the moment in the law.

21 None. And is it your understanding Victoria regrettably lags
22 some distance behind other states, particularly on the
23 eastern seaboard, in terms of regulation in this
24 area?---So - - -

25 You are nodding. You agree?---I have read the ICAC report
26 since everything - and a lot of what is said in the ICAC
27 report that was delivered in December 2018 I think is very
28 descriptive of what's been happening in the circumstances
29 IBAC is currently examining.

1 Pardon me one moment, would you? What's the section that you
2 have now referred to twice?---I'm pretty sure it's section
3 79D, and then it goes to section 223. And it's where a
4 councillor can make a submission even though they have -
5 where they have to declare a conflict of interest.

6 Perhaps you might continue, Mr Tovey, and we will revisit
7 that?---I read the whole transcript while I was out of the
8 room and I also wanted to clarify I think lines 227 to
9 237, which have words missing, there's quite a lot of
10 malfunction in that. That was about Gary Rowe and that
11 was about John - I think my recollection of it was about
12 John couldn't believe that Gary had gone against him in
13 relation to Morison Road - - -

14 MR TOVEY: Thank you for that?---When John had supported him.
15 Okay. Thank you. As an aside in your last answers to the
16 Commissioner one of the matters that you indicated was
17 barristers at panel hearings?---Yes.

18 In the case of C219 my recollection is that there was in fact a
19 lengthy hearing, was it, or a significant hearing before
20 is a Planning Panels Victoria?---Yes, so the
21 rezoning - where there's submissions - - -

22 No, I'll just take it a step at a time?---Yes.

23 And you were involved in that?---Yes, I was instructing counsel
24 for Leighton Properties.

25 Yes. One of the other parties was SCWRAG?---Yes.

26 And who were their solicitors?---So they didn't have solicitors
27 but they were - they did have a barrister. Emily Porter
28 appeared on behalf of SCWRAG.

29 And who was their barrister?---Emily Porter.

1 Sorry, I missed that. And how long did this go for?---It was
2 more than a week.

3 And who was paying for SCWRAG's barrister?---Leighton
4 Properties.

5 Did anybody ever tell the planning panel that Leightons were
6 paying for the barrister of an organisation which appeared
7 no doubt to the panel as being independent?---The question
8 wasn't asked and my understanding is there's no
9 requirement for disclosure. But it was never a secret
10 that Emily Porter was engaged by SCWRAG - and SCWRAG were
11 instructing her, yes. But it was Leighton Properties
12 picked up the bill for it.

13 But wasn't the purpose of Leightons paying for a barrister for
14 SCWRAG that SCWRAG would maintain clout before the
15 tribunal as appearing to be independent?---I don't
16 think - - -

17 You are nodding your head. You will have to say
18 "yes"?---Sorry, I think they were independent. I think
19 SCWRAG had a different - the developer and the community
20 had an outcome that they shared in common. The developer
21 for commercial reasons wanted the land rezoned from
22 industrial to residential and the community didn't want an
23 industrial estate on their doorstep.

24 COMMISSIONER: Apart from counsel that were engaged were the
25 solicitors Leighton's solicitors?---So there weren't any
26 solicitors. It was a direct brief.

27 A direct brief to counsel?---Yes.

28 From who?---So I originally briefed Emily Porter. I remember
29 I took her for a site visit around the area and I went and

1 introduced her to Ray Walker, and then she worked with Ray
2 to assemble a group of community members who I think
3 appeared before panel and made some submissions and she
4 prepared the case for them, and Ray and the committee
5 inputted into the case that was prepared.

6 So whether you are right or not that everyone knew that it
7 wasn't actually the community group that was paying for
8 counsel but Leightons, isn't that again something that
9 should have been formally disclosed?---I think - there's
10 no - the problem, Mr Commissioner, at the moment is that
11 there's no formal requirement for disclosure. But I agree
12 that it would be much more transparent if matters of that
13 nature were just disclosed.

14 Yes, Mr Tovey.

15 MR TOVEY: Before I move away from 16 October do you recall
16 that I have already played to you a discussion which was
17 tab 5, the exhibit number of which is - I have already
18 played for you tab 6, the exhibit number of which is
19 exhibit 103. Now, there was some additional information
20 during that call which wasn't included in what was
21 extracted for the purpose of exhibit 103. Now, I'm
22 prepared to play you the whole call again. This is the
23 call where I challenged you about your comment, "We're
24 only doing it for the sport"; you recall?---Yes.

25 After that - and you'll recall there was other mention to John
26 Woodman meeting Amanda Stapledon later that evening - -
27 -?---I think it was the next day, wasn't it?

28 In any event?---Yes.

29 That's right, I think it was the next day. You're right. That

1 conversation went on. As I say, you can hear it if you
2 need to. But the conversation went on John Woodman said,
3 "And I haven't heard from" - and then there's an audio
4 malfunction, and he said, "I haven't heard from fatso.
5 I told her to meet me at 11 o'clock." And you said,
6 "Yeah." And then John Woodman says, "Anyway, Lorraine's
7 going to give it to her between the eyes. It will be
8 interesting to see what" - and then you speak over him and
9 you say, "Dumb bitch." Now, do you want to hear that
10 conversation or are you able to - - -

11 COMMISSIONER: It might depend on what the question is,
12 Mr Tovey.

13 MR TOVEY: Sorry. Do you have any recollection of that
14 conversation?---Not at the moment, but I'm listening to
15 you read the conversation out to me.

16 All right. I will play you the conversation. It's not very
17 long. So this is tab 5.

18 COMMISSIONER: This is another part of the phone call on
19 16 October?

20 MR TOVEY: Yes.

21 COMMISSIONER: We might make that part B.

22 MR TOVEY: 103B.

23 #EXHIBIT 103B - Phone call between Ms Schutz and Mr Woodman on
24 16 October 2018.

25 COMMISSIONER: While we are speaking of exhibits, we marked the
26 last phone call exhibit 105, but it's already exhibit 37.
27 So we don't need that.

28 MR TOVEY: I apologise.

29 COMMISSIONER: So the next exhibit will be 105.

1 (Audio recording played to the Commission.)

2 COMMISSIONER: Mr Tovey, this is the part that's been played
3 already.

4 MR TOVEY: Yes.

5 COMMISSIONER: Do we need to go on?

6 MR TOVEY: Sir, unfortunately it's right at the end - - -

7 COMMISSIONER: What is, I'm sorry?

8 MR TOVEY: What I want to take the witness to.

9 COMMISSIONER: I see.

10 (Audio recording played to the Commission.).

11 MR TOVEY: Thank you. Painful as it might be going through
12 that conversation, which I can understand might be
13 somewhat embarrassing, you were there talking about Amanda
14 Stapledon, weren't you?---Yes.

15 And was it your understanding that John Woodman seemed to have
16 a degree of influence over her?---Yes.

17 And then there's a reference to, "Anyway Lorraine is going to
18 give it to her between the eyes. It will be interesting
19 to see." Do you know what Lorraine was going to give it
20 to her between the eyes about?---No.

21 And Lorraine is a reference, is it, to Lorraine Wreford?---Yes.
22 But the disconcerting part about that is it looks like she's
23 being imposed upon and bossed around; was that your
24 understanding of the relationship between her and
25 Mr Woodman?

26 COMMISSIONER: When you say "her" - - -

27 MR TOVEY: That is between Amanda Stapledon and
28 Mr Woodman?---This is John's style. This is John's style
29 in the way he talks and behaves.

1 The reason I ask you that is because it appears from it that
2 he's telling - he's acting in a way which tends to
3 indicate that he's bullying a woman who is a councillor or
4 intending to; is that the way you took it at the
5 time?---"Give it to her between the eyes", that is a
6 common phrase of John Woodman's. It means talk
7 straight - sorry, my understanding of what that means is
8 it's like, "Talk straight. Say it how it is."
9 COMMISSIONER: Tell her what his expectations are?---I think
10 I would be - I think - when I say what I've just said it
11 means, I think that's as far as I can go, yes.
12 Did you understand what the issue was?---No.
13 This hasn't refreshed your memory as to why there was a need to
14 talk straight to Ms Stapledon?---No. I know at the
15 time - I mean, everyone wanted to be mayor, and I know
16 Geoff Ablett rang me up at times and talked to me about
17 why he should be mayor, and everyone wanted to be mayor
18 and there was a real power struggle between councillors at
19 that time.
20 Who else apart, from Mr Ablett, spoke to you about the
21 mayorship?---I think it was only - I think maybe Sam Aziz
22 might have spoken to me about the distribution of votes as
23 well.
24 Why did they think you had anything to do with the
25 mayorship?---I think they spoke to me because I was in
26 regular contact with John, yes.
27 And why did they think Mr Woodman had anything to do with the
28 mayorship?---They look up to John.
29 But what did John have to do with the mayorship?---In terms of

1 my firsthand knowledge of it, I don't have anything that
2 he had specifically to do with the mayorship other than
3 talking to people about the mayorship.

4 MR TOVEY: Your expectation was, though, from what you knew at
5 the time that he was in a position where he would be
6 listened to if he spoke to people on council about who
7 should be mayor, otherwise this conversation wouldn't be
8 taking place, would it?---Yes, it - yes.

9 Now, I want to go back to the first H3 resolution?---Yes.

10 And work through with you how that came about?---Yes.

11 Could we start, please, with exhibit 95, which is tab 3502.

12 This was on 3 August - sorry, this was on 4 August of
13 2018?---5 August 2018 where I sent him a briefing note
14 and, yes, briefed him on the - - -

15 In any event - - -?---Yes.

16 It's headed, "Briefing notes Lochaven and Hall Road"?---Yes.

17 So that again is clearly the briefing note which precedes the
18 council meeting on 4 September?---Yes.

19 Which is being provided to him and it's being provided at his
20 private email?---Yes, yes.

21 And was that deliberate?---He asked me to send it to his Yahoo
22 email. I've actually - sorry, yes, and then he's - - -
23 Anyway, if we just go down - - -?---He asked me to send it to
24 him at his Yahoo email, yes.

25 So you then sent him briefing notes?---Yes.

26 The first sets out the current status in respect of Lochaven
27 Estate and the second sets out the current status in
28 respect of Hall Road?---Yes.

29 And both briefs include a recommendation for council?---Yes.

1 And you've sent that to Mr Ablett on the basis, though - on the
2 basis that, although he is conflicted, he will end up
3 getting Councillor Aziz to move the motions that you have
4 there prepared?---I'm not sure whether at that stage I was
5 just asked to brief him on the issues. I'm not sure there
6 was any discussion, because it wasn't until
7 4 September - it wasn't until 4 September, yes.

8 All right. In any event, whether it happened as a result of
9 this briefing note or as a result of some other
10 communication, you expected, did you not, to have
11 Councillor Ablett organise Aziz to move the motion which
12 supported the Woodman interest on the H3
13 intersection?---At this point in time I would assume I've
14 just been asked to brief him on those two issues.

15 Yes?---So to prepare briefing notes, yes.

16 COMMISSIONER: Just a moment. Are you saying you have a clear
17 recollection that at this moment in time you had not
18 already determined the strategy by which this motion would
19 get before the council; is that what you are
20 saying?---That's my recollection at the moment and I've
21 had - let me check. Let me check my file again because
22 I've got all my emails in chronological order on this
23 matter.

24 But, Ms Schutz, the reason I've interrupted and asked you this
25 question - - -?---Yes.

26 Is because I have a sense you do not want to acknowledge - -
27 -?---Yes.

28 The level of importance which you played in all of the
29 processes concerning the council. So I'm suggesting to

1 you by the time you do this, that is you send a
2 recommendation to Mr Ablett - - -?---Yes.
3 You knew Mr Ablett was conflicted, so he wouldn't be able to
4 move the recommendation; correct?---I know you want me to
5 say "yes", but I don't - - -
6 I'm sorry, you don't think you knew that he was - -
7 -?---I don't think I did. When I am looking at that
8 I think I was just asked to send some briefing notes.
9 I'm sorry, you don't think in - this is August 2018 - -
10 -?---But the paper - - -
11 Just bear with me?---Sorry.
12 You don't think you knew that Mr Ablett was conflicted from
13 appearing in the council on a motion that involved
14 Mr Woodman's interests?---I knew he was conflicted.
15 Right?---Yes.
16 So what I'm suggesting to you is you must have had a strategy
17 in mind at the point of time when you have drafted the
18 motion that you want the council to pass, you must have
19 had in mind a strategy by which that motion would be
20 presented to the council?---So those briefing notes didn't
21 have an alternative recommendation included in them.
22 No, they didn't, but did you have a strategy in
23 mind?---I think I didn't have any - not "I think". My
24 memory is that I didn't have the whole strategy. I was
25 asked to prepare - like, if we go down to the date of this
26 email, this was sent on 5 August. Now, on 3 August I had
27 been in to council to inspect the Lochaven permit. So I'm
28 assuming - I haven't seen the notes here that are attached
29 to this email. But the note that I would have written in

1 relation to the Lochaven extent signalised intersection
2 issue would have been about the conditions on the Lochaven
3 Estate permit and their obligation under the planning
4 permit to deliver it. I would have been briefing on the
5 facts in relation to that. In relation to the Hall Road
6 urbanisation project I would have prepared a note in
7 relation to the Cranbourne West DCP priority project list
8 and what was required in relation in order to urbanise
9 Hall Road to complete the urbanisation of Hall Road. I'm
10 pretty sure they would have been - have you got the
11 briefing notes, Mr Tovey, that were attached to this
12 email?

13 MR TOVEY: I think they are attached?---Are they? Can we
14 scroll down so I can have a look at what they are? They
15 are not attached to it, no.

16 I'm sorry, all we have is the map. I apologise?---Okay.

17 I know you are asking me if I was aware of the whole
18 strategy and the council - - -

19 COMMISSIONER: You were the go-to person for Mr Woodman. When
20 it came to working out how Mr Woodman was going to get a
21 motion that he wanted passed through council, you were the
22 go-to person to organise that, weren't you? You are
23 saying "no"?---No, I wasn't. I wasn't - - -

24 Who was? Who was the person that Mr Woodman utilised to ensure
25 that the motion that he would want before the council was
26 presented and that whatever argument needed to be prepared
27 to support it was to be prepared? Who was the person he
28 would go to?---He would go to me to prepare - so it wasn't
29 until the September - that report would have come out -

1 that council report probably would have come out the
2 Friday before 4 September. So it was at that stage when
3 that report came out that he would have said to me,
4 "Where's the report? Show me the report? Does it achieve
5 what we want to achieve?"

6 Yes, but there was no-one else; it was you that he would turn
7 to in relation to any step that he then wanted taken with
8 councillors?---Yes, to draft the technicalities of it.

9 Or whatever?---To draft the technicalities of it, yes. But

10 I didn't - I don't think I fully understood the strategy
11 that was being run on the H3 intersection until I was in
12 the thick of it.

13 Yes, Mr Tovey.

14 MR TOVEY: Were you aware at this time that Mr Woodman had
15 purchased property from Councillor Ablett?---No.

16 Did you become aware at some stage in 2018?---No.

17 When did you become aware of that?---Through this process,
18 because I think it's been in the newspaper - actually it
19 might have been - no, it's through this process. But it
20 could have been before the public hearing started I think
21 he spoke to me about it.

22 Mr Commissioner, I'm about to go on to a linked series of four
23 documents. Would this be an appropriate time?

24 COMMISSIONER: Yes. So, Ms Schutz, we'll break for today.

25 Refresh yourself overnight. We'll return at 10 o'clock
26 tomorrow morning. You understand the order that's been
27 made. You are not to speak to any other witnesses who
28 have given evidence or that are to give evidence about the
29 evidence they have given or the evidence you are giving;

1 do you follow?---I understand.

2 MR TOVEY: Before you adjourn, sir, could I just say one thing.

3 I'll ask the witness one more question. (To witness.)

4 These emails that you want to refer to, you have a folder
5 of emails, do you, that you extracted?---Yes, I'm not sure
6 I've got the 4th - I haven't found that email that I've
7 sent to Geoff Ablett.

8 Did you have those set aside in a lever-arch folder or - -

9 -?---Not with me.

10 No, but do you have them at home?---I won't be going home
11 tonight.

12 Is there any reason why you couldn't bring those emails along
13 tomorrow? Where are they?---The only - so the emails
14 are - can I confer with my legal representative in
15 relation to that? I'm just conscious of whether there's
16 any privilege issues. I don't know whether there is.

17 COMMISSIONER: Even if there are, that can be sorted out once
18 you produce the documents?---Yes.

19 Is there any reason why they can't be produced?---I should be
20 able to. I need to go through my emails. I can't, in
21 refreshing my memory, say that I've seen that email from
22 Geoff - that I sent to Geoff Ablett. But it should be on
23 my system somewhere.

24 MR TOVEY: I'm only concerned about the fact that you have a
25 folder of emails. All I'm asking you to do is bring them
26 along. You will be able to do that. Are you able to do
27 that physically?---I can - - -

28 COMMISSIONER: We can deal with this afterwards,

29 Mr Tovey?---Yes.

1 If Ms Schutz doesn't want to do that there are other means by
2 which - - -

3 MR TOVEY: Yes.

4 MR LEWIS: Could I assist at this point, Mr Commissioner.

5 COMMISSIONER: Sorry, Mr Lewis?

6 MR LEWIS: Can I assist at this point. The process that has
7 occurred has involved a warrant being executed on my
8 client's premises and electronic copies, as I understand
9 it, have been taken of various materials. There are
10 potential claims of privilege and so - sorry, potential
11 claims of LPP in relation to the material which is
12 currently before the Supreme Court and not yet adjudicated
13 upon. So I'm not speaking for the witness - - -

14 COMMISSIONER: It's these documents, is it?

15 MR LEWIS: It may be for these documents. I just wanted to
16 make the point, your Honour, that that may be the reason
17 why the witness is hesitant and she's referred to, "Can I
18 speak to my legal counsel," and I don't want to put words
19 in her mouth but there is this background process which is
20 not yet resolved where there are, as I understand it,
21 claims of privilege that may be made by her client or
22 clients, and that matter hasn't yet been thoroughly
23 adjudicated.

24 COMMISSIONER: Yes, thank you.

25 MR LEWIS: So she's concerned about breaching LPP.

26 COMMISSIONER: You can have discussions with Counsel Assisting
27 and see whether the material that is now being sought is
28 covered by those matters or whether it's additional to.

29 MR LEWIS: Yes.

1 COMMISSIONER: Or it may be partly so. Work that out and I'll
2 hear what the position is in the morning.

3 MR LEWIS: If the Commissioner pleases. The other matter, sir,
4 just so that it's clear, the transcript of that telephone
5 intercept that was provided to my client during the break
6 has been returned to Commission staff and she does not
7 retain possession of it.

8 COMMISSIONER: Yes, thank you, Mr Lewis. (To witness.) So you
9 are excused until 10 o'clock tomorrow morning. Save to
10 the extent that there are documents, Ms Schutz, which are
11 covered by the matters to which your counsel referred,
12 I would expect you to make arrangements to have those
13 emails produced. Adjourn until 10 am, please.

14 <(THE WITNESS WITHDREW)

15 ADJOURNED UNTIL THURSDAY, 5 DECEMBER 2019 AT 10.00 AM

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