
TRANSCRIPT OF AFTERNOON PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

THURSDAY, 5 DECEMBER 2019

(12th 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 2.08 PM:

2 <MEGAN ANN SCHUTZ, recalled:

3 COMMISSIONER: Yes, Mr Tovey.

4 MR TOVEY: Thank you, sir. Could we bring up, please,

5 Mr Commissioner, page 379. Do you remember seeing that

6 article in The Age on 28 October 2018?---Yes.

7 So that article, if we start at the bottom of the page,

8 identifies Mr Woodman as the single biggest property

9 industry donor to the Liberal Party?---Yes.

10 Raises issue about what's happening on the fringe of the

11 city?---Yes.

12 And then just above the photograph - sorry, if we go over the

13 page, just above the photograph, it asserts that in any

14 one year Casey will say yea or nay to hundreds of Watsons'

15 planning applications. Does that accord with your

16 understanding?---I'm not sure if it's hundreds of planning

17 applications. But Watsons have - are the project

18 engineers and surveyors for a number of projects before

19 the City of Casey, yes.

20 Would it involve Watsons engaging with the councillors or

21 council employees - sorry, I'll rephrase that. Would it

22 involve Watsons engaging with council employees on more

23 than a weekly basis?---Yes.

24 It then goes on on the next page, the third page, to state that

25 in April former mayor and Liberal Party member Councillor

26 Sam Aziz surprised many at Casey when he moved to delete a

27 requirement that Wolfdene provide open space and road

28 between the council's Casey Fields sports complex and the

29 developer's Pavilion housing estate in Cranbourne East.

1 Are you familiar with what that's speaking about?---I am,
2 but that's the council officer's version of the matter,
3 which I don't necessarily agree is factually correct.
4 This is the journalist - - -?---Yes, yes.
5 Did you in fact draft anything in respect of the notice of
6 motion for Pavilion Estate?---Yes, an alternative
7 recommendation.
8 And how did that work?---What's - - -
9 COMMISSIONER: What do you mean by that, Mr Tovey?
10 MR TOVEY: Sorry, could you just describe the procedure - -
11 -?---The process, yes.
12 Which led up to the - or the processes and which involvements
13 you had with whom leading up to the Pavilion Estate
14 vote?---Yes. So in December 2017 - I think it was
15 November '17 there was the permit issued for Pavilion
16 Estate, and on that permit there was a requirement for a -
17 there was a 31-metre road and six metres of open space on
18 the side of that road in the northern part of the site.
19 I have actually got - it may be useful. There's a plan of
20 the Pavilion Estate, and it might be useful if - - -
21 I think we just need to know generally what issues it involved
22 rather than the specifics?---Okay. So I thought in
23 relation to that requirement that it was not particularly
24 reasonable, and I communicated that to the client.
25 So there was provision for roads?---Yes - - -
26 And was there also a provision for open space alongside Casey
27 Fields?---I don't believe there was a requirement for open
28 space alongside Casey Fields.
29 Just tell me, there are a number of issues that seem to be

1 discussed about whether or not it was necessary to leave a
2 buffer zone or to have nets - - -?---So the council - on
3 about the - the 20 March 2018 meeting there were two items
4 that went up to council. One was, like, we'd asked for
5 the amendment application that I put into the Pavilion
6 Estate planning permit to go up to council, and there was
7 also an amendment proposed by council officers to the
8 Casey Fields master plan, and that amendment to the Casey
9 Fields master plan legitimised the requirement for some
10 open space on my client's land, my client being 1425
11 Blueways Pty Ltd.

12 And who were they?---So Blueways is a developer in the
13 south-east, and Wolfdene is the development manager.

14 And who were you receiving directions from in respect of those
15 applications?---So in relation to the amendment
16 application I was asked to lodge the amendment application
17 by Wolfdene.

18 And who at Wolfdene?---So it was Heath Woodman.

19 Yes?---Yes.

20 And did John Woodman have any part in those
21 applications?---Yes.

22 And what part did he play?---He asked me to organise a meeting
23 with council officers in December 2017, and Councillor Tim
24 Jackson was at that meeting, and the meeting was with the
25 planning officer who had been dealing with the Pavilion
26 Estate application. Her team leader - - -

27 Who was the planning officer?---Sorry?

28 Who was the planning officer?---[REDACTED]. And [REDACTED]
29 [REDACTED] was there as well, and I was there, John Woodman

1 was there, Tim Jackson, the ward councillor, was there and
2 [REDACTED] the engineer from Watsons, was there as
3 well.

4 So what was Watsons' interest?---So the agenda was to talk
5 about the proposed amendment - - -

6 What was Watsons' interest?---They were the project engineers
7 on the Pavilion Estate.

8 And what was Wolfdene's interest, as you understood?---So
9 Wolfdene was the development manager for the Pavilion
10 Estate.

11 All right. So you first of all had a meeting with council
12 officers?---Yes, where we talked about accounts to the
13 north - - -

14 If you just keep it very general at this stage. We don't need
15 to go into great detail?---Okay. One of the issues was to
16 the north of the VicTrack land, where we had to take
17 access for the estate, council had vested a road in
18 council without a road built in - constructed within the
19 road reserve.

20 Let's see if I can just ask you this: was the ultimate
21 objective of Wolfdene and Mr Woodman to reach a result
22 which provided the most developable space?---I don't think
23 that was front and centre. I think the issue - the front
24 and centre issue was delivering a road to the north,
25 getting that - somehow getting the road that hadn't been
26 constructed to the north - - -

27 What was the name of that road?---It's Morison Road. Yes. And
28 to sort out the requirement for the 31-metre road - like,
29 the southern part of the road was only required to be

1 25 metres, because the Pavilion Estate is within the
2 Cranbourne East PSP to the north of Heybridge Street and
3 to the south of Heybridge Street is in the Casey Fields
4 South PSP. Now, the Casey Fields South PSP required a
5 25-metre road reserve for Morison Road, and to the north
6 there was a discretionary requirement. There were two
7 possible road cross-sections that could have applied to
8 that northern part of the road.

9 In any event, did the matter end up before - - -

10 COMMISSIONER: Mr Tovey, just before you leave Pavilion, you
11 had met with Mr Aziz, Mr Woodman and Ms Wreford at the
12 Sandhurst Club on 22 March of that year?---Yes.

13 Just a little over a week before the relevant council meeting
14 at which Mr Aziz proposed the amendments which resulted in
15 the road width being reduced and the open space
16 requirement being amended?---Yes, the requirements on the
17 permit which we had applied to amend, yes.

18 What was the purpose of that meeting at the Sandhurst
19 Club?---I have seen the photo that's been in the
20 newspaper. I can't remember that meeting, but I assume
21 that it would have been about - it must have been about
22 the Pavilion Estate agenda item because on 20 March, when
23 it went to council, it got deferred, as did the Casey
24 Fields master plan item.

25 And, in light of what you have said this morning, that was
26 quite inappropriate for Mr Aziz to be participating in
27 that sort of discussion, wasn't it?---It's the same
28 scenario where he was the selected champion for the
29 alternative recommendation from that of the officers.

1 And do you know why Ms Wreford was there?---Lorraine
2 was - whenever any dealings with - she sort of dealt with
3 Sam Aziz and Amanda Stapledon on behalf - - -
4 I'm sorry, she?---My understanding was she dealt with Sam Aziz
5 and Amanda Stapledon on behalf of John Woodman, yes.
6 When you say "dealt with" them, what do you mean?---Like, any
7 dialogue with them or - I'm not - when I - like, for
8 example, I've been asked to send briefing notes to
9 Lorraine for Sam.
10 But, I'm sorry, I thought when it came to strategic questions
11 concerning planning and the way the champion, whether it
12 was Mr Aziz or Mr Ablett, was expected to deal with the
13 issue in council you were the person that communicated
14 with them, weren't you, if it wasn't Mr Woodman in
15 person?---Either directly or I would be asked to prepare a
16 briefing note.
17 So what was Ms Wreford's role?---I just assumed she had a
18 similar role to Phil Staindl, and the role that I'd
19 observed Phil Staindl carrying out was where we had a
20 meeting with - for example, if I met with a ministerial
21 office or met with a member of the current government,
22 like a member of parliament, that was Labor Party, Phil
23 Staindl would often be in those meetings. So my
24 understanding was Lorraine played a similar role. Prior
25 to Lorraine, the Woodmans used a guy named Geoff Leigh for
26 that role, and I thought Lorraine was just the new person
27 who had replaced Geoff Leigh.
28 If you agree that, in the case of Mr Aziz and Mr Ablett, these
29 dealings with yourself and Mr Woodman was not about

1 advocating for planning positions but for the purpose of
2 them championing Mr Woodman's position in the council,
3 what was the reason for Ms Wreford's presence if she
4 wasn't performing a lobbying role? You are not
5 sure?---I don't know why she was there.

6 This sort of meeting, was this another red flag for you?---It
7 was common for John to have a - I thought Lorraine was a
8 lobbyist, yes.

9 A meeting at which you sit down with Mr Aziz - - -?---And brief
10 him.

11 To explain to him what position you want him to take at the
12 forthcoming council meeting?---Brief him on the planning
13 merits, yes. Yes, like, on reflection - - -

14 It shouldn't have been happening, should it?---No, there should
15 have - I think the correct - a more transparent process
16 would be for - if a councillor wants to meet with a
17 developer or a developer's consultant, there should be a
18 planning officer or a probity officer or someone else
19 there.

20 That's precisely what Mr Aziz told us in his evidence in
21 private examination before he departed Australia, that if
22 a developer wanted to discuss a planning issue with a
23 councillor he would have a council officer present. You
24 weren't there for the purpose of discussing the merit of
25 the planning decision; you were there for the purpose,
26 weren't you, of making clear what Mr Aziz's role was to be
27 in relation to the implementation of a particular course
28 at council?---I would have been there to talk about the
29 planning merits of that decision, I think. I can't recall

1 exactly what the content of the conversation was. But
2 I usually - I usually was there to discuss the planning,
3 like what - I would have been there to discuss the
4 alternative motion, yes, the alternative recommendation,
5 which I would have been asked to prepare.

6 For Mr Aziz?---Yes.

7 And then the expectation being that he would then implement
8 that proposal?---Yes, yes. Yes.

9 Ms Schutz, surely you recognised that that involved Mr Aziz in
10 a fundamental breach of his obligations as a councillor to
11 engage in that way?---I do now. I think I've just
12 been - it's just the way - it's the way it worked with
13 John with items he was involved with going up to council.

14 MR TOVEY: Was it the case at that stage that you just wanted
15 to close your eyes to the obvious?---I think, and I know -
16 like, it's the same thing again. I feel foolish, but
17 I was too close to it all. I think I just - I was asked
18 to do a briefing. I just treated it as a planning
19 briefing. They wanted an alternative recommendation.
20 I drafted the alternate recommendation. I knew that John
21 had organised Sam Aziz to be the champion of that
22 alternative recommendation, and I just went along with it.
23 But you have told us already today that by this stage you saw
24 Aziz and Ablett as just doing whatever John Woodman wanted
25 them to do?---Yes.

26 So if that was the case you saw them as people who were acting
27 totally within his interests?---Yes.

28 And you were just passing on his directions; that was the
29 effect of what you were doing?---Yes.

1 And there can be no explanation for that consistent with an
2 expectation that they were doing their duty?---Yes, they
3 were - yes.

4 And it was a process which was totally lacking in integrity,
5 wasn't it?---It was a process that was controlled, yes.

6 In any event, getting back to The Age article, The Age went on,
7 and I will just run through this. Look, perhaps since we
8 have diverted to Pavilion I might just ask you a couple
9 more questions. So in respect of Pavilion Estate you
10 prepared the notice of motion, did you?---Yes.

11 And were you engaging directly with Mr Aziz or were you
12 engaging through Mr Ablett?---Right now I can't remember,
13 but it was - no, sorry, I - so Councillor Aziz was heavily
14 involved. So I met, for example - - -

15 So you met him at the Sandhurst Club, for instance?---The one
16 meeting I do remember is I met him out on site with
17 council officers to discuss the tan track because of the
18 heavy, you know, debate about whether the tan track was
19 meant to be on my client's land or whether it was meant to
20 be in Casey Fields, and I - there was another where Sam
21 Aziz rang me up one day and he was in the CEO at the
22 time's office with nine council officers and he wanted to
23 ask me questions about - council officers wanted to ask me
24 questions about why I had the views I had, and I remember,
25 you know, being subjected to this discussion with him, Sam
26 Aziz, the CEO at the time and nine officers over the
27 telephone where they were sort of firing things back at me
28 and I was - you know, I setting out the justification as
29 to why. Yes.

1 So he was acting as the phone carrier, was he, between you and
2 the officers?---Yes, he was like trying to - they were
3 trying to negotiate, the officers were trying to negotiate
4 an outcome, yes.

5 Who were the officers who were involved in that?---So it was
6 Acting CEO Steve Dalton, I think was in the room, and
7 [REDACTED] was the main - she was the main council
8 officer, and [REDACTED] And, you know, they were
9 strongly advocating for putting the tan track onto the
10 Pavilion Estate land. It was almost like they were
11 lobbying as well. And during that period Geoff Ablett had
12 sent me - forwarded me an email from Nicola Ward that had
13 been sent to the Casey steering committee where she had
14 said in that email that the developer was trying to sort
15 of rebut its obligation to have the tan track on its land,
16 and she'd sort of set out her arguments as to why the tan
17 track should be on my client's land.

18 And how is it that Mr Ablett came to be the one who was sending
19 that to you?---Yes, it was - it was an email forwarded
20 by - I think it was forwarded to him by Amanda Stapledon
21 because she was - the email that Nicola had sent had been
22 sent to all steering committee members but the - the
23 councillors I think on the steering committee, but one of
24 the steering committee members had sent it to Amanda
25 Stapledon, and Amanda Stapledon had then sent it to Geoff
26 Ablett, and Geoff Ablett had sent it to me and John
27 Woodman.

28 And was that - so he sent it to both of you. Now, at that
29 stage that was an internal council document that was under

1 discussion; is that right?---I don't think it was. It was
2 an email that one of council's managers had sent to the
3 Casey Fields steering committee, yes.

4 And was the steering committee a steering committee of council
5 officers or was it a steering committee of
6 councillors?---I think the steering committee is made up
7 of community - like, people who operate from Casey Fields.
8 So there were probably representatives from different
9 sporting clubs on it, I think. There was a range of
10 representatives.

11 Was that document seen by you to be confidential at the
12 time?---I didn't - it wasn't - it wasn't - it was a
13 document sent to the steering committee, some of the
14 steering committee members. I don't - like, I wasn't a
15 steering committee member, but I have been forwarded a
16 copy of it by a councillor.

17 In any event, did you see this simply as Mr Ablett doing what
18 he could to assist Mr Woodman - - -?---Yes, it was showing
19 that council - I guess showing that one of the council
20 officers were seeking to get the steering committee behind
21 their Casey Field master plan amendment and make the
22 developer out as the bad guy.

23 And this was a process that was happening inside the processes
24 of the council itself?---Yes, the council officers - it
25 was a case to my mind of a council officer lobbying for a
26 particular outcome that they felt passionate about.

27 Anyway, going on - so the situation with Pavilion was it
28 was - the process, except that you were dealing directly
29 with Ablett - sorry, you were dealing directly with Aziz -

1 - -?---Yes.

2 Mirrored that relating to the H3 decision; is that

3 right?---Yes, I - so with the Casey Fields piece I was

4 asked to get an expert in relation to sports and

5 recreational planning to provide an opinion, and

6 I provided that opinion, that report.

7 Who asked you to do that?---John Woodman.

8 And what happened to that opinion?---I provided it to - I think

9 I only provided it to Councillor Aziz but I may - - -

10 Was that used in debate, to your knowledge?---Yes, I think it

11 was.

12 And it wasn't identified as something obviously as coming from

13 the developer?---No, it was coming from - it was

14 commissioned by me. Like, Schutz Consulting was the - - -

15 Yes, but in the meeting it wasn't identified as coming from

16 you, I take it?---I think it was identified.

17 Okay?---Yes. I think it was tabled, yes.

18 So it was tabled as a document as a submission from you?---Yes.

19 It was supporting - because of the position that council

20 officers took that there had to be six metres of land

21 provided on my client's side for this tan track which had

22 previously been located in the Pavilion Estate as part of

23 the justification that council officers had for putting it

24 onto the Pavilion Estate land.

25 When the matter first came on on 20 March it was deferred for

26 two weeks?---Yes.

27 And we have heard some conversations involving people other

28 than yourself referring to that as an ambush. Was that

29 the way in which it was perceived?---Yes. Council

1 officers had used Casey Fields master plan - an amendment
2 to it to justify the six metres of open space land, yes.
3 That was on 1 April 2018 - sorry - - -?---3 April, I think.
4 I think there was an email from you on 1 April 2018 instructing
5 Councillor Aziz as to the alternate recommendation to be
6 put before the council?---Yes. Have you got a copy of
7 that? I'm assuming that - I haven't got that email in
8 front of me and I can't remember the exact date, but
9 I definitely had - was involved in the drafting of an
10 alternative recommendation, yes.
11 And was that dealt with unquestioningly by Councillor
12 Aziz?---Yes, he didn't ask any questions about - yes.
13 So getting back then to The Age article there was - I'm just
14 wanting to alert you to the issues that were raised. One
15 of them was the issues as to Pavilion housing and
16 Mr Aziz's - sorry, the Pavilion housing estate and
17 Mr Aziz's involvement in promoting that at council?---Yes.
18 It indicated that Mr Woodman's son, Heath, was a business
19 partner of Wolfdene director Michael Goldthorp?---Yes.
20 And had made a point about the various associations between
21 Wolfdene, Watsons - sorry, between Michael Goldthorp,
22 Heath Woodman and Woodman himself?---Yes. So Michael
23 Goldthorp - my understanding is that Michael Goldthorp and
24 Heath Woodman are the owners of Wolfdene.
25 It said that The Sunday Age understands the decision would cost
26 Casey hundreds of thousands of dollars - - -
27 COMMISSIONER: The ratepayers.
28 MR TOVEY: Sorry, the ratepayers, yes?---I think that's worth
29 clarifying because - - -

1 I'm sorry - - -?---Yes, sorry.

2 That was an issue that was raised?---In the article it was
3 reported that way.

4 Yes?---But I think the reality was that we had to get the
5 estate - all the services were coming from the north and
6 the first stages of the development had to go north
7 because of the servicing, and we were left with a scenario
8 where council had vested - the developer to the north,
9 Blue Hills, who had an obligation to deliver Morison Road
10 with a road in it, had somehow been allowed to vest the
11 road, the land that was the road, without the road in it
12 in council. So there was a requirement under Blue Hills'
13 permit to deliver that road or it had to be secured by a
14 section 173 agreement, and that hadn't been done. So we
15 ended up - sorry, not we, but what ended up happening was
16 council agreed to us, to my client's building contractor
17 constructing that part of Morison Road and then the
18 full - and I've got the correspondence - the full costs
19 associated with that part of the road council did
20 pay - which included a grade separation under the VicTrack
21 land. Council did reimburse the cost of that road
22 construction that Blue Hills hadn't done to my client, and
23 then council were - you know, their recourse really was to
24 go to VCAT and try to pursue the money via the condition
25 that they had on their permit that they hadn't basically
26 enforced at the time when they should have enforced it.

27 Yes.

28 So do I glean from that that in fact the net result was that
29 council did lose money but you say it wasn't entirely the

1 fault of your client's?---We got reimbursed to construct a
2 road that the other developer should have constructed,
3 yes.

4 COMMISSIONER: But if the motion hadn't been passed then that
5 cost on the ratepayers wouldn't have arisen?---Because
6 my - are you saying because my client would have had
7 to - would have under duress had to have constructed that
8 road anyway or?

9 No, no, you have explained how as a result of earlier planning
10 decisions some unfairness had arisen, but whether that's
11 correct or not - - -?---Yes.

12 The particular motion that we are looking at at the moment - -
13 -?---Yes.

14 Resulted in a burden to ratepayers which wouldn't have
15 otherwise arisen?---Yes, because the resolution of council
16 on 3 April included something in relation to the road
17 which allowed the reimbursement of the cost of
18 construction, yes.

19 And that's what The Age newspaper was saying?---Yes, but it's
20 not the full story, yes.

21 MR TOVEY: If we could just go on to the fourth page, the two
22 developers - below the photo it's spoken about Wolfdene
23 and Dacland being the developers of the adjoining estates
24 on either side of Hall Road, and the fact that Aziz moved
25 the motion which penalised Dacland to the benefit of
26 Wolfdene, and that of course was the case?---Yes.

27 Then how council staff legal opinion was scathing about the
28 legality of that?---Yes.

29 That's obviously the truth?---Yes.

1 And how Councillor Aziz had refused to provide a copy of the
2 legal advice or to identify who had written it?---Because
3 he didn't have legal advice, yes.

4 Then it went on to talk about astroturfing. Was "astroturfing"
5 a term with which you were familiar?---No, but I have
6 become familiar with it in the last two weeks when
7 I've read the New South Wales ICAC December 2018 report.

8 And what does that talk about?---It talks about a grassroots
9 community organisation being resourced, I think, by
10 private interests.

11 Yes, being used by developers?---Yes.

12 Which is of course what you were aiming to do with
13 SCWRAG?---That was the - yes, the community's objectives
14 were being used by the developer like a Trojan horse.

15 Then it went on to talk about Watsons' donations to political
16 campaigns and bullying claims from council?---Yes. That
17 was the thing I was most upset about, to be honest, the
18 bullying claims.

19 COMMISSIONER: Were you upset by the repeated lies that Mr Aziz
20 is reported as having conveyed to The Age in this article?
21 Would you like a moment to read the article again just to
22 see the number of things attributed to Mr Aziz which you
23 have already told us in various points in your evidence
24 must have been false?---Yes.

25 Were you concerned about that? For example, Mr Aziz refuted
26 The Age's claim that his submission to the council must
27 have been written and prepared by someone that was expert,
28 and we now know that's in fact you that provided him with
29 that - - -?---Is that in this article?

1 Yes, and - - -?---Sorry, I - - -
2 He denied that he had received any assistance from an
3 outsider?---Sorry, where is that?
4 MR TOVEY: That's at the bottom of page 3 of 8?---Okay.
5 COMMISSIONER: Were you concerned that that and other things
6 that he said to the reporter were false?---The article,
7 yes, basically highlighted all the - yes, the issues, and
8 I - - -
9 Was that another red flag for you that - - -?---Yes, the
10 article was a big red flag for me.
11 Yes, because as a general proposition The Age was making a
12 succession of fair points - - -?---Yes.
13 About concern about the process?---Yes.
14 And what did you do as a result of The Age article in terms of
15 your own involvement in the process thereafter? Did you
16 withdraw from it? Did you thereafter withdraw from your
17 arrangement with Mr Woodman, or did things continue on as
18 they were?---In terms of working for John?
19 Yes, and doing the same things?---I continued - I was located
20 in - my business was located in John's office. All my
21 clients were John Woodman or Heath Woodman related
22 clients, except for about 20 or 30 per cent of my - 20
23 per cent of my business, probably. So I had a - I've got
24 employees. I continued and it was almost - the culture
25 was, you know, we'd all taken - we had all been adversely
26 affected by the article.
27 But, Ms Schutz, the unpalatable fact for you is you continued
28 on as things were, notwithstanding this
29 article?---I should have - I should have - I should have

1 decoupled myself. Like, if I was independent and I had my
2 own mind and I was running my own agenda, I should have
3 stood up and been independent and started again.

4 MR TOVEY: But unfortunately, if you go to the conversations
5 that were recorded, is it fair to say in summary that the
6 response was to devise a strategy of suing The Age for
7 defamation?---Yes. So John - - -

8 So you agree that was part of the strategy?---Yes. So John's
9 strategy was to sue for defamation, yes.

10 And, secondly, the strategy was for you and him to talk
11 together about how you might respond by denying the
12 allegations that were in the article?---So I went - I did
13 go through the article myself, and we actually
14 engaged - first of all, he had already - like, prior to
15 that article there had been a - prior to that article
16 there had been a letter served on John Woodman by the
17 Acting CEO of Casey, Steve Dalton, in relation to John
18 being a bully, and John had been banned from dealing with
19 particular officers at council. So we had already been to
20 see - that was on 17 August, I think. We had
21 already - I had already - he'd asked me to engage a
22 defamation lawyer for him, and I had engaged - I had - he
23 had already I think had a notice drafted for himself.

24 This is before The Age article?---Yes, it was in
25 August/September.

26 All right. In any event that will appear from records which
27 you still have?---Yes.

28 But your response was to seek to hide, was it not, the link
29 between yourselves and SCWRAG? You didn't want - you and

1 Mr Woodman, I suggest, discussed the fact that you didn't
2 want to be linked to SCWRAG as you had been in the
3 newspaper?---Yes, that SCWRAG was an independent body.
4 Yes. That's the way you wanted to present it,
5 obviously?---Going back to my mind set to that particular
6 point in time, you know, I think I justified in my own
7 mind that SCWRAG was independent because it had a
8 membership base and it supported the Cranbourne West
9 rezoning, even though it had been heavily resourced
10 by - I think your question of me is presuming that the
11 resourcing of SCWRAG was what made SCWRAG - - -
12 Look, what I'm putting to you is a simple - - -
13 COMMISSIONER: Sorry, had you finished?---Sorry, I was just
14 going to say the resourcing of SCWRAG had made SCWRAG
15 support the rezoning, and I see the resourcing of
16 SCWRAG - and I agree it should have complete transparency
17 around it, but the resourcing of SCWRAG allowed the
18 community to have a voice in the planning process, which
19 is actually a very technical expert process and, you know,
20 considerations have to be expressed in a certain way for
21 them to have any effect.
22 When the Sunday Age unsuccessfully sought to get the legal
23 opinion which Mr Aziz had referred to in his argument
24 before the council, they tried to get that under FOI
25 application - - -?---Yes.
26 He refused to provide that legal advice; is that
27 correct?---There wasn't any legal advice.
28 Or whatever he was relying on he refused to provide it save to
29 say, according to the article, that it was provided to him

1 by SCWRAG?---Is that what he said?

2 That's about halfway down page 4, Ms Schutz. And that was
3 false also, wasn't it, because it wasn't a legal opinion
4 provided by SCWRAG; it was your advice that Mr Aziz was
5 relying upon?---When Mr Aziz was in the council meetings
6 referring to legal advice it was on 4 September, and I'm
7 assuming, yes, he was referring to me providing him with
8 legal advice, which there wasn't any.

9 So what he told the newspaper, if they've accurately reported
10 it, was false?---Yes.

11 It wasn't SCWRAG; it was you that provided the information that
12 Mr Aziz was relying on?---Yes, but it wasn't legal advice.
13 But I agree with you it was false, yes.

14 And did that trouble you?---I think the whole thing is
15 troubling, Mr Commissioner.

16 Did it not occur to you that this is a councillor who has told
17 a number of obvious lies - you were a person in a position
18 to know they were lies - to the newspaper?---Yes.

19 Which should have led you to ask, "Why is he doing
20 that"?---I wasn't independent.

21 Yes, Mr Tovey.

22 MR TOVEY: The answer to the Commissioner's question is pretty
23 obvious, isn't it? You knew why he was doing it, and that
24 was because he was trying to do whatever Mr Woodman
25 wanted?---Yes. I think he was just living his own reality
26 of it all.

27 COMMISSIONER: Just dealing with astroturfing and your
28 understanding of it from having looked at the ICAC report,
29 was this your first occasion that you had experienced this

1 concept of astroturfing, that is the manipulation of a
2 community representative group to the developer's
3 ends?---I see SCWRAG as being - an opinion being
4 facilitated - - -

5 Yes, but I'm not asking you that. I'm asking had you had any
6 other experiences?---No. No, I hadn't had an experience
7 of - it's a classic John Woodman strategy.

8 Mr Woodman has given evidence on oath to me that this was a
9 common modus operandi by developers, to use the community
10 representative group - - -?---Yes.

11 To further the developer's objectives, and he said that in the
12 context of, as I remember it, a letter being written to
13 the minister by the community representative group, in
14 this case SCWRAG, and Mr Woodman's response was to the
15 effect, "Well, the minister wouldn't need to be told that
16 I, the developer, was behind that letter because the
17 minister would know that because developers are always
18 behind those sorts of things by the community interest
19 group." You don't agree with that?---No. If that was the
20 case why was so much effort made to ask people if they
21 wanted to be members of the Save Cranbourne West Residents
22 Action Group? Why did we go around and ask individual
23 residents in Cranbourne West whether they wanted to sign a
24 petition in support of a rezoning? But in terms of
25 community groups being a planning tool that developers
26 use, there are other instances of major players nationally
27 and in Victoria who use this exact methodology, this tool.
28 You mean you haven't had personal experience of it, but you
29 know of it?---I do know of it, and the experience I have

1 had with it is working with John.

2 So is it your view there needs to be some level of transparency
3 in the future about - - -?---Yes.

4 The relationship between a developer and a community interest
5 group?---Yes, and where the money is coming from to
6 resource them, yes.

7 MR TOVEY: I want to play to you now tabs 198 and 199 and 200,
8 which are a series of conversations between yourself and
9 Mr Woodman on 19 October 2018, which is the day after the
10 publication of the article?---Was the article published on
11 the 29th or the 28th?

12 Sorry, I apologise, it's just before the publication of the
13 article, but you are anticipating - - -?---The article.

14 The article, yes, because you know enquiries are being
15 made?---Yes.

16 (Audio recording played to the Commission.)

17 MR TOVEY: All right. Now at that stage somebody is sniffing
18 around about the association between yourselves and
19 SCWRAG?---Yes.

20 And you are looking there to see whether or not - whether it's
21 capable of being denied?---No, I was trying to answer
22 honestly, and when SCWRAG incorporated I showed Ray how to
23 incorporate, but I had set up the website.

24 No, but the reason you are being asked the question about
25 whether or not your name appears on anything and you are
26 saying, "I'm going to have to check" - - -?---Yes.

27 Is anticipation of being able to deny it if your name doesn't
28 appear?---Yes, I think he would have thought the
29 perception of my name being on it would not be positive;

1 yes.

2 So the plan was to deny it if you could?---Yes.

3 COMMISSIONER: What was the date of that call, Mr Tovey?

4 MR TOVEY: The date is 19 October 2018, and this is the first
5 part of a call between Mr Woodman and Ms Schutz starting
6 at 4.27.

7 COMMISSIONER: Are you going to other parts of it?

8 MR TOVEY: Yes.

9 COMMISSIONER: Very good. I will make that exhibit 106A.

10 #EXHIBIT 106A - Excerpt of phone conversation between
11 Mr Woodman and Ms Schutz on 19 October 2018.

12 MR TOVEY: The conversation then continues on at tab 199.

13 (Audio recording played to the Commission.)

14 MR TOVEY: All right. So that's more of the same
15 discussion?---Yes.

16 And you are talking about the same aim and that is if necessary
17 determining whether or not you can deny the
18 association?---I think working out whether I had in fact
19 set up the association.

20 Yes, but for the purposes of ultimately being able to deny it
21 if there was nothing on paper; that's what the purpose of
22 that conversation was?---I think it was to work out the
23 facts. I think he wanted to tell me what the facts were,
24 yes.

25 But you knew why he was asking?---I haven't always known why
26 John's asked me questions. I think my immediate - my
27 intention when I think back to that conversation was to
28 tell John what the facts were.

29 COMMISSIONER: That's 106B.

1 #EXHIBIT 106B - Excerpt of phone conversation between

2 Mr Woodman and Ms Schutz on 19 October 2018.

3 MR TOVEY: Then if we could play the remaining section. This
4 is now tab 200.

5 (Audio recording played to the Commission.)

6 MR TOVEY: All right. It must have been the case, mustn't it,
7 as has already been put to you, that the first thing that
8 occurs to you is the reason that Gary Rowe is supporting
9 this is because he's on the take; that must have been very
10 apparent to you that the converse also applied and that
11 the reason that Mr Ablett and Mr Aziz were supine when it
12 came to the requirements of Mr Woodman was because they
13 were on the take?---I think I had convinced myself in my
14 mind because it was clothed in a community - the community
15 was supportive of it, but I understand what you are
16 saying, Mr Tovey, yes.

17 And I just want to get back to you what I put to you before.

18 You just wanted to keep it at arm's length, close your
19 eyes?---I think I was just too close to - I wasn't
20 independent anymore. I was an advocate for the client and
21 I wasn't acting independently.

22 Before I go on, Mr Commissioner, could I please tender The Age
23 article at page 379, that's The Age article of 28 October.

24 COMMISSIONER: That will be exhibit 107.

25 #EXHIBIT 107 - The Age article of 28 October 2018.

26 MR TOVEY: After that article was published, and I'm not in a
27 position to take you to this particular conversation, but
28 do you recall whether on 25 October - sorry, the article
29 is still coming. So on 25 October was there - did you

1 have a conversation with Mr Aziz about him being
2 approached by a scumbag journalist?---You are asking me a
3 question that I obviously did, I think. Well, the way
4 you've asked me your question - - -
5 What I'm suggesting to you is that on 25 October there was a
6 conversation - - -?---Yes.
7 Between yourself and Mr Aziz - - -?---Yes.
8 Where he told you he received a call from a scumbag
9 journalist?---I can't recall the conversation, but
10 I would - - -
11 Was there a conversation with Mr Aziz about the fact that there
12 was an Age investigation going on?---I assume, given you
13 are asking me the question the way you are, that there was
14 a conversation, but I can't recall it.
15 I now want to go to tab 159.
16 COMMISSIONER: I don't think this has been played, has it,
17 Mr Tovey?
18 MR TOVEY: It hasn't, no, Mr Commissioner.
19 COMMISSIONER: This is a phone call between Ms Schutz and
20 Mr Aziz?
21 MR TOVEY: This is a conversation of 25 October 2018 between
22 Megan Schutz and John Woodman taking place at 4.24.
23 (Audio recording played to the Commission.)
24 MR TOVEY: I'll just ask you one question before we break.
25 Were you there discussing with Mr Woodman how far Ray
26 Walker was prepared to go in disguising the nature of your
27 relationship?---I think I rang up Ray to find out what
28 Ray's views were on the relationship.
29 Yes, but at that stage you were suggesting, were you not, at

1 the bottom of the page, on the bottom of the first page -
2 - - ?---Can I just - can I go up to the first page?
3 Thanks. Yes, which lines are you - - -
4 So - - -?---Lines 16 to 18?
5 COMMISSIONER: What did you mean by that last answer,
6 Ms Schutz, "I rang him to find out what his views of the
7 relationship were"? This is your relationship with
8 him?---Yes.
9 Why did you need to ring him to find out what his views of the
10 relationship - do you mean by - is that a euphemism for
11 saying, "I wanted to find out what he was prepared to
12 say"?---What he was proposing to say.
13 Yes?---Yes. So what Ray's views were, yes. Yes.
14 MR TOVEY: If we just scroll down a bit. Sorry, back the other
15 way. Back up again, thank you. Sorry, back the other
16 way. Stop. (To witness.) So you see there, "Ray has
17 nothing to hide." You go on to talk about, "He's got the
18 best story because" et cetera, et cetera. Then you say,
19 "Because of his relationship with me" - sorry, "his
20 relationship with me he has met me on the Leighton's
21 property and, yes, SCWRAG was established as part of
22 rezoning the land"?---Yes.
23 So that was him preparing to understate in fact the nature of
24 your relationship, wasn't it? Ray Walker has said, "Look,
25 I'm prepared to say I met her at Leighton's property,
26 but" - - -?---He met me at a community day, originally.
27 But I think his views - well, the views he has stated to
28 me is that the community and Leightons Property are
29 beneficial to each other because they want the same thing;

1 yes, they want the same outcome.

2 What I'm saying to you, though, is that when you are relating

3 back to Mr Woodman here - - -?---Yes.

4 What Ray has said to you, you are telling Mr Woodman what Ray

5 is prepared to say to accommodate his concern that the

6 relationship or the true relationship not be disclosed;

7 that was the purpose of this conversation?---I was

8 communicating to John what Ray had said to me. So

9 I wasn't - it was pretty much just communication of what

10 Ray had said to me.

11 But the reason you had gone to Ray was to see whether or not he

12 was prepared to cover up, weren't you?---No.

13 Well, you see you indicate, "Yes, he's met me on the Leighton's

14 property and yes"?---Yes.

15 Now, your relationship was - in fact you were part of the same

16 working group - - -?---Yes.

17 Organising Woodman's strategies; all right?---Yes.

18 Now, you knew that your expectation was that you were conveying

19 back to Mr Woodman that Ray was going to give the

20 impression that you had a very limited involvement, and

21 that's why it was going to be him saying that he's met you

22 on Leighton's property. That's very different from

23 saying, "Look, we were meeting many, many times in groups

24 with councillors"?---I wouldn't have told Ray - I wouldn't

25 have said to Ray, "You're to tell people that you've had

26 limited involvement with me." I wouldn't expect Ray to do

27 that.

28 But you are reporting back on what he has said to you, and what

29 he's going to say if he's asked is, "He's met me on

1 Leighton's property" - - -?---Yes, when I say "Leighton's
2 property" I'm talking about there Leighton Properties'
3 rezoning, which is true. That's where he did originally
4 meet me.

5 But that's a huge understatement, isn't it, as to the true
6 nature of your relationship?---I think we have talked
7 about it in detail this morning and it's very clear that
8 over the last four years Ray has been a paid consultant
9 doing paid pieces of work and at the same time he's been
10 the conduit for the community group.

11 And when you said, "I'm not going to lie" - - -?---Yes.

12 You were saying - what you said to him is, "I'm not going to
13 speak to them because if I spoke to them I would have to
14 lie"?---Well, and I wasn't going to lie, yes.

15 That's why you weren't going to speak to them; true?---Look, it
16 was recommended to me that I didn't speak to them.

17 Because you would have to lie?---I wasn't going to lie.

18 COMMISSIONER: Who made that recommendation to you?---I think
19 I spoke to both John Woodman and Heath Woodman, and the
20 views of both were that it was going to be a biased piece
21 because The Age doesn't like developers and that there was
22 no - there wasn't going to be any good coming out of it in
23 terms of, you know, a balanced reporting. That was
24 the - - -

25 Do you remember in the phone call that you had before this one
26 here that's been played - - -?---Yes.

27 When counsel put to you that Mr Aziz in speaking to you said he
28 had been called by a scumbag journalist - - -?---Yes.

29 Do you recall what you told Mr Aziz you were going to say to

1 SCWRAG about your relationship or what SCWRAG should say
2 about - - -?---No. No, I don't recall. Is there a - - -
3 MR TOVEY: We'll have to seek to obtain that call. In the
4 course of that conversation you also made reference, did
5 you not - - -
6 COMMISSIONER: Which conversation, Mr Tovey?
7 MR TOVEY: This is the conversation at tab 59 - sorry, tab 159.
8 COMMISSIONER: Yes, but you need to make clear to the witness
9 what conversation you are speaking of.
10 MR TOVEY: Yes. This is the conversation that you have heard
11 played to you in the course of that conversation with
12 Mr Woodman, "Ray agrees with me that I have not provided
13 legal advice to the community"?---Yes.
14 And so what that would indicate is that you have - you had a
15 sit down with Ray and he's going to agree that you didn't
16 provide legal advice to SCWRAG?---What I was referring to
17 there was that I had on behalf of the community gone to
18 Paul Chiappi for legal advice.
19 Sorry, you had?---Gone to Paul Chiappi for legal advice.
20 Yes, and what advice was that?---In relation to the invalidity
21 of the 4 September resolution; yes.
22 And so insofar as you were providing for the use by Ablett and
23 Aziz a legal advice it wasn't your legal advice?---No.
24 So just tell me how that played out?---In terms of getting the
25 legal advice?
26 No, because - - -?---Sorry.
27 So you have there Ray agreeing with you about something?---That
28 he agrees that - - -
29 "I have not provided legal advice"?---Yes.

1 So there must have been some advice that you sought agreement
2 from him about?---Sorry, where are the words? What lines
3 are the words at?
4 This is towards the bottom of the - so if we go to page
5 2?---John says - I have, "Ray agrees with me that I have
6 not provided legal advice to the community."
7 Yes?---And what's John said above?
8 And then you see - - -?---He said, "What about the question on,
9 'Did Ms Schutz provide legal advice?'" See, I think John
10 was talking about Sam Aziz referring to me - the provision
11 of legal advice, and then I've come back with a response
12 which I assume is referring to me getting Paul Chiappi to
13 provide legal advice to the community. That's
14 my - looking at those two lines, that's my current
15 understanding of what they mean.
16 COMMISSIONER: Ms Schutz, has it not yet occurred to you that
17 the net result of your communications on this day,
18 25 October, first with Mr Aziz, then with
19 Mr Woodman - sorry, then with Mr Walker, and then with
20 Mr Woodman explain why the next day or the day after,
21 whenever The Age journalist interviewed Mr Aziz, Mr Aziz
22 gave the false explanation that I've directed your
23 attention to in The Age article about SCWRAG and
24 independent advice? That all came about because of a day
25 of discussion between you all as to what Mr Walker was
26 going to say and what therefore Mr Aziz could tell the
27 journalist? Do you want to go back to The Age - -
28 -?---No, I think I need to see my conversation with Sam
29 Aziz because I think what you're suggesting is the

1 conversations and me talking to Sam Aziz and talking to
2 John Woodman and talking to Ray Walker was colluding in
3 relation to the response to The Age; is that what
4 the - - -

5 Well, you didn't know - beyond the fact that you knew The Age
6 wanted to speak to certain people, you included - -
7 -?---Yes.

8 You didn't know what The Age was going to publish. But you
9 anticipated that SCWRAG would need to say something about
10 the source of the advice they were relying upon, and what
11 you were doing in these communications was to make clear
12 to Mr Walker that he was not going to run the line that
13 the advice he was relying on came from you?---Yes, because
14 it didn't come from me.

15 And then Mr Aziz when interviewed by The Age repeated
16 that?---Yes. The advice didn't come from me. So whatever
17 I said to Sam Aziz, you're saying that's the basis of what
18 Mr - you're saying that's the basis of what Sam Aziz told
19 The Age?

20 Yes, and that's because he knew you had agreed with Mr Aziz as
21 to what you were going to tell Mr Walker he should say if
22 he was contacted?---So I had communicated to Sam Aziz what
23 Ray Walker was going to say if he had - sorry, I just
24 haven't seen the conversation from Sam Aziz. So I'm
25 not - - -

26 MR TOVEY: I will just take you to a continuation of that
27 conversation. There's a further part to it,
28 Mr Commissioner, at tab 160.

29 MR LEWIS: Just before that's done, Mr Commissioner, I wonder

1 if an enquiry could be made of my client as to how she's
2 travelling and whether she needs a break, acknowledging we
3 have been going for an hour and a half this afternoon.

4 COMMISSIONER: Yes, certainly. (To witness.) We normally
5 break halfway through the afternoon. Would you like to
6 stop now? Is that a convenient time for you, Mr Tovey?

7 MR TOVEY: It is.

8 WITNESS: Yes, to be honest, I feel like I'm getting really
9 confused now.

10 COMMISSIONER: We'll have a break. Have a 10-minute break now.

11 (Short adjournment.)

12 COMMISSIONER: Yes, Mr Lewis.

13 MR LEWIS: Mr Commissioner, having had the opportunity to speak
14 to my client during the break, she's not feeling
15 particularly well at all. I think probably because of a
16 lengthy day.

17 COMMISSIONER: Yes.

18 MR LEWIS: So could I raise that firstly and if I can request a
19 shorter day today than normal. That would be greatly
20 appreciated because she is, I think, just generally
21 feeling - - -

22 COMMISSIONER: I can understand it's been a hard day for her.

23 MR LEWIS: A long day; that's right.

24 COMMISSIONER: Ms Schutz, we'll adjourn until 9.30 tomorrow
25 morning. We have a short day tomorrow. We'll be finished
26 by 12 o'clock tomorrow?---Okay.

27 So go away, have a good night's sleep, refresh yourself and

28 we'll see you in the morning at 9.30?---Yes.

29 You can leave the witness box, thank you?---Thank you.

1 <(THE WITNESS WITHDREW)

2 MR TOVEY: Mr Commissioner, before we adjourn can I tender tab
3 159.

4 COMMISSIONER: Yes. That was the last phone call?

5 MR TOVEY: Tab 159 was part of the phone call at 4.24 pm - - -

6 COMMISSIONER: On the 25th.

7 MR TOVEY: On the 25th, yes.

8 COMMISSIONER: That's exhibit 108.

9 #EXHIBIT 108 - Phone conversation between Megan Schutz and John
10 Woodman on 25 October 2018.

11 COMMISSIONER: So we will resume at 9.30 tomorrow morning and
12 conclude at 12 o'clock. The facilities here require that
13 we cannot sit beyond 12 tomorrow. I will make an
14 announcement tomorrow also about the likely resumption of
15 public hearings in the new year and I'll provide more
16 detail at that time. So adjourn, please, until 9.30 am.

17 ADJOURNED UNTIL FRIDAY, 6 DECEMBER 2019 AT 9.30 AM

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