
TRANSCRIPT OF AFTERNOON PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

MONDAY, 2 MARCH 2020

(14th 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 2.12 PM:

2 <MEGAN ANN SCHUTZ, recalled:

3 COMMISSIONER: Yes, Mr Tovey.

4 MR TOVEY: Thank you. There is a telephone call, which at this
5 stage hasn't been transcribed, on 12 October of 2018
6 between you and Mr Walker about getting crash data from
7 the police in respect of Hall Road. Now, that's something
8 I think that you've already indicated that you did do.
9 You'll have to say "yes"?---Sorry, yes.

10 And that data was passed on I think to Mr Aziz, was it
11 not?---Yes.

12 And you and Mr Walker, I'd suggest, were discussing how to best
13 use that data to put some leverage on the council to do
14 what you wanted in respect of Hall Road and H3?---Yes,
15 I think the data Mr Walker had managed to get from the
16 police directly was much more current than the data in the
17 Traffix Group report.

18 The situation was that in fact SCWRAG itself had contacted the
19 police?---Ray had contacted the police, yes.

20 And it was SCWRAG who sent the resulting data to Sam Aziz, or
21 did you send it?---I can't recall.

22 Okay. Could you have a look, please, at pages 4620 to 4623.

23 Now, is that an email between yourself and Geoff Ablett
24 relating to the Hall Road intersection?---Yes, I was asked
25 to brief Geoff early in August.

26 And that's what you're doing there?---Yes.

27 And there you are suggesting to him the way in which the
28 motion - sorry, the urgent business motion should be
29 proposed that evening?---Yes.

1 Scroll down, please. Just looking at that and if we could just
2 scroll through it gently, would you agree that really is a
3 reiteration of all the arguments or many of the arguments
4 that have been put forward time and again in respect of
5 the justification for the early completion of H3?---So,
6 I'm briefing him in relation to the content of Dacland's
7 permit, yes, and the planning scheme provisions and the
8 arguments supporting the delivery of H3 by Dacland and why
9 it shouldn't be deferred, yes.

10 If I could tender that, please, Mr Commissioner?---I note,
11 though, in the top bullet point if you go up the top, it
12 refers to SCWRAG - no, that's the legal representative
13 of - sorry, I thought it was something different. That's
14 fine.

15 COMMISSIONER: Were you aware at that time that Mr Ablett had a
16 conflict of interest?---Yes, I knew that Geoff had a
17 conflict of interest on the basis that he owned a
18 racehorse with John Woodman.

19 That's the only conflict - is that the only matter that you
20 were aware of giving rise to a conflict?---My recollection
21 is that's the only matter that I was aware of that I had
22 been told about that gave rise of a conflict.

23 And weren't aware of - - -?---And the other thing I was aware
24 of was that he had - John had supported Geoff when he was
25 running as a Liberal candidate.

26 So you were aware that Mr Woodman had also made campaign
27 donations?---Yes, I was aware, but I think Councillor
28 Ablett only ever declared his conflict in relation to the
29 racehorse.

1 But not the donations?---I'm not sure. I can't recall.
2 In any event, you were sending this instruction to
3 Mr Ablett?---Yes.
4 Notwithstanding you knew he had a conflict?---Yes.
5 And what were you expecting Mr Ablett to do with that
6 information?---My understanding is he was going to arrange
7 for other councillors to raise it.
8 Did you realise at the time that that would be
9 unethical?---I didn't think it was unethical at the time.
10 What about now?---I think it should be made clear in the Local
11 Government Act that a councillor that's got a conflict of
12 interest should not be able to advocate for arguments to
13 other councillors in relation to which they have a
14 conflict of interest.
15 Is that your view now?---Yes.
16 Why didn't that occur to you at the time, Ms Schutz?---I think
17 I was on the run all the time just actioning matters
18 without really sitting down and looking at the big
19 picture. I would have been asked to provide a brief maybe
20 the morning or the day that I provided this brief, maybe
21 the day before.
22 You see, something I don't understand, Ms Schutz, is you're
23 surrounded by people with conflicts. You've got
24 Mr Ablett, to whom you are passing information, has got a
25 conflict?---Yes.
26 You've got Mr Ablett working with Mr Walker. Mr Walker has got
27 a conflict which he should have - - -?---Mr Walker's
28 a - the conflict that Mr Walker's got?
29 You've told us about that this morning?---I am not sure

1 whether - like, I think - it's a question for Mr Walker,
2 but the fact that Mr Walker was acting as a consultant, as
3 a lobbyist really and getting paid for it by a developer's
4 representative, I would have thought, reading the
5 constitution for SCWRAG, that he should have declared that
6 to SCWRAG.

7 Yes, you've told us about that?---And I'm not sure whether he
8 did or not.

9 But what I'm suggesting to you is you're surrounded by people
10 who are in conflict situations and you didn't at the time
11 see any problem with any of that and you - - -?---So, I've
12 briefed a councillor that's got a conflict of interest.

13 I knew Geoff Ablett at the time had a conflict of interest
14 as a councillor with matters that Watsons was working on.

15 But - - -

16 I don't want to take you back to the phone calls that were
17 played last year to you?---Yes.

18 And then you're having conversations with Mr Woodman about
19 other councillors, why they have a conflict situation or
20 councillors who you know are simply going to act at the
21 behest of Mr Ablett; I don't want to name them at this
22 stage. Did not that whole environment trouble
23 you?---I was asked to implement a planning strategy and
24 these were the elements of the planning strategy that
25 I was asked to implement. On reflection, yes, I think the
26 environment - it does trouble me.

27 I understand you've made clear you see all that now. Are you
28 saying to the Commission you did not appreciate that this
29 environment was so troubling at the time?---I realised it

1 was so troubling when I saw what was going on at council
2 meetings, when I watched the council meetings live, yes,
3 I did realise it was troubling.

4 Yes, Mr Tovey. I will mark that exhibit 120, email between
5 Ms Schutz and Mr Ablett dated 7 August 2018.

6 #EXHIBIT 120 - Email between Ms Schutz and Mr Ablett dated
7 07/08/18.

8 MR TOVEY: Commissioner, what was that date again?

9 COMMISSIONER: 7 August 2018, 4620.

10 MR TOVEY: You've told us how after 16 October you wanted to
11 withdraw yourself from the process which had disturbed you
12 on 16 October 2018; is that the situation?---Yes.

13 It was the case, was it not, though, that you still continued
14 to assist Mr Woodman in his dealings in respect of both
15 C219 and H3?---Yes, but I didn't have anything to do with
16 the further negotiations and discussions that Mr Woodman
17 had with Dacland and with SCWRAG and negotiation with
18 council, from my recollection.

19 In the days following 16 August - sorry, 16 October, it was the
20 case, was it not, that you had several meetings with
21 Mr Walker which were also attended by
22 Mr Woodman?---I don't recall having several meetings with
23 Mr Walker attended by Mr Woodman. I recall I think it was
24 at that time that John asked me to organise a meeting with
25 Mr Walker so he could come and speak to Mr Walker about
26 the reasons why the H3 intersection needed to be delivered
27 at the same time the growling grass frog culverts were
28 delivered and the duplication of Hall Road were delivered,
29 and I organised that meeting.

1 Could the witness, please, be played tab 11, which is a
2 conversation between herself and Mr Woodman on 17 October
3 2018.

4 (Audio recording played to the Commission.)

5 MR TOVEY: You saw there that he was seeking to have a meeting
6 organised for the next day?---Yes.

7 And that was to work out a strategy going forward?---Yes.

8 And he wanted to protect his interest in case he lost the
9 casting vote?---What date was the conversation?

10 That date is 17 October 2018?---So the meeting was on
11 16 October 2018.

12 The council meeting was on 16 October. This is the
13 18th?---Then he rang me on 17 October?

14 Yes. You will see in the third last line there, "Because
15 moving forward if something happens and we lose the
16 casting vote, we're going to be in trouble"?---Yes.

17 All right. So there was an understanding between you at that
18 stage that he had control of council so long as he
19 had - sorry, of council decisions so long as he had the
20 casting vote ?---So I had said to him, "Are you sure you
21 have the numbers to get this through council," yes.

22 Yes?---Yes.

23 And was he not there acknowledging that so long as he had the
24 casting vote he was okay, but - - -?---That's what he's
25 saying there, yes, to me.

26 If somebody gets injured or drops off the perch, then he
27 wouldn't have the vote?---Yes, which was clear from the
28 16 October and 4 September meetings.

29 Could you please be shown image 8.

1 COMMISSIONER: I will make that phone call exhibit 121,
2 Mr Tovey, 17 October 2018.
3 MR TOVEY: Thank you.
4 #EXHIBIT 121 - Phone call between Ms Schutz and Mr Woodman on
5 17/10/18.
6 MR TOVEY: Could image 8 please be given a number,
7 Mr Commissioner?
8 COMMISSIONER: What is the date of that, Mr Tovey?
9 MR TOVEY: 18 October 2018.
10 COMMISSIONER: Yes.
11 MR TOVEY: That's a photo taken the next day on 18 October at
12 the Coffee Barn Bistro and Bar?---Yes, at Marriott Waters
13 Estate, yes, the shopping centre nearby on Thompsons Road.
14 Yes. You can't see you, but is that you and Mr Woodman?---Yes.
15 And Mr Walker?---Yes.
16 All right. I think you've already been played these telephone
17 calls which are exhibit 31 and 39 and 105, just for the
18 purposes of the transcript. But it would appear that
19 immediately before that meeting Mr Woodman - sorry, you
20 might not have been played these. Mr Woodman, that's John
21 Woodman, tells Heath Woodman that he's met with Stapledon,
22 who has the numbers and is very much on side, and that he
23 and you, that is that John Woodman and yourself, are going
24 to meet with Walker to discuss amendment C219 and the fact
25 that they have to rely on SCWRAG to get C219 over the line
26 and that they were lobbying politicians, namely Donnellan,
27 Wynne and Pallas. Now, that's the conversation between
28 Heath Woodman and John Woodman immediately before that
29 meeting discussing what is going to happen at the meeting.

1 Now, my question of you is, and I can tell you this:

2 following the meeting, exhibit 105 is another phone call

3 where you and - - -

4 COMMISSIONER: Mr Tovey, when you say "following the meeting",

5 do you mean following the meeting depicted in the image?

6 MR TOVEY: Yes.

7 COMMISSIONER: Yes.

8 MR TOVEY: Between yourself - sorry, there's a telephone call

9 where you tell Mr Woodman that Walker was on board and he

10 said to you that you had trained Walker well. Now, you

11 recall hearing that - - -?---Yes, I remember that

12 conversation, yes.

13 So that's the way it went?---Yes.

14 So what I'm suggesting to you is it's tolerably clear from

15 that, is it not, and tell me if you've got a different

16 recollection, that that meeting was to discuss ongoing

17 strategy in respect of C219?---Yes, I can't - I thought

18 before you put that image up that the content of that

19 meeting was about John talking to Ray about the reason for

20 the culverts and I don't recall it being about 219, but it

21 could have been. It was a long time ago.

22 Well, there were a number of meetings at this time and I'll

23 take you to them?---Yes.

24 But what was indicated then in the conversation between Heath

25 Woodman and John Woodman is that the meeting was to talk

26 about C219, about the fact that you had to rely on SCWRAG

27 to get C219 across the line, and the lobbying of

28 politicians, including Donnellan, Wynne and Pallas?---Yes.

29 Is that consistent with your recollection of what was happening

1 around that time?---To be honest, I don't remember the
2 content of the meeting. But, look, if that's - if he had
3 had a discussion before the meeting with his son that
4 that's what he was going to do, I'm assuming that's what
5 the content of the meeting included.

6 Insofar as there had been strategies around the briefing and
7 the lobbying of Donnellan, Wynne and Pallas, were you
8 aware of any association between Mr Woodman and
9 Mr Donnellan? Do you know whether he had supported him in
10 any way or whether they had any other association?---I had
11 met with Mr Donnellan at boardroom lunches that either had
12 been organised as fundraisers by Phil Staindl or they had
13 been Progressive Business boardroom lunches or Progressive
14 Business forum days.

15 And had you met him on a number of occasions?---Yes, and always
16 when I met him there was one of his ministerial staffers
17 with him.

18 However, was it the case when you met with Mr Donnellan that
19 you were able to discuss projects that you had an interest
20 in?---Yes, so I had been asked to provide briefing notes,
21 to prepare briefing notes to be provided to Luke
22 Donnellan, yes.

23 Were you aware whether or not Mr Woodman had made contributions
24 to campaigns of Mr Donnellan?---Not firsthand and I can't
25 recall - - -

26 Well, did you have any knowledge about that?---I can't recall
27 directly right now.

28 Now, what about Mr Wynne? He's mentioned there. Have you had
29 any interface with Mr Wynne?---I have had one interface

1 with Mr Wynne, yes.

2 That's something I will take you to at the end. Is that where
3 you had a go at him?---I didn't have a go at him, no.

4 I went to a Progressive Business forum. He had an open
5 conversation. There were a lot of developers in the room
6 and I asked Mr Wynne in the abstract, theoretically, if he
7 had a planning scheme amendment sitting on his desk that
8 had been recommended for approval by his independent
9 planning panel and which had been adopted for council,
10 would his general position be to approve it.

11 Yes?---You know, my recollection of that it was before The Age
12 article came out and I think he obviously - you know, I'm
13 assuming he knew about The Age article and that was the
14 reason why it hadn't gone anywhere because - - -

15 At that stage did you know that The Age was
16 investigating?---I knew The Age because I had numerous
17 phone calls from Age reporters chasing me for comment that
18 there was going to be an article.

19 I'll go back to that shortly. And then Mr Pallas. When I say
20 shortly, I'll go back to it some time later in the day,
21 that is the conversation with Mr Wynne, Mr Commissioner.
22 (To witness.) Now, with Mr Pallas, what association, if
23 any, whether it be contributions, whether it be
24 fundraisers, was there to your knowledge, either direct or
25 indirect, between Mr Pallas and Mr Woodman?---Again, my
26 experience of meeting with Mr Pallas was that I had been
27 asked to provide briefing notes to Tim Pallas on various
28 matters and I provided those briefing notes to him at
29 either boardroom lunches, Progressive Business forums,

1 they were the places that I provided the briefing notes to
2 him, and discussed issues with him. He always had a
3 member of his staff at those meetings.

4 And when you say you discussed issues, these were planning
5 issues that Mr Woodman was concerned with?---Yes, they
6 could be - sometimes John would take him broad issues like
7 the affordable housing debate and put his two cents worth
8 in. Sometimes they were specific issues relating to
9 particular projects.

10 On how many occasions was it that you were present when those
11 sorts of conversations were had with Mr Pallas?

12 MR LEWIS: Just in terms that question, Mr Commissioner, there
13 were two types of conversations referred to, so perhaps if
14 that could be clarified.

15 COMMISSIONER: Yes. Yes, Mr Tovey.

16 MR TOVEY: On how many occasions were you present when
17 conversations of that nature were conducted with
18 Mr Pallas?---The generic ones or project specific ones?
19 Project specific?---Project specific conversations, I would
20 have to go back and consult my diary for a specific
21 number.

22 Yes?---But there would have been a handful, on my recollection.
23 So you have maintained a diary, have you, day by day as to who
24 you met and - - -?---I have an electronic diary and if
25 I've gone to a Progressive Business forum or I've
26 generated a briefing note, both of those will - I would be
27 able to find those in my - - -

28 I understand we do not have a copy of your diary. Are you able
29 to provide us with an electronic version of the diary or

1 make your diary accessible for a copy to be made?---Yes.

2 Thank you?---I think so.

3 MR LEWIS: Presumably that can be done by direction and in the
4 usual course, Your Honour, my client would comply, of
5 course.

6 COMMISSIONER: Yes, thank you, Mr Lewis.

7 MR TOVEY: I seek such a direction, Mr Commissioner.

8 COMMISSIONER: Yes.

9 WITNESS: I might need some help with the electronics on that.

10 COMMISSIONER: Yes. Perhaps when we adjourn your evidence

11 there can be discussion between Mr Lewis and those

12 instructing Mr Tovey as to how that might be achieved.

13 Thank you. Did you generally, if you had the opportunity

14 to speak to a senior minister like Mr Pallas, did you

15 normally tell Mr Woodman that you'd met them and had a

16 conversation with them?---I would only speak to a senior

17 member because I'd been instructed to. So, I would have

18 been asked to prepare a briefing note and I would have

19 been instructed to speak in relation to that briefing note

20 about the planning. It would have been the planning

21 proposition supporting it.

22 But were there not occasions where you were at a function and

23 very senior people in government were present and you

24 spoke to them?---Yes.

25 Even if you didn't have a preceding instruction from Mr Woodman

26 to speak to them, would you tell Mr Woodman after the

27 event that you'd spoken to them?---Yes, yes.

28 Was there an occasion when you spoke to the Premier?---Yes.

29 And you told Mr Woodman?---Yes.

1 So the Premier was aware of who you were and Mr Woodman
2 was?---Yes.

3 MR TOVEY: There were a whole series of discussions involving
4 Mr Woodman and Mr Staindl and others about a draft letter
5 from SCWRAG being sent to the minister?---Yes.

6 And ultimately what was being discussed was sending a draft to
7 his chief of staff, Mr Keogh?---Yes.

8 To make sure that it was something that was capable of being
9 looked at favourably and then having the final version
10 compiled after Mr Keogh had run his eye over it. Was that
11 a process that you were aware of?---I know that that line
12 of questioning has come up and I assume that I had some
13 involvement in it because it was a letter that was
14 generated by SCWRAG and I assume that I would have been
15 the one who had asked SCWRAG to, but I'm not sure if it
16 was myself or Tom Kenessey, to be honest, who asked SCWRAG
17 to prepare a letter. I'm not sure.

18 You see, this was a letter which was to be presented only as a
19 draft?---Yes.

20 And then presumably to be refined after there had been some
21 feedback?---I need to have a look at my file in relation
22 to that issue because I'm not clear. I can't recall right
23 now what the facts are.

24 This was all around 18 October?---Yes.

25 And I'd suggest to you again it was around 18 October that you
26 and Mr Woodman discussed that there was an Age
27 investigation underway?---Yes.

28 And one of the matters that you adverted to was whether or not
29 it was going to be possible for The Age to make the link

1 between you and Mr Woodman and SCWRAG?---Yes.

2 Is that something - that's a discussion which took place?---At

3 the meeting?

4 No, in a telephone conversation?---Conversation.

5 We have already been to these - - -?---Yes, I know.

6 106A, 106B, 106C?---Yes, I know. But the transcription of the

7 telephone conversations isn't in the transcript and

8 I haven't had the opportunity to refresh my memory in

9 relation to those conversations.

10 All I want to know is was one of your concerns, once The Age

11 started asking questions and you became aware of The Age

12 investigation, whether or not a link could be made between

13 yourselves and SCWRAG?---I remember generally my concern

14 was that we had a highly sensitive rezoning on the

15 doorstep of the Minister for Planning and The Age, in my

16 experience, had never reported kindly in relation to

17 development projects which resulted in a profit. I can't

18 recall specifically right now, without listening to that

19 phone call, whether my specific concern was about the link

20 between John Woodman, myself and SCWRAG and, if The Age

21 found out about that, a concern about how they might

22 report in relation to that.

23 Can we go to the 30 October image '18, which again are

24 surveillance photos.

25 COMMISSIONER: What date was that?

26 MR TOVEY: 30 October 2018. Those are Mr Woodman's car and

27 Mr Walker's car at your residence; you understand?---Yes,

28 at the time that was my residence, yes.

29 And did you meet there from time to time?---That was the only

1 occasion that I met with John and Ray together at my home.
2 Why was it that you needed to meet at your place on that
3 day?---It might have been because John wanted a meeting
4 and I was looking after my kids. I can't remember.
5 What was discussed?---I'm assuming - my recollection is it was
6 matters in relation to H3 and I'm assuming C219 came up as
7 well.
8 On 4 November 2018 there was a conversation between Mr Woodman
9 and Mr Walker where they discussed Henry Turnbull
10 from - sorry, getting Henry Turnbull from the Traffix
11 Group to do a report relating to H3?---Sorry, 4 November
12 2018?
13 Yes, and Mr Woodman told Mr Walker that you could arrange the
14 meeting to arrange a report and that Woodman would pay for
15 it. I take it you are familiar with the fact that SCWRAG
16 obtained a report from Traffix?---The report was dated
17 31 August 2018.
18 Sorry, the report you're talking about, the Traffix report, who
19 paid for that?---Watsons.
20 And how much was it, approximately?---I'm assuming it was
21 around the \$5,000 mark. I'd have to - for the specific
22 amount I'd have to go back and have a look.
23 Was there a second occasion where a Traffix report was
24 discussed around November 2018?---I don't recollect a
25 second Traffix report. I don't recall a second Traffix
26 report being produced.
27 Was the Traffix report that you originally adverted to one that
28 was used in council in the course of debate?---Yes, I'm
29 pretty sure it was attached to a letter dated 31 August

1 from SCWRAG that was sent to councillors prior to the
2 meeting on 4 September.

3 COMMISSIONER: While you're waiting, Mr Tovey, I'll mark the
4 image at Coffee Barn on 18 October exhibit 122 and the
5 image at Ms Schutz's home of vehicles of Woodman and
6 Walker on 30 October exhibit 123.

7 #EXHIBIT 122 - Image at Coffee Barn on 18/10/18.

8 #EXHIBIT 123 - Image at Ms Schutz's home of vehicles of Woodman
9 and Walker on 30/10/18.

10 MR TOVEY: On 14 November - could you please have a look at
11 surveillance photo images 19 and 20, 14 November 2018?
12 Those are photos of a meeting between yourself, Lorraine
13 Wreford, Mr Walker and Councillor Stapledon at the
14 Sandhurst Club; is that right?---Yes.

15 And following that, without taking you to it because it's not
16 been transcribed yet, but you told Mr Woodman that the
17 meeting was good and Walker was happy with the outcome and
18 you indicated to him that the council were arranging an
19 independent meeting between the parties to work out the
20 delivery of Hall Road works all at once and this included
21 Cranbourne West DCP funding towards the H3
22 intersection?---Yes.

23 Is that something that was discussed and resolved in the course
24 of that meeting?---I thought so.

25 COMMISSIONER: What was Ms Stapledon doing there?---She was the
26 mayor, I think.

27 What was she doing there?---John had asked me to brief Amanda,
28 with the community representative in attendance, in
29 relation to Hall Road issues.

1 Was there a council officer present?---There was no council
2 officer present.

3 Was there not a requirement that if a councillor was to discuss
4 a planning issue with a developer, that there should be a
5 council officer present?---I'm not sure whether that was
6 in the councillor code of conduct. Was it in the
7 councillor - - -

8 Were you not aware of such a rule?---I wasn't aware of such a
9 rule.

10 In any event, I take it that this wasn't the only occasion that
11 you engaged in discussion on a planning issue with
12 councillors without council officers being present?---No,
13 I mean sometimes there were meetings where councillors
14 were in attendance when council officers were there. But
15 when John Woodman had asked me to go and brief a
16 councillor, the councillor - there might be Lorraine
17 there, but, no, there was no council officer there.

18 Mr Aziz gave evidence to the Commission in private that there
19 was a requirement that if a councillor was to discuss a
20 planning issue with a developer there should be a council
21 officer present?---Okay.

22 You weren't aware of that?---No. But I think it's a good idea.

23 MR TOVEY: So what was discussed there was the next move in the
24 H3 strategy. Why was it that Councillor Stapledon was
25 involved in that?---I assume that John had asked me to
26 meet with Councillor Stapledon because she was the mayor
27 by that time. I'm assuming that was why, and my
28 recollection of that meeting was that Ray and Amanda had
29 agreed that it would be a good idea to get the developers

1 and the community in the room together and to work out an
2 agreeable way forward.

3 If I can just stop you there and now divert to Councillor
4 Stapledon. You yourself worked on some planning issues
5 relating to a Blairlogie development, did you?---So,
6 Amanda Stapledon has a disabled son and he attends the
7 Blairlogie Living and Learning Centre, and the Blairlogie
8 Living and Learning Centre is in Cranbourne's green wedge
9 and one of the issues facing the centre is that all of the
10 parents are quite aged now and are struggling to look
11 after their children, and so they wanted to build housing
12 on their site. So I was asked to get involved on a pro
13 bono basis to explore whether they could build housing on
14 that site.

15 And who asked you?---John asked me to get involved.

16 John Woodman did?---Yes. So it took a couple of years to
17 explain to Blairlogie that I really thought the prospect
18 of them getting housing on that site were no prospects,
19 very low because of the green wedge and public policy
20 which sought not to isolate disabled members of our
21 community in the green wedge outside urban centres. So
22 from there I was asked to join a subcommittee and at this
23 stage, I think it was at the end of 2016, Wolfdene wanted
24 to get involved in a not for profit housing project and
25 they were agreeable to partner up with Blairlogie and they
26 set up the Wolfdene Foundation to deliver disabled housing
27 in their estates. So, the first site has already - it's
28 significantly progressed in one of Blueways' estates and
29 I think it's very close to being completed.

1 So is this a site for multiple homes?---It's only four
2 independent living units.

3 Multiple independent living units or - - -?---Yes, four
4 independent living units over two lots.

5 So how many units are you talking about?---Four. Four clients.
6 And was Wolfdene building those?---So Wolfdene was building it
7 and basically Wolfdene had seed funded the project, but my
8 understanding of the - - -

9 I missed what you said?---Seed funded.

10 Seed funded?---But my understanding now that the NDIS has come
11 in and the clients who will live in that housing have
12 complex situations, that Blairlogie through the rent,
13 et cetera, that will be obtained from clients living in
14 those houses will quickly pay off the mortgage and the
15 Wolfdene Foundation will transfer the housing, the title
16 in that housing, to Blairlogie Living and Learning.

17 So your contribution then was first of all to explore the
18 planning issues relating to trying to build in the green
19 wedge?---Yes.

20 And did you spend much time doing that?---I did, yes, but
21 I was - I probably - I had quite a few meetings with
22 council officers, with Blairlogie's CEO in attendance, and
23 probably two or three meetings I think. But, you know,
24 through my research it was so obvious to me - I think we
25 tried to speak to the relevant minister for housing about
26 it as well and I'm pretty sure I went with the CEO and met
27 with the minister for housing's office, a staffer in the
28 office. But it was just never going to happen because it
29 was so contradictory to public policy on disabled living.

1 Anyway, it was John Woodman who had offered your services pro
2 bono?---Yes, he asked me to, yes, and I was very happy to,
3 yes.

4 So is it something that you put hundreds of hours into?---I did
5 put a lot of time into it. I did resource it on a pro
6 bono basis for three or four years, yes.

7 Could you just give us just a global figure as to if you'd been
8 charging for that, how much would it have cost?---I ran a
9 planning application for Blairlogie Living and Learning
10 for the project - well, Wolfdene for the project. It's
11 hard to estimate.

12 Are we talking \$100,000 or - - -?---Well, no, because I was on
13 the subcommittee.

14 I just wanted some sense?---It wouldn't have been \$100,000, but
15 I sat on the subcommittee as a community member and guided
16 them.

17 All I'd ask is a low estimate of what it would have cost them
18 if they had somebody else do it?---If they had have had a
19 planning consultant?

20 Yes?---To run a planning application, I don't know, it might
21 have been - I'm just trying to think back to the work
22 I did. So nothing on the committee because I was a
23 volunteer on the committee. It was really just the
24 planning application. The planning application, I did
25 that work pro bono for Wolfdene Foundation, really,
26 because Wolfdene Foundation were responsible under the
27 agreement between Blairlogie and Wolfdene Foundation for
28 getting the planning permits and delivering the buildings.
29 So I think the work I did pro bono for Wolfdene Foundation

1 was probably about between 15 and \$20,000 worth of
2 planning work, with council waiving the application fees
3 because it was a charity.

4 And what about Wolfdene Foundation?---Yes.

5 Can you give us some global low estimate of what their
6 contribution would have been?---Well, they were seed
7 funding the project, so - - -

8 How much?---They secured both of the allotments for the
9 project. I'm assuming they would have paid a deposit for
10 those lots which would have been 10 per cent of the lot
11 value and then when those lots settled - I'm not sure
12 about when the lots settled, then obviously they would
13 have to - - -

14 Pay?---Yes, there would be a mortgage over them, I'm assuming,
15 and they would be - - -

16 Were they providing the accommodation itself?---So there was a
17 builder providing the accommodation, yes. I'm not sure
18 whether - yes, I'm not sure who was building it, whether
19 it was - - -

20 Was the Wolfdene Foundation paying for it?---I'm assuming that
21 it would have been part of the seed funding and there
22 would have been a borrowing in order to fund the
23 construction of those living units.

24 Then if you're talking about two blocks of land plus - -
25 -?---Four living units.

26 Plus four living units?---Yes.

27 I'd suggest - well, you tell me - but it would have to be
28 something in excess of a million dollars, wouldn't
29 it?---Yes, yes.

1 And who was on the committee that you were on?---So it was
2 the Blairlogie - - -

3 Was Amanda Stapledon on the committee?---Yes, it was a
4 Blairlogie Living and Learning Centre housing
5 subcommittee, yes.

6 And who were the other members?---I haven't been - once the
7 project had got through its - was on its way, I think the
8 development manager, one of the development managers of
9 Wolfdene took over my position on the subcommittee for
10 delivery purposes. But there were a number of - there was
11 the CEO of Blairlogie, Carolyn Carr, and then there was a
12 number of parents on the committee, so parents of - but
13 the four, I think the four clients, there was basically a
14 survey went out from Blairlogie to see who would be
15 interested in the first round of housing and I'm pretty
16 sure the CEO chose the first four candidates for the
17 housing, yes, out of that subcommittee; they were approved
18 at subcommittee.

19 Were you a director of the Wolfdene Foundation?---Yes, I was.
20 So you had attachments both with the giver of the charity and
21 the receiver?---I was asked to, yes, go on the Wolfdene
22 Foundation because I had assisted with creating the
23 partnership, yes.

24 Did the Wolfdene Foundation get funds from anybody other than
25 Wolfdene or John Woodman?---I'm not sure. I'm not sure
26 how they funded it.

27 John Woodman has indicated that also during this period of time
28 he was involved in some process by which after hours child
29 assistance or child minding was provided at Blairlogie.

1 Is that something of which you were aware?---John told me
2 at one stage that he had given Amanda Stapledon, I think
3 it was \$15,000, a sum of money to assist her with caring
4 for her child, with her adult child.

5 And when was that?---I think it was in 2018.

6 MR LEWIS: A point of clarification, Mr Commissioner. When was
7 it that my client was told that or when was it that the
8 money - - -

9 MR TOVEY: That's a good point. When was it that you were
10 told?---I think it was some time in 2018.

11 And when had you given her the money?---I think it was some
12 time in 2018.

13 COMMISSIONER: How did Councillor Stapledon manage her
14 situation at council meetings once that
15 occurred?---I think she declared an interest, but I think
16 it was - I'd have to go back and have a look at council
17 meetings, but I think it was an undisclosed interest.

18 You mean she declared a conflict but didn't - - -?---I'm not
19 sure she - I think under the Act you can declare a
20 conflict, you can disclose it to the CEO, but it can be
21 kept confidential, I think, the way the rules work.

22 Yes. While we're on that, do you understand what the merit of
23 that arrangement is, that if a councillor wants to, they
24 can advise the CEO that they have a conflict and have to
25 provide the CEO with full detail of what gives rise to
26 that conflict, but the councillors are not informed of the
27 detail of the conflict. Do you have any idea of why that
28 might - what useful purpose that might serve?---I assume
29 that parliamentary counsellors drafted it like that

1 because there's circumstances where it's warranted, but
2 I can't think of what those circumstances are at the
3 moment.

4 COMMISSIONER: How are you feeling, Ms Schutz? Would you like
5 a break or would you like to continue?---I'm okay.

6 MR TOVEY: I wanted five minutes, Mr Commissioner, to discuss
7 something with you.

8 COMMISSIONER: We will adjourn for five minutes.

9 (Short adjournment.)

10 COMMISSIONER: Yes, Mr Tovey.

11 MR TOVEY: Thank you. On 23 November 2018 there was a
12 conversation between yourself and Mr Woodman at tab 164
13 and I'd seek to tender that.

14 COMMISSIONER: That will be exhibit 125. Exhibit 124 is the
15 images of Messrs Wreford, Walker, Stapledon and Schutz at
16 the Sandhurst Club on 14 November 2018.

17 #EXHIBIT 124 - Images of Messrs Wreford, Walker, Stapledon and
18 Schutz at the Sandhurst Club on 14/11/18.

19 #EXHIBIT 125 - Recording of conversation between Ms Schutz and
20 Mr Woodman on 23/11/18.

21 COMMISSIONER: This is a conversation, Mr Tovey?

22 MR TOVEY: Between Ms Schutz and Mr Woodman.

23 COMMISSIONER: On 23 November.

24 MR TOVEY: On 23 November, and it's tab 164.

25 (Audio recording played to the Commission.)

26 MR TOVEY: Okay, now, that's a conversation which takes place
27 between you and John Woodman, with Ray Walker also with
28 you and sometimes getting involved in the conversation; is
29 that right?---Yes.

1 This is 23 November of 2018?---Yes.

2 And it is apparent, is it not, from that conversation that by
3 23 November you are well and truly involved in promoting
4 Woodman's interests with SCWRAG again?---Yes, I'm still
5 involved working with Ray with SCWRAG and, well, working
6 with Ray on the H3 intersection issues, yes.

7 And at this stage you are still being instructed by John
8 Woodman?---Yes.

9 And that's why there's this call?---Yes.

10 And I would suggest what's happened here is that John Woodman
11 has told you how he wants the H3 issue to play out in
12 terms of the culverts and so forth, and you've gone to Ray
13 Walker, explained that position, and once you have him on
14 side you are on the phone with John confirming?---Yes,
15 I think my recollection is that John had explained to him
16 about the culverts.

17 In any event, before this phone call either you or John had
18 explained the culverts issue to him?---Yes.

19 You wanted his support?---Yes.

20 And this was the phone call where you have finally discussed it
21 and you are reporting back to John Woodman that you do in
22 fact have his support?---So I was with Ray preparing a
23 draft letter to council, yes, from SCWRAG.

24 Would it be correct to assume that a layman like Mr Walker
25 would be very unlikely to have any concept of what
26 culverts involved until you explained it to him?---I think
27 until it was explained to him, no. He's not an engineer.
28 So, no, he wouldn't have had a good understanding of
29 culverts and delivering roads.

1 I take it that part of your aim as discussed with John Woodman
2 had been to get very tight timelines?---John wanted tight
3 timelines, yes, that's what I was asked.
4 And you were asked by John to try to secure Ray Walker's
5 support for that aim?---I'm assuming that that's - I'm
6 assuming that's what he asked me to do.
7 When you speak about the council going ahead with the bonding,
8 what's that?---So in the event that a - a developer
9 undertakes to do works. In the event the developer
10 doesn't undertake the works, then the council can step in,
11 discharge the bond and have the money to carry out the
12 works itself.
13 You also indicate that you had tried to ring Geoff Ablett but
14 he was teaching?---I'm not sure why I was trying to ring
15 Geoff Ablett.
16 What you were doing was you were arranging for a letter to go
17 to the council?---Yes.
18 Along the lines of what was there discussed?---Whether it would
19 go to Geoff Ablett or to all the councillors.
20 Yes. Is it the case that the reason you would ring Geoff
21 Ablett about that or the reason you would contemplate
22 ringing Geoff Ablett about that was because you understood
23 there was a special relationship between him and John
24 Woodman and he was pulling the strings in the
25 background?---I would have been asked to ring Geoff by
26 John.
27 Whether you were asked or whether you were doing it off your
28 own bat, the only reason that would happen was if
29 Mr Ablett was pulling the strings?---I'm assuming that he

1 was briefing other councillors in his faction.

2 And indeed if you could look at 3450, and that's a letter of

3 23 November. Could we just scroll down there, please.

4 That's a letter to council. If you just scroll up,

5 please. So that's a letter, on the face of it, to all

6 councillors?---Yes.

7 And so you indicate in the third paragraph, "The State

8 Government has listened to the community and is committing

9 a \$169 million package to fix the Hall Road network"; is

10 that right?---Yes.

11 What's the "fix the Hall Road network"?---I think in the run-up

12 to the election Hall Road was a big issue for State

13 Government. It was a hotspot in terms of getting votes,

14 and so both parties, Liberal and Labor, came out with Hall

15 Road fix up the network packages.

16 Sorry, came out with?---Came out with packages to entice

17 voters. This was an example. This was a package that had

18 come out to entice voters to vote Labor.

19 All right. So this is something that you had worked for, was

20 it?---I don't know if the community and our campaigning

21 had resulted in this announcement; I don't know. But this

22 was the package that was announced by the Labor government

23 prior to the election. My understanding of the Cranbourne

24 seat was that it was held by Labor by a small margin.

25 All right. But was this process, this process of applying

26 political pressure, one of the strategies that SCWRAG with

27 your assistance sought to apply?---Yes, it was a political

28 planning strategy, yes.

29 If we just go on. You go on to deal with what's happening with

1 H3, the possibility of Dacland making another run at
2 deferral and how that should be dealt with; is that
3 right?---Yes.

4 And is that a letter in the drafting of which you were
5 involved?---Yes.

6 Did you draft that letter and have Mr Walker look at it or was
7 it done the other way round?---There's a lot of technical
8 information in there. I would have provided the technical
9 input into that letter, yes.

10 So you would expect, would you, looking at the content and the
11 structure and looking at the way Mr Walker normally does
12 it, that that has been largely your work?---Yes, there's a
13 hybrid between my style and his style, yes.

14 I tender 3450.

15 COMMISSIONER: Exhibit 126.

16 MR TOVEY: Which is a letter from SCWRAG to Casey Councillors
17 dated 23 November.

18 #EXHIBIT 126 - Letter from SCWRAG to Casey Councillors dated
19 23 November.

20 MR TOVEY: Then the next day, if you could look at pages 3301
21 and 3302 and 3303. This is an H3 chronology sent by you
22 to Ray Walker on Friday 23 November at just after lunch
23 or, sorry, just after 12 o'clock, 12.05 pm?---Okay.

24 COMMISSIONER: Is there something in particular you want to
25 direct the witness's attention to?

26 MR TOVEY: There is. I think the witness is just having a
27 general perusal of the document?---Yes.

28 So, I tender that.

29 COMMISSIONER: Exhibit 127.

1 MR TOVEY: If you go down to some of the dot points, this is
2 something which is designed to enable Mr Walker to know
3 something of the background of H3 and also to explain
4 SCWRAG's position in respect of it?---I'm not sure why
5 I've provided that. Was there an introduction to it or
6 did I write something before it or I just provided that
7 chronology to Ray?
8 I'm sorry, did I say H3? I apologise?---This is Cranbourne
9 West C219.
10 Yes, this is C219?---Cranbourne West rezoning chronology, yes.
11 In any event, is this a document which is - I apologise, it is
12 a C219 chronology?---Yes, I'm just not sure why I prepared
13 it for Ray. I might have been asked to - I'm not sure why
14 I prepared it.
15 If you go to the fourth last dot point, the fifth last dot
16 point, "Following the survey and the community meetings,
17 the community decided to set up SCWRAG because they didn't
18 want industrial development and Ms Schutz worked with
19 the group to set it up." Was it the fact that you
20 yourself had designed SCWRAG and set out to set it
21 up?---I remember that I was asked to work with SCWRAG on
22 developing a logo, so I was asked to engage a graphic
23 designer and then SCWRAG chose its own logo, but I was
24 basically facilitating. I organised a website designer to
25 set up a website and I was basically facilitating it all.
26 You told us last time that the process was a usual process
27 whereby you would, by a number of means, start getting
28 community support together, then find somebody like
29 Mr Walker to run the community group?---Yes, so we - - -

1 Sorry, was that true? Was that correct?---It was the usual
2 process?
3 Yes?---So where in my transcripts - I did go over my transcript
4 on the weekend.
5 It doesn't matter. If it's there it's something we can go back
6 to. If you go to the fourth last dot point, "Their views
7 are their own and in no way influenced by Leighton or
8 Ms Schutz." That's just not correct, is it?---I think
9 I did a lot of informing of them in relation to the
10 planning. But their views that they didn't want
11 industrial land on their doorstep were their own views.
12 Like, we surveyed them and the survey was that the
13 community preferred - there's a report by KREAB Research
14 which took all the survey forms. I think there were about
15 550, 600 of them and KREAB Research prepared a report
16 which reported on those results and the views of the
17 community were resoundingly that they did not want
18 industrial on their doorstep.
19 But insofar as you've said, "The views are their own and in no
20 way influenced by Leighton or Ms Schutz", given everything
21 you've told us, that is not the case, is it? We've been
22 through time and time again where you have indeed sought
23 to influence them and influence their views and indeed
24 even edited their letters and submissions and manipulated
25 their petitions. That is just to mislead somebody, isn't
26 it?---I haven't manipulated their petitions. Everyone who
27 signed the petitions that were tabled in parliament signed
28 the petition with their own hand and they read the
29 petition themselves. People don't sign a petition unless

1 they want to sign a petition. They don't answer a door.
2 Your role was to influence Mr Walker?---My role was to inform
3 the local community about the planning and my client's
4 position. I at no stage, when I met with SCWRAG members,
5 did I not make clear that I was the planning consultant
6 for the developer. I made it entirely clear.

7 And it's your job. You were getting paid by Woodman to - -
8 -?---They knew that I was a paid planning consultant to
9 further - to progress the rezonings on behalf of Leighton
10 Properties and the Kelly family, yes.

11 Insofar as you were promoting Woodman's interests by
12 interacting with SCWRAG, he was paying you to do
13 that?---No, Leighton Properties were paying me a fee on a
14 monthly basis for doing the planning work to progress
15 their rezoning.

16 Are you saying - - -

17 COMMISSIONER: Who was paying you for all of the time you spent
18 with Mr Walker?---On the C219 amendment?

19 On anything?---On the C219 amendment my role was to work with
20 the community group - - -

21 No, no, who was paying you?---Leighton Properties.

22 Yes?---In relation to the H3 intersection, assisting with
23 SCWRAG letters, et cetera, I was being paid by Elysian
24 Group.

25 So was there any work that you were doing for SCWRAG that
26 wasn't paid for by someone?---I don't think so, no. There
27 might have been meetings that I didn't charge for because
28 they were more of a - out of my own personal - that Ray
29 had organised and asked me to come along to. I would have

1 to go and have a look at my - go through my notes.

2 MR TOVEY: Can you just go to page 3303, the final page.

3 COMMISSIONER: I will mark the chronology sent by Ms Schutz to

4 Mr Walker exhibit 127.

5 #EXHIBIT 127 - Chronology sent by Ms Schutz to Mr Walker.

6 WITNESS: Can I please have a look at page 2 as well?

7 MR TOVEY: Yes, certainly?---I'll be quick, but I'm just trying

8 to understand why I sent this. Yes, okay. It's just a

9 chronology of my involvement.

10 Yes?---Yes. In the amendment.

11 If you go to the fourth last line at page 3303 on the final

12 page, "SCWRAG presented its own case at panels, as did

13 Leighton Properties"?---Yes.

14 That's not entirely correct, is it?---I introduced Emily Porter

15 to SCWRAG. I did not go near SCWRAG during the hearing,

16 the panel hearing, and SCWRAG independently instructed

17 Emily Porter, but Emily Porter's fees were paid for by

18 Leighton Properties. But we were not involved during the

19 hearing with Emily Porter or with SCWRAG.

20 Were you acting as a planning lawyer at that time?---No, I was

21 acting as a planning consultant.

22 So you organised Emily Porter?---I did organise Emily Porter.

23 Did you brief her?---I originally took her for a site visit and

24 provided some of the material, but then I handed - and

25 I took her to meet her client, and once she had met her

26 client that was the end of it.

27 Did you have further meetings with her after that?---No.

28 Did you provide the material to Mr Walker by which he could

29 brief her?---I'm pretty sure I provided Emily Porter with

1 a bundle of materials relevant to the planning scheme
2 amendment and then Ray had provided her with additional
3 materials from members.

4 And how much was she paid?---I don't know. I'm not sure.

5 I would have to go back through my files to see whether an
6 invoice was actually sent to me to pass on to Leighton
7 Properties.

8 Could you do that, please?---Yes.

9 Obviously somebody was paying her?---Pardon?

10 She wasn't doing it pro bono?---No, she wasn't doing it pro
11 bono. She was being paid.

12 And how much a day would one normally expect to pay for - how
13 would you rank her, junior counsel?---She's a senior
14 junior.

15 Senior junior?---Yes.

16 In the planning jurisdiction. Not cheap?---Three and a half.

17 Three and a half a day?---Three and a half, \$4,000 a day, yes.

18 And how many days did this run for?---It was more than a week.

19 I think it was five to seven days, something like that.

20 Then you have preparation. So you're looking at something over
21 30,000?---I'd have to go and have a look at invoices to
22 see if I actually ever received her invoice. It might
23 have gone straight to Leighton Properties.

24 Does that sound about right, it would be something over 30 by
25 the time you took prep - - -?---I'm assuming so, based on
26 my experience.

27 Could the witness please be taken to 3718 to 3728. You see you
28 were there copied in. This is 22 September 2016. You are
29 there copied in to an email from John Woodman to Tom

1 Kenessey and Phil Staindl providing a colour-coded summary
2 of candidates for the 2016 election. Do you remember that
3 occurring?---No, but I've been copied in FYI, I'd say. On
4 the Cranbourne West rezoning I was asked to do some
5 limited drafting, but other than that I didn't brief
6 councillors. From my recollection it was Tom Kenessey and
7 Peter Williams that were the ones briefing the councillors
8 and Phil Staindl was the one talking to members of - state
9 members, yes.

10 However, if you look at the attachments to this?---Yes.

11 It involves a number of colour-coded pages. Clearly,

12 I suggest, it's been sent to you and others assessing the
13 suitability of candidates from the Woodman perspective at

14 the time of the 2016 council - - -?---Sorry, this is - - -

15 COMMISSIONER: You will need to take - - -?---This is council
16 elections.

17 Yes?---I have some recollection of this now, yes.

18 Look at 3719?---Yes. Yes, okay.

19 And on the colour-coding, the green "Tom", who's that?---Tom
20 Kenessey.

21 And who does he represent for that purpose?---He was the

22 development manager for Leighton Properties. He was my

23 main contact at Leighton Properties in relation to the

24 C219 rezoning.

25 But what's the green represent for Mr Kenessey when it's marked

26 against various candidates?---I'm assuming from the email

27 before that he was the one who would be approaching those

28 candidates.

29 That are what?---The candidates? These must be the candidates

1 running for the Balla Balla ward, which is - that's the
2 ward that Cranbourne West was located in.
3 And the purple?---Was Phil Staindl.
4 And "friendly"?---It looks like the friendly ones are ones that
5 already support - or they already support the rezoning, by
6 the look of it.
7 Perhaps you need to go slowly?---I don't know. Industrial, I'm
8 assuming "IND", but then it looks like "GA". That looks
9 like Geoff Ablett.
10 Yes?---"IND Geoff Ablett". I'm not sure, to be honest.
11 MR TOVEY: So if we can just scroll through that so you can
12 have a look at it?---"IND" must be independent. So "LIB".
13 I'm not sure what "SS" is. "LIB". And "LAB" is labour,
14 like Tim Jackson was a Labor councillor. Independent,
15 greens.
16 COMMISSIONER: So the friendlies appear to be independent or
17 Liberal, the purple Labor, the green opposition?---Or the
18 question marks would be, like, he didn't know maybe;
19 I don't know.
20 Yes?---I'm not sure.
21 MR TOVEY: I'm not sure, Mr Commissioner, whether any actual
22 date appears on that.
23 COMMISSIONER: If you go to 3728?---They're four different
24 wards as well. It looks like it's an analysis of
25 candidates for the forthcoming election and I've
26 identified a couple of names on there and how I know those
27 names. I've given him some information about how I know
28 those names.
29 MR TOVEY: This is September 2016?---Yes.

1 Immediately before the council election. Why was that being
2 sent to you?---He would have been analysing who was
3 running as a candidate in the election. He would have
4 been analysing it.

5 COMMISSIONER: For what purpose?---To go and speak to them, to
6 see whether there was any way - like, I'm assuming he
7 wanted the people that he knew would be friendly to be on
8 council, so he would have wanted to identify who's who and
9 what their support was. Yes.

10 And once that was determined, was there any follow-up then to
11 follow of any sort?---With me?

12 No, once you as a group developing this strategy determined
13 which candidates were the most likely to support
14 Mr Woodman's planning proposal, what was the next thing
15 that was to happen?---I assumed that he had allocated
16 people to see whether people could go and brief the
17 candidates and gather their support, and if they did
18 support it, be friendly to them and - - -

19 What does that mean?---I don't know firsthand in relation to
20 this list. I can't recall if I know anything firsthand in
21 relation to this list. Yes. But - - -

22 What did you expect was the next step that Mr Woodman would
23 take once the preferred candidate was determined?---He
24 would want to make sure he had sufficient votes on council
25 still, yes. What might he do to ensure that?

26 Yes.

27 MR TOVEY: This is tendered exhibit 16. This was tendered
28 through Mr Woodman. It didn't include, I'm told, page
29 3728. Could that please be added to the exhibit?

1 COMMISSIONER: All right. Added to what, Mr Tovey?
2 MR TOVEY: To exhibit 16.
3 COMMISSIONER: Very good.
4 #EXHIBIT 16 - (Added) Page 3728.
5 WITNESS: Like, I've just provided information there that one
6 particular candidate was against the rezoning and one was
7 for the rezoning. I knew the second person well because
8 I've engaged with him in relation to my involvement with
9 the community. But I'm assuming he's looking at the
10 way voting will work.
11 COMMISSIONER: Exhibit 128 is an email of 22 September 2018
12 with colour-coding for candidates for council election.
13 MR TOVEY: Sorry, it's already exhibit 16, Mr Commissioner.
14 COMMISSIONER: Is it? I'm sorry. So the entirety of that,
15 including 3728, is now exhibit 15?
16 MR TOVEY: That's exhibit 16.
17 COMMISSIONER: 16, sorry.
18 WITNESS: Potentially candidates doing deals with each other.
19 So if one candidate missed out, they would preference
20 another candidate, for all the friendlies to preference
21 each other.
22 COMMISSIONER: Yes.
23 MR TOVEY: Could the witness please be shown page 3939? So
24 this is an email from Mr Staindl to you?---Yes.
25 On 27 September 2016?---What was the date of the previous
26 email?
27 COMMISSIONER: The 22nd?---The 22nd, yes. So he must have
28 asked - that's the bank account details. He's given the
29 bank account details of the particular candidates. He

1 must have been donating to the friendlies, and I was
2 somehow - - -

3 That's why I asked you what was the next step that Mr Woodman
4 was going to follow once the preferred candidate was
5 identified?---Sorry, in my preparing for this hearing
6 I haven't seen - I haven't gone back over these emails.
7 But this looks to me like he - why has Phil sent it to me?

8 MR TOVEY: That's the question I was going to ask you?---Yes.

9 Why has Phil sent it to me? And then have I sent it on to
10 John Woodman?

11 Let's just go through and see what 3939 and 3940 is. So if we
12 can go over?---Then you don't know where it goes.

13 We'll just see what's over the next page?---Because - yes,
14 okay, that's an email to Progressive Business.

15 Yes. So forget that?---That's 1 August, though, 2018. That's
16 different. That's about - I'm assuming about State
17 Government.

18 So we have heard evidence that Sam Aziz has organised an
19 extensive political support campaign for friendly council
20 candidates?---Yes.

21 Which has been kept under the table in 2016, and many tens of
22 thousands of dollars are being spent on it by Mr Woodman
23 organised through Aziz, Wreford and people by the name of
24 Halsall?---So are these people friendlies that they are
25 using as preferences?

26 I don't know. I'm just asking you. This is a letter that's
27 sent to you; it's not sent to me?---Yes, I know.

28 You tell me?---I would have to go back over my emails to see
29 what I did with that. That email, given the age of it,

1 will be in my archives, I would say.

2 Did you know Tim Jackson?---I know Tim Jackson. He's the Labor
3 councillor and he was the ward councillor for the Pavilion
4 Estate decision. I just cannot remember why he sent me
5 the account numbers for donations.

6 COMMISSIONER: It starts, "The candidates for support and their
7 details"?---Yes.

8 What does that mean, Ms Schutz?---"The candidates for support
9 and their details"? The candidates that - I'm assuming
10 Phil Staindl is sending me the names of candidates which
11 John Woodman is going to donate to.

12 Yes. And you have no memory of that?---I will have to go back
13 over my emails.

14 But you don't have any current memory of it?---Right now, no.

15 But I'm sure there will be emails on file in relation to
16 it.

17 MR TOVEY: I tender that document, Mr Commissioner.

18 COMMISSIONER: That will be email from Mr Staindl to Ms Schutz
19 dated 27 September 2016.

20 #EXHIBIT 128 - (Restricted) Email from Mr Staindl to Ms Schutz
21 dated 27 September 2016.

22 COMMISSIONER: Even though you have no memory of this specific
23 incident, is there anything unusual about this that
24 preferred candidates might be supported by the
25 developer?---My experience of John Woodman is he was
26 donating to a lot of people and to a lot of organisations.
27 So I would assume that these donations were about friendly
28 candidates and it being helpful to have friendly
29 candidates and to do negotiations in terms of

1 preferencing. I'm assuming that that's - which I'm just
2 not sure why I got sent the account details. I would have
3 to go back and have a look at my file - my email, my
4 electronic emails.

5 Do you recall, Ms Schutz, you agreed with me this morning that
6 campaign donations are made to individuals in the
7 expectation that they will ultimately produce some level
8 of influence over those that are elected; is that - -
9 -?---Campaign donations will provide - and that's why the
10 conflict of interest provisions are in the Act, so there
11 is no level of influence, because they cancel themselves
12 out. But, taking that a step further which I agree on
13 reflection, if someone like Geoff Ablett had a conflict of
14 interest and I was briefing him when he had that conflict
15 of interest and, although he wasn't participating in
16 decision making, he was making submissions to the other
17 councillors in support of a position it's problematic.
18 But there's nothing that stops it at the moment in the
19 system.

20 MR TOVEY: Could the witness please be shown 3943 and 3944?

21 This is 12 September?---Okay. Earlier, yes.

22 Yes. And that's from you?---Yes. What does the next page say?

23 Go down, please? Now, that's - - -

24 COMMISSIONER: Mr Tovey, it just occurs to me that the release
25 of the private banking account details of various persons
26 should not be a public exhibit. For all we know, these
27 people still have the same bank account details. So
28 I will restrict publication of that. That should not be
29 released. That's exhibit 128.

1 MR TOVEY: Can we just go down, please? I just want to see
2 what the next page is. So if we start at 3945. I think
3 we go back up. If we can just stay on 3944 and scroll
4 down. So there's an email from you to Jenny Beales.
5 I take it she works for Phil Staindl, does she?---Yes,
6 she's like Phil's PA. So it was obviously looking this
7 morning at that around what donations John could make to
8 candidates to avoid a conflict of interest.

9 As a result of those conversations - sorry, those texts - -
10 -?---Emails.

11 It seemed to be apparent that there was a limit of \$500 per
12 candidate?---499, yes.

13 And the consensus was that it wasn't appropriate to try and
14 avoid that by breaking up transactions - - -?---Yes.

15 Structuring transactions to get below the limit?---Yes.

16 Why were you involved in that conversation?---I don't know.

17 He's obviously taken me along to a meeting with Jenny and

18 Phil because he wants to know what my thoughts are on it.

19 I tender those emails, please, Mr Commissioner.

20 COMMISSIONER: How many were there for 12 September, Mr Tovey?

21 MR TOVEY: Three dated 12 September.

22 COMMISSIONER: Three emails of 12 September passing between
23 Ms Schutz and Ms Beales of Staindl's office.

24 #EXHIBIT 129 - Three emails of 12 September passing between
25 Ms Schutz and Ms Beales of Mr Staindl's office.

26 COMMISSIONER: Ms Schutz, one can't help but get the impression
27 you were not merely a bystander looking on; you were
28 actively involved in the process of considering what the
29 law was in relation to donations, which candidates

1 ultimately would be the preferred candidates who should
2 then receive financial support; can there be any doubt
3 about that?---I wasn't making the calls. I was
4 there - John Woodman's strategies - - -

5 But you were an active participant in implementing that
6 strategy, weren't you?---An active participant? Because
7 John - because Phil Staindl sent me account numbers which
8 I assume I had to pass on to John or Watsons? I was at a
9 meeting that Phil Staindl - where John asked questions
10 about the donation laws. Like, at that time I wouldn't
11 have - it was a time when I was working on the Cranbourne
12 West rezoning and I assume he's giving me insight into
13 what he's doing. And it looks like what he's doing is
14 working out who the candidates are and then ensuring that
15 he's going to have a council that supports the rezoning.

16 You don't think you should be described as an active
17 participant in the implementation of this particular
18 strategy?---How have I actively participated - - -

19 I'm just asking for your feeling about the matter. You don't
20 feel you should be described as an active participant in
21 the implementation of this strategy?---I had never seen it
22 before. Like, I had never seen a situation like this
23 before. I didn't have any experience in it. So if
24 I wasn't an active participant should I have turn around
25 to Mr Woodman and - John Woodman and said - you know what,
26 at the time I should have reflected more on it and
27 understood more. I can see now when I look at what was
28 going on that he was working out a position where he would
29 have council support by influencing candidates.

1 And I think you said this morning that there was nothing
2 particularly unusual about that?---About influencing
3 candidates?

4 About people like Mr Woodman, that is a developer, seeking to
5 influence those who were standing for council?---I have
6 seen it before on another project. But that project that
7 I have been involved in, the first time I ever saw it
8 was - and, to be honest, I haven't been back over my file
9 to 2016; I can't recall those emails directly at the
10 moment. But I have seen it since then with a completely
11 different developer.

12 In what council?---Hume. Hume.

13 And as the law stands the law permits a developer to contribute
14 to the campaign of someone standing for council with the
15 intention that by contributing that councillor might be
16 influenced to look favourably upon the developer's
17 proposals?---If anything is donated beyond 499 they have
18 to declare a conflict of interest. So the conflict of
19 interest provisions deal with it. Sorry, have I missed
20 your question?

21 No, no. This is a commercial decision that's made by people
22 like Mr Woodman to make these contributions, isn't
23 it?---They are making the contributions to assist the
24 candidate to campaign to get on council. And in the case
25 of what you have shown here the contributions are being
26 made to candidates that John has gone around and obviously
27 surveyed and briefed to find out that they do support his
28 objectives.

29 Yes?---And then he's donated to those candidates.

1 And then Mr Woodman donates to State election campaigns for
2 some of those councillors?---So when Councillor Rowe,
3 Councillor Serey, Councillor Ablett and Stapledon ran for
4 government, yes, he supported their - he provided them
5 with campaign money for their running for the State
6 election, is my understanding.

7 MR TOVEY: In the documents we have just seen you have seen
8 within the space of a short period of time - - -?---Yes.
9 You have provided information about what the donation limit is.

10 So you were aware that it was \$500 at that time?---Yes,
11 I've obviously found out; yes.

12 And at the same time you have seen bank accounts with \$1,000,
13 \$2,000 being attributed to them?---Yes.

14 Is that something that you followed through in any
15 way?---I would have to go back and look at my - I would
16 have to go back and look at my emails. My experience of
17 John, on reflection, is that I seem to get a
18 partial - I get the picture that John has wanted me to
19 have at the time for the function he's wanted me to serve
20 at the time.

21 Could you do that?---Yes, I can do that.

22 Mr Chairman, I have two more topics I need to do. They will
23 take a little while. I understand my learned friend has
24 some re-examination, plus there are additional documents
25 that the witness has referred to today that are quite
26 possibly worth reviewing. I would suggest, with respect,
27 that - - -

28 COMMISSIONER: Have you talked to Mr Lewis about the process
29 you want to follow?

1 MR TOVEY: No, but it's something that he will raise with you,
2 Mr Chairman.

3 COMMISSIONER: One of the questions that occur to me is whether
4 or not Ms Schutz can address the additional matters that
5 you want her to look at, and in some cases it's material
6 that you want her to gather - - -

7 MR TOVEY: Yes.

8 COMMISSIONER: Whether or not it can be done overnight, do you
9 want to have a word to Mr Lewis before we adjourn and see
10 whether it's practical to adjourn Ms Schutz until
11 tomorrow? Yes, Mr Lewis?

12 MR LEWIS: Could I raise a matter. I think I need to, if
13 I could, ask for a minute to get some instructions,
14 Mr Commissioner. It may be this can be dealt with
15 tomorrow morning, but it just depends on the ability for
16 my client to be able to search documents overnight.

17 COMMISSIONER: Yes.

18 MR LEWIS: Bearing in mind she doesn't live close to the CBD.

19 COMMISSIONER: It's been a long day for her.

20 MR LEWIS: Yes. I have about 10 minutes of re-examination that
21 I expect will include some clarifications from transcript
22 that my client has in front of her. So that won't be
23 lengthy, but it is this topic about 2016 emails that
24 I need to raise with her. Could I just have a minute?

25 COMMISSIONER: I will give you five minutes then, Mr Lewis.

26 MR LEWIS: Thank you.

27 (Short adjournment.)

28 COMMISSIONER: Yes, what's the position, Mr Tovey?

29 MR TOVEY: I have had the opportunity of speaking to my learned

1 friend. We are in the position where we need to get some
2 information from the witness to be used for other
3 witnesses still to come. My friend wants to be able to
4 provide and get some instructions about certain
5 information. What is being proposed is that the witness
6 be recalled at 2 o'clock tomorrow and interposed for an
7 hour during Mr Walker's evidence.

8 COMMISSIONER: Very good. You are content with that course?

9 MR LEWIS: I am. I have indicated to my learned friend,
10 Mr Commissioner, that we hope to be able to conduct the
11 enquiries we need to by that time. I can't guarantee that
12 we will have, but we will do our level best to get on top
13 of the topic that was just raised by Mr Tovey in terms of
14 2016 emails.

15 COMMISSIONER: It's been a long day and I don't want to see
16 unreasonable expectations imposed on Ms Schutz.

17 MR LEWIS: No. We are balancing interests, as I understand it,
18 Commissioner. There are matters that Counsel Assisting
19 need to put to my client in a timely manner; I understand
20 that. The best we have come up with is 2 pm tomorrow.

21 COMMISSIONER: No doubt she would like to get this behind her.

22 MR LEWIS: She does, yes.

23 COMMISSIONER: Very good. We will see you at 2 o'clock
24 tomorrow then, Ms Schutz. Nothing else, Mr Tovey?

25 MR TOVEY: Nothing else, Commissioner.

26 COMMISSIONER: 10 o'clock tomorrow morning?

27 MR TOVEY: 10 o'clock, thank you.

28 <(THE WITNESS WITHDREW)

29 ADJOURNED UNTIL TUESDAY, 3 MARCH 2020 AT 10.00 AM