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TRANSCRIPT OF MORNING 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

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

1 COMMISSIONER: Yes, Mr Tovey. Are we ready to proceed further  
2 with Ms Schutz?

3 MR TOVEY: We are. I ask that she be recalled.

4 COMMISSIONER: Good morning. Come into the box, please,  
5 Ms Schutz.

6 <MEGAN ANN SCHUTZ, recalled:

7 COMMISSIONER: Could I just remind you you are still under  
8 affirmation, Ms Schutz?---Yes.

9 Mr Lewis, you continue to appear for Ms Schutz?

10 MR LEWIS: Yes, I do, Commissioner.

11 COMMISSIONER: Can I just clarify you will recall towards the  
12 second day, I think, of Ms Schutz's evidence a number of  
13 emails were produced and you raised the issue of whether  
14 there might be some privilege associated with - has that  
15 now been resolved?

16 MR LEWIS: Commissioner, my understanding is that there's been  
17 no claims communicated to us acting for Ms Schutz that  
18 there would be any claim.

19 COMMISSIONER: Very good. Thank you. Yes, Mr Tovey.

20 MR TOVEY: Thank you. I want to go back to early 2018 with  
21 you. The documentation that we have would seem to  
22 indicate that it was at about that time that some action  
23 in respect of H3 was being contemplated. When SCWRAG was  
24 set up, did it have a constitution or anything of that  
25 nature?---So when - it was incorporated when the community  
26 decided to make a submission in relation to C219.  
27 Yes, and when was that?---I think it would have been in 2017  
28 because that was when C219 was placed on public  
29 exhibition.

1 Up until that time you were intimately involved with the  
2 activities of SCWRAG from its inception all the way  
3 through; was that the situation?---So I think - I've read  
4 my transcript over the weekend and I explained when  
5 I previously appeared before IBAC that the whole community  
6 engagement process started with a survey and out of that a  
7 group was formed and I was involved in facilitating that  
8 formation of the group, yes.

9 But you went further than that, did you not, in evidence and  
10 indicated that SCWRAG was an organisation which was set up  
11 from your perspective for the purpose of assisting John  
12 Woodman's interests to be satisfied?---It was part of the  
13 planning strategy for amendment C219. It came about  
14 because John Woodman communicated to me that without the  
15 community's support of this rezoning it is going to go  
16 nowhere.

17 Look, I just ask you to pay attention to the question because  
18 my first question was that it was an organisation which  
19 was set up to promote, from your point of view, set up to  
20 promote Mr Woodman's interests. Your answer in fact would  
21 seem to suggest that that was in fact the case; it was  
22 there because Woodman wanted it to promote his interests  
23 in respect of C219?---Yes, he had a success fee in  
24 relation to amendment C219. So, yes, there was - part of  
25 it was pursuing his interests and another part was  
26 pursuing the interests of Leighton Properties.

27 All right. So between the time it was set up in 2015 and 2018  
28 did it pursue any community objectives other than C219, to  
29 your knowledge?---Issues in relation to Hall Road?

1 Well, Hall Road - I'll be asking you about this, but from as  
2 best I can determine Hall Road has seen the conception of  
3 the H3 intersection and the involvement in SCWRAG in that  
4 started in about early 2018. That's the first  
5 documentation that I've been able to put my finger on.  
6 You might be able to help me. Just take it a step at a  
7 time. Up until Hall Road, was SCWRAG a single issue  
8 organisation that was an organisation seeking to have the  
9 C219 rezoning approved in order to avoid having industrial  
10 land in the area?---It originated because of  
11 the industrial rezoning. But the constitution, when it  
12 was incorporated, the constitution included an objective  
13 which was much wider than that, yes.  
14 And of course that's something what you would expect, wouldn't  
15 you, if you are incorporating a community group; you will  
16 make the objectives as wide as are consistent with what  
17 might become the objects of a group over a period of  
18 time?---Yes, they wanted to protect their amenity, yes.  
19 But I'm just talking to you about the issues they  
20 pursued?---Yes.  
21 So they pursued C219?---Yes.  
22 Then they pursued Hall Road, did they not?---Yes.  
23 Were there any other issues which they pursued?---Not to my  
24 knowledge.  
25 So over the whole time that - what became of SCWRAG ultimately,  
26 do you know? Is it still operating or did it stop  
27 operating at some stage?---I don't know. I don't know.  
28 That would be a question for Ray Walker.  
29 After payments to him through Schutz Consulting concluded, did

1           you have further involvement with him?---So in November of  
2           last year, before I came before IBAC, and this is in the  
3           transcript, the evidence I've given so far - - -  
4   Don't worry about what's in the transcript?---Sorry.  
5   We just need to know what in fact happened?---I wrote to  
6           Watsons and said to Watsons, "I'm not sure why I'm the one  
7           paying Ray Walker when it's Watsons that are paying Ray  
8           Walker".  
9   Yes?---Yes.  
10   First of all - - -?---Yes.  
11   The first question I asked you was after those payments - as a  
12           matter of fact after those payments stopped - - -?---Yes.  
13   Did you have any on going interaction, that is a SCWRAG type  
14           interaction, with Mr Walker?---No, I haven't  
15           had - I haven't been at a meeting of SCWRAG since I was  
16           involved in the C219 amendment. I don't recall that  
17           I have.  
18   As the IBAC hearings approached, you wrote to or emailed  
19           Mr Woodman, did you, seeking to know why it was that you  
20           were interposed?---I sent an email to - I think it might  
21           have been copied to John Woodman. I sent an email to  
22           Jenny Little, who was the planning manager, who had been  
23           working with Ray on the work he was carrying out.  
24   And was that because you couldn't think of any logical reason  
25           other than to hide the relationship between SCWRAG and  
26           Watsons that you might have been  
27           interposed?---I originally thought when he asked me to do  
28           it in January 2019 that he had asked me because it was  
29           convenient for him for me to manage Ray and disburse Ray's

1 consultancy fees to him so it was all easy  
2 administratively. But I never - I just didn't understand  
3 why he had asked me to - maybe the reason he had asked me  
4 was because he was trying to hide his relationship with  
5 SCWRAG.

6 Was that why you wrote the communication that you did in the  
7 lead-up to the hearings, because you were concerned  
8 that - - -

9 COMMISSIONER: What communication?

10 MR TOVEY: That is the communication with either Woodman or his  
11 officers to the way you had been - why you had been  
12 interposed in the equation?---I just thought Watsons are  
13 paying Ray anyway, so Watsons can invoice Ray.

14 And you knew, did you not, that Watsons - - -?---Sorry, not  
15 Watsons can invoice Ray; Watsons can pay Ray directly and  
16 Ray can invoice Watsons directly.

17 COMMISSIONER: What were you actually paying Mr Walker  
18 for?---So, I think the invoices were for \$5,000. 2,500 of  
19 that was for a brief I had provided to Ray in April 2018  
20 which was around the lobbying on Hall Road, and the other  
21 2,500 I think related to the collection of data of a  
22 competitor analysis of sales and other estate performance  
23 in the south-east growth corridor. But it was in January  
24 2019 there's some correspondence where John Woodman asked  
25 me to, you know, just "Ray can invoice Schutz Consulting",  
26 and I, I don't know, I'd just come back from my summer  
27 holidays and I just agreed to the arrangement.

28 Ms Schutz, it's obvious looking at your conduct throughout the  
29 period 2015 to 2019 as you acting on behalf of Schutz

1 Consulting as a planning business, consultancy, that you  
2 have great insight into what's good strategy, what are  
3 sound forensic decisions to advance clients' interests.  
4 Surely you realised that Mr Woodman was wanting to  
5 interpose you so that nobody could criticise Mr Walker or  
6 his community group on the basis that they had a conflict  
7 of interest; namely, that they were advocating  
8 Mr Woodman's interest rather than simply pursuing what  
9 they thought was the ideal position to adopt on behalf of  
10 the community. Did you not appreciate that?---Mr Walker  
11 was very passionate and the community members I met were  
12 very passionate about no industrial and Mr Walker and  
13 Verlie were very passionate - his wife - were very  
14 passionate about getting Hall Road fixed up.

15 I'm asking you about why Mr Woodman interposed you so that you  
16 would be on the record the entity paying Mr Walker, not  
17 Mr Woodman?---I think on reflection, Mr Commissioner,  
18 I was used by Mr Woodman.

19 But I want to suggest to you that you've demonstrated through  
20 all of the records that IBAC has that you're an astute  
21 judge of strategy and you would have realised that that  
22 was why Mr Woodman was doing that. There was no  
23 commercial reason why you should be interposed, was  
24 there?---No. Sorry, when you say "interposed", there was  
25 no commercial reason why I should be interposed, can  
26 you - - -

27 No commercial reason why you should be used as the conduit for  
28 payments?---No, not at all.

29 MR TOVEY: Because the situation was - we'll just take it a

1 step at a time perhaps. Could the witness please be taken  
2 to the court book page 3621. Go back to 3620, please. So  
3 this is in January of 2018; all right?---Yes.

4 Now, this is the first time or about the first time so far as  
5 we can discover that there was some mention of the H3  
6 intersection issue arising. This is a file note by  
7 Mr Walker relating to a meeting with you on 22 January of  
8 2018. I would seek to tender that, Mr Commissioner.

9 COMMISSIONER: Yes. That will be exhibit 116. This is a file  
10 note of Mr Walker, is it, Mr Tovey?

11 MR TOVEY: Yes, it is, Mr Commissioner.

12 #EXHIBIT 116 - File note of Mr Walker dated 22/01/18.

13 MR TOVEY: Could we keep that up on the screen, please?---Yes.  
14 Just going through that, scrolling down, you there deal with  
15 C219 and the interaction which is anticipated between Ray  
16 Walker and Gary Rowe in respect of C219; is that  
17 correct?---Yes. This note, Ray must have asked me for a  
18 copy of amendment C219 documentation - - -

19 Yes?---In that top line. But the rest of this note of Ray's  
20 relates to Hall Road.

21 Yes?---And advocating for the upgrade of Hall Road and pressing  
22 council officers as to why there was actually  
23 \$9.646 million was allocated out of residential DCP  
24 collected funds to fund an employment road which had a  
25 different DCP collection.

26 Was the sequence this: that you suggested at some stage around  
27 the end of 2017 or 2018 that you had an interest in having  
28 the H3 intersection developed and that there were  
29 discussions between you and Mr Walker whereby he was

1           indicating that the H3 intersection would be too narrow an  
2           issue and that if the matter was to fly it would have to  
3           be a wider issue as to the safety of Hall  
4           Road?---Mr Walker - we're talking about Mr Walker's views?  
5   No, I'm just talking about how it unfolded?---Yes.  
6   I assume Mr Walker just hadn't lit upon H3 without some input  
7           from you. You must have gone - - -?---No, he had  
8           actually, because in May 2017 I had been instructed to put  
9           a re-sequencing application in for Wolfdene in relation to  
10          the H3 intersection which had to be delivered with stage  
11          3, and Wolfdene wanted to deliver stage 4 before they  
12          delivered stage 3, and when [REDACTED] at council,  
13          the growth area planner, had approved the secondary  
14          consent to allow stage 4 to be resequenced before stage 3,  
15          he wrote in his email to me, "You need to - I would  
16          suggest Wolfdene speaks to Ray Walker about H3 because Ray  
17          is pretty annoyed that Wolfdene have got a deferral."  
18   Yes?---So he was aware of it back in May 2017.  
19   All right. So at that stage then Wolfdene were seeking a  
20          deferral?---They were seeking a deferral and they were  
21          granted a re-sequencing at that stage, but then in May  
22          2018 - stage 4 can be delivered before stage 3, but then  
23          in order to build on stage 4 you have to get another  
24          planning permit for stage 4 for the medium density  
25          housing, and it was then at that stage, when that stage 4  
26          planning permit for development was granted, that Lauren  
27          Richardson included on the permit in May 2018 a condition  
28          that said, "Wolfdene can build houses on stage 4, but none  
29          of those houses can be occupied or used until the H3

1 intersection has been delivered in its entirety."  
2 Sorry, when was that?---That permit was granted in May 2018.  
3 Right?---Which actually prevented Wolfdene from developing  
4 stage 4 anyway before stage 3.  
5 So it then became the case, did it, that it was very much in  
6 Wolfdene's interest to have the intersection built  
7 quickly?---It was in I think both of the developers'  
8 interests to have H3 built. I think Wolfdene - I think  
9 Elysian Group weren't too phased about sitting there and  
10 not developing the Elysian Estate at that point in time,  
11 whereas Dacland financially - my understanding was that  
12 they needed to finish development and get out of the  
13 estate as quickly as possible for funding reasons.  
14 Yes, well, you understood that they were financially stressed,  
15 Dacland?---That's what I have heard thirdhand, yes.  
16 In fact, I suggest to you you corresponded with Mr Woodman  
17 about that very fact?---Yes, because I'd been told it,  
18 yes.  
19 Yes. And that was something that you and he had taken into  
20 account in devising strategy to put pressure on them to  
21 have them build the intersection or build a larger part  
22 than they might otherwise have?---My personal view is that  
23 the two developers should have shared construction of the  
24 intersection, but my client's instructions were that they  
25 wanted the lion's share, three legs of it, to be delivered  
26 by Dacland.  
27 And part of that strategy was to take advantage if possible of  
28 Dacland's financial stress?---That's how I was instructed,  
29 yes.

1 And to do what you could to see that Dacland wasn't able to  
2 release further land ahead of the completion of the  
3 intersection?---We had been told we couldn't release  
4 further land ahead of the intersection, so we expected the  
5 same treatment to be rolled out to Dacland by the council  
6 officers, yes.

7 COMMISSIONER: Can I just make a suggestion - - -

8 MR TOVEY: I mean, what you're saying is excusing what you did.

9 COMMISSIONER: Just a moment.

10 WITNESS: No, I'm not excusing what I did, Mr Tovey. I'm not.

11 COMMISSIONER: Mr Tovey, just a moment. Some of the questions  
12 that you're asked really can simply be answered "yes" or  
13 "no"?---Yes.

14 You are only complicating things sometimes by not simply  
15 answering the question, could I suggest?---I think there's  
16 a lot of context, though, that's important to understand  
17 the whole - because it's not - it's not black and white.  
18 That's okay. If you feel a "yes" or "no" would not fairly  
19 represent your position, by all means add to it. But  
20 where the answer is simply a simple "yes" or "no", you  
21 should try and confine yourself?---Okay.

22 MR TOVEY: And it was part of the strategy, was it not, to see  
23 that Dacland could not get permission for early release of  
24 its land so that stress could be maintained and leverage  
25 could be applied?---I believe so, yes.

26 COMMISSIONER: Your client in all this was Heath Woodman for  
27 Woldene?---Elysian Group instructed by - John was running  
28 the planning strategy, but Heath was my Elysian Group  
29 client, yes.

1 And Mr Heath Woodman and his company was paying your

2 fees?---Elysian Group was paying my fees.

3 So how was John Woodman interposed into that

4 arrangement?---Well, John Woodman is the managing

5 director, as I understand it, of Watsons and Watsons is an

6 engineering and surveying and planning firm, and Watsons

7 was doing all the engineering and surveying on Elysian

8 Estate.

9 Sorry, but this was not about engineering works; this was about

10 planning strategy?---Yes.

11 How did Mr Woodman come to be the central figure on planning

12 strategy for Heath Woodman?---Because he was running the

13 planning strategy on a lot of large projects and I think

14 it came about just culturally what he did.

15 So did you at some stage get a clear instruction from Heath

16 Woodman that you were to follow John Woodman's planning

17 strategies? How did the relationship between you and

18 Mr Woodman, John Woodman, evolve if Heath Woodman was the

19 client?---On all these large projects we had project

20 control group meetings. So every week there's about eight

21 hours of meetings and I was asked to sit in on most of

22 those meetings and John Woodman in 2017 was sitting in on

23 those meetings as well and there would have been a

24 discussion around planning strategy. But the planning

25 strategy was originally in 2017, we were working with

26 Dacland at the end of 2017 and the strategy for Dacland

27 and Elysian Group was to get council officers to release

28 the funds for the duplication of Hall Road which would

29 have made the cost of delivering that H3 intersection a

1 lot less. But council officers in September 2016 had  
2 actually allocated \$9.646 million of funding from the  
3 Cranbourne West residential development collected DCP  
4 funds to bankroll MAB's construction of employment roads  
5 in part B of the employment DCP. So, when we came to ask  
6 why the funds weren't there for a major collector road,  
7 arterial road to service the residential community, they  
8 pointed us to the priority list and say, "Well, the funds  
9 have been allocated to the employment roads," where there  
10 was no development, "and it's a three to five year thing  
11 before the funding will be available for the duplication  
12 of Hall Road."

13 So my question was how did John Woodman come to be the planning  
14 strategist when your relationship as consultant client was  
15 with Heath Woodman and Wolfdene?---And I talked about the  
16 meetings and the fact that he had been - - -

17 What happened at the meeting that explains Mr John Woodman's  
18 role?---Well, Heath and John would have talked about  
19 strategy in that meeting, and the strategy in that meeting  
20 in 2017, the planning strategy which John said he'd take  
21 care of, was to find out why - you know, to try to get  
22 release of funds out of the DCP for delivery of the  
23 duplication of Hall Road, and that's the only time I think  
24 that I can recall where John - where I firsthand saw John  
25 and Heath talk about strategy in relation to Hall Road and  
26 H3.

27 But, Ms Schutz, you are both a lawyer and a planning  
28 consultant. Presumably something must have been said to  
29 you at some stage to satisfy you that even though Heath

1 Woodman was the client, you should be taking your  
2 direction and instructions on planning issues and strategy  
3 from John Woodman?---It was in that meeting that I was -  
4 yes, I was asked to work with John on the Hall Road H3  
5 intersection issues.

6 And what about the other planning issues that we've explored  
7 with you? How did you come to satisfy yourself that you  
8 should take your direction from John Woodman, not Heath  
9 Woodman?---So, with Pavilion Estate it was around the same  
10 time in one of the PCG meetings where we'd got the permit  
11 for Pavilion Estate and it was agreed that John would sort  
12 out the issues with the permit. In relation to Cranbourne  
13 West C219, that was a project that John was working on  
14 that was separate from Heath, so Heath didn't have any  
15 involvement at all.

16 Who was the client for C219?---Leighton Properties, and - - -  
17 So where did your instructions come from there that you should  
18 follow Mr John Woodman's direction?---So we met with  
19 Leighton Properties a number of times and during those  
20 meetings it was clear that John Woodman was running - was  
21 instructed by Leighton Properties to run the planning  
22 strategy and I was in effect the worker.

23 Thank you. Yes, Mr Tovey.

24 MR TOVEY: Thank you. When in 2017 was it then that you and  
25 John Woodman and Heath Woodman started to develop a  
26 strategy in respect of Hall Road?---So, my experience of  
27 the strategies were they - - -

28 No, just when was it?---When was it, sorry. It would have  
29 been - my recollection is that the Pavilion permit issued

1 in September 2017 and I'm pretty sure it was at that stage  
2 that in one of those PCGs both Pavilion and the H3 Hall  
3 Road planning issues and strategies were - - -  
4 All right?---Yes, started to develop.  
5 So that comes up between you in the latter part of 2017?---Yes.  
6 Then you are having this meeting with Mr Walker on 22 January  
7 of 2018, which is exhibit 116, and at that stage what is  
8 being said about pursuing funds from the DCP fund in fact  
9 reflects what you and John Woodman and Heath Woodman had  
10 previously been discussing?---Yes, when I look at this  
11 note, yes, these are the - I was asked to go and see Ray  
12 and brief him.  
13 All right. It can't be a coincidence, can it, then that Schutz  
14 Consulting started paying Ray Walker a few weeks  
15 later?---No, that's not correct. I don't think that is  
16 correct because we're talking about 2017 here and - - -  
17 Yes, well, what you've just been looking at was January 2018  
18 ?---Yes.  
19 All right?---Yes.  
20 On 13 February of 2018 - - -?---Yes.  
21 Schutz Consulting started making payments?---To Ray Walker?  
22 To Ray Walker?---Is there copies of my invoices, because  
23 I haven't - I think in 2018 John had - was it 2018 John  
24 also asked for Ray and Verlie Walker to be engaged to do  
25 some community consultation work in relation to  
26 Strathtulloh.  
27 Did you have any feedback from them in respect of what they  
28 were doing on Strathtulloh?---Yes, they provided me with  
29 some reports. But I was never involved in Strathtulloh

1 and Jenny Little was running the planning on Strathulloh.  
2 So I provided - they provided me with reports, I think,  
3 and I just forwarded them to Watsons.

4 COMMISSIONER: Jenny Little was in Watsons' office?---Jenny  
5 Little is the planning manager in Watsons' office.

6 So again you were being used as a conduit for the material that  
7 Walker was generating for that particular task?---Yes.

8 And passing it on to Watsons?---Yes. I should have been  
9 more - I should have been more aware of what was going on.

10 MR TOVEY: And just for the transcript, when we're talking  
11 about a DCP fund we're talking about a development  
12 contribution plan, are we?---Yes, so the development  
13 contributions plan, the Cranbourne West development  
14 contributions plan.

15 And is that a plan which is funded by contributions from  
16 developers when they get permits or how does that  
17 work?---Yes, I'll nutshell it. So, under the planning  
18 scheme there's a development contributions plan overlay.  
19 When you plan new precincts, structure plans, it comes  
20 with a development contributions plan. The development  
21 contributions plan funds community and road  
22 infrastructure. For Cranbourne West the development  
23 contributions plan had a part A and after I think 2016 it  
24 had a part B as well. The part A largely funded  
25 residential development. In 2016 council officers  
26 initiated a second part B development contributions plan  
27 that I think was gazetted in about July 2016. I believe  
28 that part B came about because of the lobbying by Leighton  
29 Properties to reduce the amount of employment land in

1 Cranbourne West. So, council officers wanted to have the  
2 roads within the employment area funded by the development  
3 contributions plan to facilitate development. But the  
4 two - when you read the Cranbourne West DCP, it's very  
5 clear that the part A and the part B funds were to be  
6 administered separately, which they clearly weren't in my  
7 opinion administered separately, because employment roads  
8 were being constructed with residentially collected DCP  
9 funds.

10 COMMISSIONER: Who was meant to administer the fund? Council  
11 officers?---Yes, so under the Planning and Environment Act  
12 the collection agency, which is a statutory authority, for  
13 a development contributions plan is usually the council,  
14 and in this case was the council, was required to  
15 administer the part A and part B development contribution  
16 plans.

17 And the concern you just expressed about how it was  
18 administered, did you convey that concern to the council  
19 at any stage?---I asked in - well, I was asked coming out  
20 of the strategy that was set up in 2017, I was asked by  
21 John Woodman to go to council in early 2018 and find out  
22 how much was in the development contributions plan and  
23 whether there were funds available for the Hall Road  
24 duplication and the culverts. I was told that, no, the  
25 priority lists that had been approved in September 2016  
26 following the gazettal of the part B DCP had allocated the  
27 DCP funds to - well, \$9.646 million of the DCP funds out  
28 of part A had been allocated to construct employment roads  
29 in the part B DCP.

1 Which was, as you saw it, an inappropriate allocation, was  
2 it?---I believe it was an inappropriate allocation.

3 I followed it up with Keri New at council and said, "Keri,  
4 can I please have a balance for how much DCP funds have  
5 been collected from employment land in the DCP area and  
6 how much had been collected from residential funds," and  
7 I never received that information.

8 Yes, Mr Tovey.

9 MR TOVEY: I want to now take you to a document at page 3578.

10 COMMISSIONER: Mr Tovey, you started this line of  
11 cross-examination by referring to page 3621, and then you  
12 went back to the document which precedes it and didn't  
13 return to 3621.

14 MR TOVEY: I wanted to tender 3620 and 3621.

15 COMMISSIONER: Is there something in 3621 that - - -

16 MR TOVEY: 3621 is some of Mr Walker's response and I will take  
17 it up with him.

18 COMMISSIONER: Very good.

19 MR TOVEY: It is more efficient to do it that way.

20 COMMISSIONER: So you want that as part of exhibit 116?

21 MR TOVEY: Yes.

22 COMMISSIONER: And so it's the file note of 28 January and  
23 Mr Walker's - 3621, is that an email or it is just a note?

24 MR TOVEY: 3621 is an email.

25 COMMISSIONER: And email of Walker to Schutz.

26 MR TOVEY: Yes.

27 COMMISSIONER: Thank you.

28 #EXHIBIT 116 - (Added) File note of Mr Walker dated 28 January  
29 and email of Walker to Schutz.

1 MR TOVEY: Just bear with me, please, Mr Commissioner. There's  
2 an undated document. It is 23 April?---Yes, it is  
3 23 April 2018.  
4 Okay. If you could look at that?---Yes.  
5 Is that a briefing by you of the Walkers on or around 23 April  
6 2018?---Yes.  
7 In respect of Hall Road?---Yes.  
8 I tender that document which is pages 3578 and 3579.  
9 #EXHIBIT 117 - Pages 3578 and 3579.  
10 MR TOVEY: I take it that this didn't come out of the blue,  
11 that there had been some preliminary discussions about how  
12 this might be transacted between yourself and Ray  
13 Walker?---Yes, it follows on, yes.  
14 That document starts off, "I am writing to provide you with a  
15 brief in relation to the Hall Road project." Is that  
16 right? "Thank you for meeting with me on Monday. I'm  
17 writing to provide you with a brief in respect to the Hall  
18 Road"; is that right?---Yes.  
19 "The invoicing entity for this project is Schutz Consulting Pty  
20 Ltd"?---Yes.  
21 All right. That would be a very strong indication that at the  
22 time you were particularly conscious of the fact that you  
23 were going to be used as the invoicing entity, would it  
24 not?---Yes, I was asked basically to be the invoicing  
25 entity and to manage Ray Walker's services, yes.  
26 And the only conceivable reason for that would be to hide the  
27 fact that Ray Walker, the apparently independent community  
28 activist, was getting paid by Woodmans to do the things he  
29 was saying to his members?---I know that you're saying

1 that to me and I can understand why you're saying it to me  
2 now, but at the time I didn't even think about it, that  
3 they were trying to conceal something.

4 But the whole of this retainer involves paying him - him being  
5 paid by Woodman or by Watsons to do precisely those things  
6 that he was purporting to do on behalf of the  
7 community?---So this whole brief, though, is about - - -  
8 No, I just want you to comment on the - - -?---So it was only  
9 Ray and Verlie, though, that were engaged here. When  
10 I engaged them they were engaged - - -

11 But you see - - -

12 COMMISSIONER: Just a moment, Mr Tovey. Did you want to answer  
13 the question?---Am I not answering directly?

14 No, no, I'm sorry, I thought you were - - -?---When I have  
15 reviewed in preparing for the hearing, my state of mind at  
16 this time was John had asked me to engage Ray and Verlie  
17 to lobby state and local government in relation to Hall  
18 Road. It was Ray and Verlie Walker personally to lobbying  
19 in relation to Hall Road because he thought it would be  
20 the best way of getting state and local government to  
21 allocate the funds to the Hall Road upgrade.

22 MR TOVEY: But the thing is they were presenting themselves to  
23 their members as people who were independently and  
24 genuinely pursuing the Hall Road project on behalf of  
25 their members; is that right? They were?---I wasn't  
26 involved in any SCWRAG meetings.

27 That's what they were doing, wasn't it? They were putting  
28 themselves out there as being independent people acting  
29 for the community in respect of Hall Road. That's the

1 way - that was the whole strategy that you knew existed at  
2 the time?---Yes, they were community members, yes.

3 All right. Then, if that was the situation, how could you  
4 morally justify a developer paying them to do exactly the  
5 same things that they were purporting to do on behalf of  
6 the community independently?---The engagement here was not  
7 Ray and Verlie Walker as members of SCWRAG. I was asked  
8 to engage them as Ray and Verlie Walker, community  
9 members. I know what you're trying to say, but at the  
10 time when I did it the fact that it extended to SCWRAG  
11 later, it was up to - I wasn't involved in SCWRAG. I'm  
12 assuming that Ray in his meetings with SCWRAG under the  
13 constitution would have advised the other members that he  
14 was getting an income for carrying out consultation work  
15 and lobbying work, because he really - he was being  
16 engaged as a lobbyist.

17 What you're saying simply is not true. We have conversations  
18 between - after The Age article came up, we have  
19 conversations between you and Mr Woodman which we've  
20 already heard in which you and he were trying to seek  
21 assurances that it would not come out that there was a  
22 link between Woodman and Mr Walker or SCWRAG. You  
23 remember those phone calls where you and Woodman are  
24 discussing the cover-up?---I'm just thinking back to when  
25 I - - -

26 No, do you remember those phone calls, yes or no?

27 MR LEWIS: I object to that question in this sense,

28 Mr Commissioner. That doesn't fairly represent the  
29 evidence that was given on the last occasion. There were

1 a number of questions about those transcripts by Mr Tovey  
2 and the answers were not to the general effect that was  
3 just put in that question.

4 COMMISSIONER: You don't think the question fairly represents  
5 the content of those conversations?

6 MR LEWIS: I don't.

7 COMMISSIONER: Very good.

8 MR LEWIS: I can take you to the transcript if it's of  
9 assistance, but the answers were given specific to a  
10 particular entity not becoming aware of the information in  
11 question, not to the public generally.

12 MR TOVEY: I will just ask you a general question. After The  
13 Age article came out in 2018, was it or was it not the  
14 case that you and Mr Woodman discussed in emails and/or  
15 over the phone the need to try and make sure if possible  
16 that the connection with SCWRAG didn't come  
17 out?---Watsons' connection with SCWRAG or my connection  
18 with SCWRAG?

19 The connection between - look, after The Age article came out,  
20 you and Woodman discussed on the phone trying to hide the  
21 fact that there was a connection between Woodman and  
22 SCWRAG?---I would need to be taken to the telephone  
23 conversation.

24 What, you say you can't remember that?---I can't remember back  
25 to 2018 and a conversation I've had with him, I'm sorry.  
26 I'd need to be taken to it.

27 COMMISSIONER: You may have to go back to that, Mr Tovey.

28 MR TOVEY: All right.

29 COMMISSIONER: If you can't do that immediately, you could go

1 on to something else.

2 MR TOVEY: No, I'll go back to it.

3 COMMISSIONER: Very good. Just whilst Mr Tovey is doing that,  
4 did I correctly understand an answer you gave a few  
5 moments ago that when you wrote this set of instructions  
6 to Mr Walker as to what you were expecting him to do in  
7 discharge of his monthly retainer - - -?---Yes.

8 That this is what you were asking him, Ray Walker, and Verlie  
9 to do?---Yes.

10 Not the community group?---No, it wasn't instructions to the  
11 community group. It was to Ray and Verlie Walker.

12 I must say when I look at the entirety of that document - -  
13 -?---Yes.

14 And we go down to the long paragraph which commences "The first  
15 task" - - -?---Yes.

16 I get the impression that what you were asking Mr Walker to do  
17 was to communicate all of these things on behalf of the  
18 community group, not in - - -?---Can I see the whole  
19 paragraph?

20 Sorry?---Sorry, I can't see the whole paragraph on my screen.

21 Could you show Ms Schutz the whole of that? Just read that  
22 paragraph to yourself?---Yes. Yes, I'm asking him and  
23 Verlie to speak on behalf of the whole community.

24 Yes?---Yes.

25 Yes, Mr Tovey. And I should have asked you: to what extent had  
26 these very specific tasks that you were identifying for  
27 Mr Walker to undertake on behalf of the community, to what  
28 extent had those tasks been agreed upon between you and  
29 Mr Woodman? In other words, had you discussed with

1 Mr Woodman, "This is what I will get SCWRAG to do"?---No,  
2 no, I would have been directed to get them to do - - -  
3 These things?---Yes.  
4 So Mr Woodman had discussed these with you?---Yes.  
5 And indicated to you, "This is what you should get SCWRAG to  
6 do"?---Yes. Well, no, not SCWRAG, "This is what you  
7 should get Ray and Verlie to do. This is what I want you  
8 to get Ray and Verlie to do."  
9 What, just in their own name?---I wrote it to Ray and Verlie,  
10 so I must have written it to Ray and Verlie on that basis,  
11 yes.  
12 But what I'm suggesting to you is they would have understood  
13 this is what you were asking them to do in the name of the  
14 community group?---I haven't - I think at the time, if my  
15 recollection is - I'm just trying to recall back to that  
16 time. I remember that Ray and Verlie came to me and asked  
17 me if there was any additional work that would roll on  
18 from the other work they'd had, and John had said to me,  
19 "Let's get Ray and Verlie involved in lobbying in relation  
20 to Hall Road and we'll pay them a retainer each month for  
21 it."  
22 In which case if you're asking Mr Walker to do this in his own  
23 name and he and his wife's name - - -?---Yes.  
24 Why would there be a need for him to disclose anything by way  
25 of a conflict of interest disclosure, if he was just doing  
26 this in his own name and not on behalf of the community  
27 group? I remember you said a little while ago - -  
28 -?---No, that's because it ended up that the retainer  
29 ended up - Mr Walker was writing letters to council on

1 SCWRAG letterhead. So, under the constitution, when you  
2 read the constitution for SCWRAG, potentially he should  
3 have disclosed to the committee members that he was  
4 writing on SCWRAG letterhead but he was also being paid as  
5 a lobbyist by the developer.

6 Precisely?---Yes.

7 But he wouldn't have needed to do that if he had understood  
8 that the tasks you were setting out for him were not tasks  
9 which SCWRAG should perform, they were tasks that he and  
10 his wife should perform in their own name. But he didn't  
11 understand it that way, did he?---No, I don't think so,  
12 and I think when I reflect back on how everything  
13 happened, I was kept so busy with everything that I was  
14 shortsighted all the time and I wasn't looking at things  
15 overall. This was like a runaway train. Next thing you  
16 know, letters are being written on SCWRAG. When I look  
17 back on it, I cringe as putting my solicitor's hat on  
18 because it was just - it's not - I wasn't sat down in 2017  
19 ever at any point and given a full strategy of how all  
20 this was going to be done. I was literally just from  
21 moment to moment responding to John's instructions and  
22 I should have been more - - -

23 Yes?---I should have had more independence.

24 I just want to clarify isn't the consequence of the way in  
25 which you wrote this document that it was inevitable  
26 Mr Walker and his wife would see this as tasks which you  
27 were saying should be performed by SCWRAG? You weren't  
28 suggesting a letter drop by him in his name?---No.

29 You were suggesting a letterbox drop by SCWRAG?---Yes, yes.

1 Which is the - - -?---Yes.

2 If you just go down, if you wouldn't mind going down about  
3 three or four lines?---Yes.

4 "Doorknocking, letterbox dropping" so on?---Yes.

5 That was going to be by SCWRAG, wasn't it?---Yes, it assumes  
6 that he would have got SCWRAG involved, yes.

7 And that's why you said earlier you expected, you say, that he  
8 would then disclose to the members of SCWRAG that he was  
9 in a conflict of interest position because he was  
10 receiving a personal payment?---Yes, I would have assumed  
11 he disclosed that to his members, yes.

12 Yes, Mr Tovey.

13 MR TOVEY: I suggest to you that's untruthful. On 6 December  
14 you were played exhibit 108, which is a conversation  
15 I spoke to you about previously where you're speaking to  
16 Mr Woodman about how you're going to react to The Age  
17 article suggesting an unhealthy association between  
18 Mr Woodman and SCWRAG, and then I asked you this question  
19 at line 7.

20 COMMISSIONER: I'm sorry - - -

21 MR TOVEY: 1174.

22 COMMISSIONER: What are you referring to now, Mr Tovey?

23 MR TOVEY: The transcript.

24 COMMISSIONER: Yes.

25 MR TOVEY: So this is on 6 December last year, page 1174.

26 I asked you this question, "Look, I'm not anxious of doing  
27 Mr Walker any undue damage, but it's apparent from that" -  
28 that is from the conversation that you'd just heard - "is  
29 it not, that you had arranged with Mr Walker that he would

1 cover up, if asked by The Age, the fact that he was  
2 employed by Watsons?" Your answer was, "That he  
3 was - yes, that he was - I think he knew that he was  
4 employed by Watsons, yes."

5 COMMISSIONER: But, Mr Tovey, just remind me, The Age article  
6 is when? What date?

7 MR TOVEY: It was in November of 2018, the precise  
8 date - sorry, October.

9 COMMISSIONER: Yes.

10 MR TOVEY: I can check, Mr Commissioner.

11 COMMISSIONER: But this particular document, what's the date of  
12 this document that we've been exploring with Ms Schutz?

13 MR TOVEY: Exhibit 108.

14 COMMISSIONER: No, no, exhibit 117, the last document tendered.

15 MR TOVEY: Is 24 April 2018. But if in a later conversation  
16 with Mr Woodman this witness was seeking to cover up the  
17 association, it's inconceivable that she could now  
18 honestly be saying that she believed at the time that  
19 Walker would have been disclosing the association.

20 COMMISSIONER: You'd better pursue that with her. I'm not sure  
21 that that necessarily follows.

22 MR TOVEY: At some stage - do you agree that ultimately after  
23 The Age article it became part of the discussion between  
24 yourself and Mr Woodman that you would try to hide, if  
25 possible, the association between Watsons and  
26 SCWRAG?---I can't remember. If there's conversations, I'm  
27 happy to listen to them. But, honestly, right now  
28 I cannot remember. And from reviewing my transcript over  
29 the weekend where the conversations aren't included in the

1 transcript, I've just answered questions, and I thought  
2 the comments about exposing in the transcript were related  
3 to the conversations that Ray was having with Dacland.  
4 What I suggest to you is that the whole process was such that  
5 the association had to be hidden because letters were  
6 being written to the council and to the minister - you've  
7 already been asked about this - where it would have been  
8 fatal if the council or the minister, that is councillors  
9 generally, not just those who were in your pocket, but  
10 councillors generally or the minister thought that SCWRAG  
11 was in fact a vehicle for the Woodman interests?---But  
12 SCWRAG were writing - Ray Walker was producing those  
13 letters. I was having input into them, but he was  
14 producing them.  
15 But they were being produced, and you've already told us this,  
16 on the basis that the minister would accept at face value  
17 that SCWRAG was an independent organisation. That's why  
18 you needed SCWRAG?---In the evolution of SCWRAG there's no  
19 doubt that Leighton Properties funded and Watsons funded  
20 the evolution of SCWRAG. There's no doubt that Watsons  
21 and Leighton Properties funded doorknocking, going around  
22 asking people to sign a petition, asking them to answer a  
23 survey. But you can't make people sign a petition. You  
24 can't make people open their door and take a survey or  
25 come out to a community day and provide input. So, it was  
26 created with resourcing by Leighton Properties and  
27 Watsons. There's no doubt about that.  
28 That doesn't address what I was putting to you, and that is  
29 when you and Mr Walker got together to compose letters to

1 the minister, for instance, the whole process was  
2 predicated on the basis that those letters would be looked  
3 at because SCWRAG had credibility as independently  
4 representing a large number of ratepayers; true?---Yes.  
5 You didn't go telling the minister, "Look, in fact we" - we,  
6 that is Watsons or Woodman related interests - "were in  
7 fact paying Walker," because that would have been  
8 counterproductive, would it not?---So Ray and Verlie were  
9 members of SCWRAG and if they had a conflict of interest  
10 they should have disclosed it to SCWRAG. But I think  
11 SCWRAG was bigger than just Ray and Verlie Walker.  
12 I'm suggesting you're being a little bit disingenuous here, are  
13 you not? What I'm suggesting to you is that when you were  
14 using SCWRAG to put letters to the minister you well knew  
15 that you did not want the minister to know that there was  
16 any connection between SCWRAG and Woodman or Watsons.  
17 That was clearly the case, was it not, otherwise the whole  
18 strategy would have been for nothing?---He must have known  
19 that there was, because community groups can't pay for  
20 huge signs to be erected on, you know, all those signs  
21 that were erected on the Leighton Properties' land. There  
22 was such a huge amount of money that was spent resourcing  
23 the community group, the minister must have known that the  
24 community group and the developers' interests were  
25 aligned, and because the developers' interests were  
26 aligned with what the community wanted, the developer had  
27 resourced the community group. I don't think that was  
28 hidden.  
29 Why would you use SCWRAG to send the letter?---Pardon?

1 Why would you use SCWRAG to send the letter if it didn't make  
2 any difference whether it was SCWRAG or Woodman who was  
3 sending the letter?---Because SCWRAG had a membership base  
4 at the time in relation to the rezoning which had been  
5 gathered through the doorknocking and the signing of  
6 petitions of about 1100 members at its height. People had  
7 signed up, they had provided their details and they were  
8 members of SCWRAG.

9 All right. So your position is then that you never - I want to  
10 give you every opportunity here of telling the truth. Is  
11 your position now today that you never at any stage were  
12 of the view that it was necessary to cover up or disguise  
13 or not disclose the association between Woodmans or  
14 Woodman interests or SCWRAGs; is that your  
15 position?---I can't recall, but you are referring to a  
16 telephone conversation in relation to an Age article from  
17 2018. I'm happy to - I'm not - it's a phone call that was  
18 two years ago and there's a lot of phone calls with  
19 Woodman where I say things that - I'm just not sure what  
20 I've said to him in 2018. I know when The Age article was  
21 being prepared and when journalists from The Age were  
22 ringing my phone constantly and I asked the client whether  
23 I should answer the calls, the advice I - you know, the  
24 advice I received from the client was, "No, don't answer  
25 the calls."

26 Have you been in communication with Mr Woodman since you  
27 concluded giving evidence in December?---Have I contacted  
28 Mr Woodman directly?

29 Have you been in communication with him?---No, I've moved my

1 office out of his office.

2 Have you spoken to him?---No.

3 Have you spoken to anybody who made communications to you on  
4 his behalf?---I've spoken to Heath Woodman, but that's  
5 because I moved out of their offices.

6 COMMISSIONER: I'm sorry, I didn't catch that. Because of  
7 what?---I've moved out of their offices.

8 MR TOVEY: Have you discussed with Heath Woodman any of  
9 the matters which have arisen in evidence before  
10 IBAC?---No, because my evidence - I was asked not to speak  
11 to Heath Woodman about my evidence.

12 COMMISSIONER: I'm confused now, Ms Schutz. When you commenced  
13 your evidence on this whole subject this morning you  
14 started by saying in substance that you couldn't  
15 understand why Mr Woodman had used Schutz Consulting as  
16 the conduit for the making of these payments, and you have  
17 now realised that in doing so the purpose was to conceal  
18 or to put distance between him and the payments to the  
19 community group?---The payments to Ray Walker.

20 Yes?---Yes.

21 That just doesn't sit together with what you're now saying,  
22 which was everybody knows that the developer must be  
23 paying the funding for the community group to perform all  
24 these tasks. I can't put the two together?---So, the  
25 funding by Leighton Properties and Watsons of the  
26 doorknocking, the signage, the community days, everyone  
27 knew that - that was like when we originally did the  
28 survey it was actually Schutz Consulting doing the survey.  
29 When the public meetings were originally set up, it was

1 Schutz Consulting that set up those public meetings to  
2 begin with.

3 But if, as you're now saying, everybody including the minister  
4 would know that the developer would be funding the  
5 expenses of the community group - - -?---I think - - -  
6 Why would there be - I don't understand your evidence earlier  
7 this morning in which you said "I've come to realise" that  
8 Woodman was using you as a conduit to conceal the fact  
9 that Watsons was making these payments to  
10 Mr Walker?---Yes, I think that's right. I feel that, on  
11 reflection, that's what he must have done.

12 But why would he need to worry about that if everybody knows  
13 that Watsons/Woodman is paying the community group for its  
14 expenses?---I don't know why he was doing it.

15 What I want to suggest is one of the two pieces of evidence  
16 can't be correct. Either it's an exaggeration to say that  
17 everybody knew that Watsons/Woodman would be behind any  
18 payments for expenses to SCWRAG - - -?---Well, not just  
19 Watsons. It was Leighton Properties and Watsons that were  
20 funding the expenses of - - -  
21 The joint developers?---Not just of SCWRAG, though, it was more  
22 the community.

23 Yes?---Yes. They funded the barrister of SCWRAG.

24 Yes, but do you see how the two don't really easily sit  
25 together? If indeed your suspicions as you announced them  
26 this morning are correct, that is that the purpose of  
27 using your consulting group to make the payments was to  
28 hide the source of the payments - - -?---This is with the  
29 consultancy services that Ray Walker was carrying out?

1 Yes?---Yes, I think he was - when I've looked back on my file,  
2 I think he was trying to conceal that Watsons were paying  
3 Ray Walker for consultancy services.  
4 Yes. All of this work that's reflected in the detailed  
5 tasking - - -?---Yes.  
6 You say, however, that everyone involved in the process,  
7 including the minister, would know that the developers,  
8 Watsons, Leighton, they would be behind making the  
9 payments that have to be incurred by the community  
10 group?---So you're talking about my instructions to Ray  
11 and Verlie Walker in relation to Hall Road?  
12 Yes, all the work that you specified?---No, I don't - I think  
13 Ray - I think Ray should have - now I understand what  
14 you're talking. Sorry, I haven't - - -  
15 It's very difficult to reconcile the two pieces of your  
16 evidence?---We've been talking about Cranbourne West. The  
17 Age article is about Cranbourne West, Pavilion and the H3  
18 intersection. The payments - the resourcing of SCWRAG and  
19 the community and, you know, getting the numbers for the  
20 community group in relation to Cranbourne West was  
21 resourced by Leighton Properties, and Watsons paid some of  
22 those invoices as well. Ray and Verlie Walker acting as  
23 lobbyists in relation to the H3 intersection and  
24 eventually, you know, using - communicating the  
25 community's interests through SCWRAG, and Ray and Verlie  
26 Walker obtaining a consultancy fee for doing that  
27 lobbying, I can see that John Woodman did not want anyone  
28 to know that Watsons was paying Ray and Verlie Walker for  
29 that work, which would lead to the - you know, lead

1 to - because when you look at how he was paying Ray and  
2 Verlie Walker in relation to when he had them doing  
3 research on the south-east corridor in 2016, he was using  
4 an entity called Swan Bay Developments and he had a  
5 confidentiality clause in that contract he had with them,  
6 so when I look back on it and look at the Swan Bay  
7 Developments stuff and then I look at him using me,  
8 I assume he was using me for the same purpose to create a  
9 step removed.

10 I think you have agreed now that, although the tasking is  
11 directed in the letter or email to Ray and Verlie - -  
12 -?---Yes.

13 It was tasking which SCWRAG was ultimately going to be seen to  
14 be performing. They would be the individuals doing the  
15 work, but it would be SCWRAG that would be represented as  
16 the entity doing the work?---Yes, they were being  
17 resourced to get SCWRAG on board to put - - -

18 With these things?---To advocate, yes.

19 And if everyone knew that Watsons/Leightons would be behind the  
20 payment of any expenses associated with all of these  
21 tasks, why would there be a need to try and conceal the  
22 payments, the source of the payments? It doesn't make  
23 sense, does it?---No. I think which we discussed in  
24 December. There should just be transparency around it.

25 Yes. Yes, Mr Tovey.

26 MR TOVEY: So, having said that, would you now agree that you  
27 thought it was unlikely that Mr Walker would have  
28 arranged, in view of the confidentiality agreement as  
29 well, it is unlikely, is it not, that Mr Walker from your

1 perspective was expected to disclose to other people  
2 involved in SCWRAG his connection with Woodman?---I only  
3 looked at the confidentiality clause and really  
4 acknowledged it in preparing to come to this hearing.

5 You agree with my proposition?---Can you just repeat your  
6 proposition again, sorry?

7 In view of what you've just told the Commissioner, what I'm  
8 suggesting to you is that you must have thought at the  
9 time that it would be very unlikely that Mr Walker would  
10 have been disclosing his association with Woodman to  
11 members of the SCWRAG committee.

12 COMMISSIONER: A difficulty with that, Mr Tovey, is it would be  
13 unlikely if Ms Schutz's initial position were correct,  
14 namely that Schutz Consulting was used to conceal the fact  
15 that Watsons/Leighton were making these payments.

16 MR TOVEY: Yes.

17 COMMISSIONER: If her more recent evidence is correct, that  
18 everyone knew that they would be making those payments,  
19 then there's nothing for Mr Walker to disclose to other  
20 members of the community group; they would already know  
21 that whatever the expenditure for this campaign it would  
22 be paid for by Watsons and Leightons?---No,  
23 I don't - I think I'm treating the Cranbourne West  
24 funding, the rezoning, Leighton Properties, Watsons  
25 funding as separate from this. This issue that we're  
26 talking about now, the H3 intersection, where Woodman had  
27 directed me to engage Ray and Verlie Walker as in effect  
28 lobbyists, and then by that wasn't, you know, they carried  
29 out their activities under the name of SCWRAG, I think

1 that retainer was akin to the Swan Bay Developments  
2 retainer where - did Ray and Verlie Walker disclose to  
3 SCWRAG that they were retained and being paid a  
4 consultancy fee for carrying out community consultation?  
5 I think that's a question for Ray Walker. Did I expect  
6 him to disclose that he was being paid to carry out that  
7 consultation work? I think I thought I had been asked to  
8 engage him to - I think ethically I would expect him to  
9 declare that he was being paid for that consultation work,  
10 but I think the expectation from John would be that it  
11 shouldn't have been disclosed.

12 At the very end of that long paragraph in which you assign  
13 tasks that ultimately - - -?---I haven't got it up on my  
14 screen. It's been taken down from my screen.

15 In any event, what it talks about is you want them to arrange a  
16 meeting with the minister?---Yes.

17 And you have indicated you would like to attend that  
18 meeting?---Yes.

19 That was going to be a meeting of SCWRAG and the minister in  
20 which you would like to be present?---So that meeting  
21 ended up organised by - that meeting was the Minister for  
22 Roads. I can't see, but - - -

23 No, I'm just looking at what you had in mind. It wasn't going  
24 to be a meeting of Ray and Verlie with the minister; it  
25 was going to be a meeting of SCWRAG, wasn't it?---When the  
26 meeting was organised, I was tasked to organise the  
27 meeting through Phil Staindl's office and I provided a  
28 briefing via Phil Staindl's office to the Minister for  
29 Roads office and Ray and I both went to that meeting and

1 I'm pretty sure that Ray was identified as the president  
2 of SCWRAG, yes.

3 How long had you known Mr Staindl for, Ms Schutz?---Phil  
4 Staindl has been - ever since I've been working with John  
5 Woodman, I've been at meetings with Phil Staindl, yes.

6 And what was Mr Woodman using him for?---My understanding of  
7 Phil Staindl is he's a registered lobbyist and he is used  
8 to liaise with the current government. Previously there  
9 was a Liberal - an equivalent Liberal lobbyist that John  
10 used, a guy named Geoff Leigh, and every month over the  
11 last couple of years I think we've had regular meetings  
12 with Phil Staindl and we've asked for Phil to organise  
13 meetings with, you know, in relation to various projects,  
14 to arrange meetings with various MPs so that we can  
15 provide briefings to those MPs on various issues. And  
16 also in the lead-up to the election where there's been  
17 donations and that sort of thing, they've been discussed  
18 as well, where they'll be allocated.

19 Sorry, so who discussed the allocation of donations?---That's a  
20 matter that's been discussed between John and Phil, yes,  
21 and I've been in those meetings.

22 And is that a common scenario within the planning industry,  
23 that lobbyists are engaged and give advice in relation to  
24 campaign donations?---My understanding is, yes.

25 And that's not - we're not just talking about something unique  
26 to Watsons and Mr Woodman?---No.

27 This is a methodology that exists within the planning  
28 industry?---Yes. Particularly on large rezonings.

29 Yes. And is it a process that's confined to members of

1 parliament or does it extend to ministers as well?---No,  
2 sorry, it extends to ministers' offices as well.

3 And when you say 'offices', it might be the minister, it might  
4 be somebody senior in the minister's office?---Yes, so  
5 often if you asked to have the opportunity to brief a  
6 minister's office, you wouldn't meet with the minister,  
7 you would meet with a member, a senior member of the  
8 minister's office to provide that briefing.

9 Yes?---And Phil Staindl would be at that meeting and often, you  
10 know, I would be asked to go and prepare a briefing note  
11 and talk to it in relation to the planning merits.

12 And what was it that enabled you or Mr Woodman's interests -  
13 what was it that enabled Mr Staindl on your behalf to get  
14 access to government at that level?---I think because  
15 Phil's a registered lobbyist and when you look at the  
16 lobbyists' rules for State Government, those lobbyists'  
17 rules talk of creating the ability for business to  
18 communicate and lobby directly with government. I think a  
19 lot of it was done really - like, Progressive Business is  
20 for the purpose of linking government and business.

21 Progressive Business is the Labor Party arm of attracting  
22 funding through which the lobbyists might  
23 work?---Progressive Business is an organisation which is  
24 intended to connect business with government so they can  
25 have frank discussions with government about their  
26 interests, the various industries' interests. So it's not  
27 just the development industry that are members of  
28 Progressive Business. It's a wide range of industries and  
29 peak bodies.

1 And is there an equivalent entity on the Liberal Coalition side  
2 of politics?---Yes. My understanding is that's called  
3 Enterprise 500 and I have been to a couple of those  
4 functions, like boardroom lunches they're called.  
5 I was asking you, though, what is it that gave Mr Staindl an  
6 entree to ministers or senior advisers in the areas that  
7 you were working with Mr Woodman on?---I think it's just  
8 because he was a registered lobbyist.  
9 But did it matter who the client was? Did the fact that the  
10 client had made campaign donations, did that assist in  
11 getting an entree?---Not that I have knowledge of.  
12 So you mentioned earlier that you were present at discussions  
13 where Mr Staindl and Mr Woodman discussed making donations  
14 for campaigns?---Yes.  
15 What was the reason expressed for why Mr Woodman would be  
16 interested in doing that?---So, it was often Phil might  
17 say, "Look, there's a new candidate standing in X area and  
18 they could do with some additional funding for their  
19 campaign leading up to the election. It would be helpful,  
20 if you're willing to, to donate an amount to that  
21 campaign." Yes. So it was really Phil Staindl guiding  
22 John Woodman on where, if he wants to make donations,  
23 where they would be best allocated, where the money was  
24 required.  
25 What would make a particular donation the best place to make  
26 the donation? What was the criteria? Do you follow what  
27 I'm asking you?---I do, and when you ask me that question  
28 I'm thinking about the fact that, for example, in the  
29 lead-up to the '18 election I know from reading the

1 newspapers that there were donations made to the new  
2 member for Cranbourne.

3 So don't let me put words in your mouth, please?---No.

4 But was the strategy that campaign donations should be directed  
5 to those either existing members standing for reelection  
6 or potentially new members of parliament who might be able  
7 to further Mr Woodman's interests?---My recollection is  
8 that Phil Staindl might say to John, "Look, there's a new  
9 person standing for that area. They're really short on  
10 funding. It will be really appreciated if you could  
11 direct some funding." But at the time in that sort of  
12 case there was no connection with any project for - - -

13 No, but Mr Staindl is not a fundraiser for the Labor Party, is  
14 he? Mr Staindl is a lobbyist who is engaged to try and  
15 further the interests of his clients. So what was it that  
16 Mr Staindl was suggesting when he suggested that donations  
17 should be directed to particular persons?---I took it,  
18 when I was in those meetings, that he spoke to government  
19 and they provided him with, you know, advice as to where  
20 funds could best be allocated if there were donations  
21 available to be allocated, and I didn't - the meetings  
22 weren't necessarily about, "Oh, you should donate money to  
23 a particular area because that's where your project is."  
24 It wasn't until - like, I was aware with the member for  
25 Cranbourne, for example, in the lead-up to the last  
26 election, that the office had contacted me and asked me if  
27 my client wanted to purchase a couple of tables at an  
28 event that was held for the new member for Cranbourne at  
29 the Seaford Hotel. They were \$750 each, those tables, and

1 I was instructed that Watsons would fund two of those  
2 tables, yes. But other than that, I didn't - I wasn't  
3 aware of other - from those meetings I had with Phil  
4 Staindl and John Woodman, I wasn't aware that there was  
5 additional funds that were allocated. I just didn't have  
6 firsthand knowledge of that to the member of Cranbourne  
7 now.

8 Do you mean you didn't understand that the strategy of to whom  
9 campaign donations should be allocated was intended, if it  
10 could, to further Mr Woodman's interests? You didn't  
11 understand that's what lay behind the strategy?---I'm  
12 assuming he made donations to - I always thought his  
13 donations were lawful and I'm assuming - - -

14 That's not what I'm asking you, Ms Schutz?---I'm assuming he  
15 made those donations to further his business interests,  
16 yes.

17 Indeed. And your expertise, did that tell you something about  
18 whether or not it was a worthwhile expenditure of funds?  
19 That is, did your expertise and your experience tell you  
20 that making campaign donations permitted Mr Woodman to  
21 exert a level of influence?---My experience of John  
22 Woodman, which was different from most clients I had, was  
23 that he always took a top-down approach in which he went  
24 to the decision makers first in relation to his projects  
25 rather than going to the bureaucrats, and I assumed  
26 because he was, you know, he was a platinum member of  
27 Progressive Business and he was known for, you know, John  
28 Woodman has donated a lot of money to a lot of different  
29 causes, including funding community groups and local

1 schools, et cetera, that, yes, everyone - you know, it  
2 created a network for him.

3 But was the answer to my question was it evident to you over  
4 the period you've been a planning consultant that  
5 supporting individuals with campaign donations enabled  
6 people to exercise a level of influence?---I see.

7 I understand your question now. So I think it got you a  
8 meeting. It was networking that allowed you a meeting,  
9 allowed you the ability to brief.

10 And that was primarily Mr Staindl's function?---Yes.

11 Was to be the organiser of those entrees?---Yes, and sometimes  
12 brief.

13 Thank you. It took us a while to get there?---Sorry, yes.

14 I should have just said for the record and you know that in  
15 your early stages with Mr Woodman, Mr Woodman was making  
16 considerable donations to the Liberal entity that was  
17 responsible for campaign donations and supported a number  
18 of Casey councillors, Liberal councillors?---Yes,  
19 Mr Woodman has advised me that he supported Gary Rowe and  
20 Susan Serey and, yes, Amanda Stapledon and Geoff Ablett,  
21 yes.

22 MR TOVEY: Are you proposing to have a break, Mr Commissioner?

23 COMMISSIONER: Yes, we can do that. Have a break, Ms Schutz.

24 We will come back in 10 minutes or so. Thank you.

25 (Short adjournment.)

26 COMMISSIONER: Yes, Mr Tovey.

27 MR TOVEY: Thank you. I just want to ask some more questions  
28 about exhibit 117 at page 3578 and just record what it is  
29 that that refers to. So, it starts off with you

1           indicating that you are providing a brief in respect of  
2           the Hall Road project, does it not?---Yes.  
3   That Schutz Consulting is to be invoiced?---Yes.  
4   That there is a monthly retainer of 2,500 plus GST?---Yes.  
5   Had that monthly payment already commenced?---I don't - my  
6           recollection is, no. My recollection is that Ray had  
7           already been engaged on another project by John and he was  
8           working on something else up until that time and this was  
9           a new retainer.  
10   You noted that the scope of the project is to lobby council and  
11           State Government about the upgrade to Hall Road and  
12           Western Port Highway and the Cranbourne-Frankston  
13           Road?---Yes.  
14   And that's the project, is it, that was explained to you by  
15           Mr Woodman as the project that he wanted you to  
16           pursue?---It was the project he wanted me to engage Ray  
17           and Verlie Walker to lobby on behalf of the community in  
18           relation to.  
19   All right. And then you indicate the first task was to write  
20           to the Minister for Roads, Luke Donnellan?---Yes.  
21   And you went into some detail as to what was to be  
22           written?---Yes.  
23   And then you wanted that letter to be sent off that  
24           week?---Yes.  
25   And was a letter of that nature sent off to the minister for  
26           railways?---Yes.  
27   You also went on to indicate that you wanted doorknocking and  
28           letterbox drops and Facebook or whatever was the most  
29           effective way of publicising the issue?---Yes, I said they

1           may also wish to carry out, yes.

2   That was to raise community awareness, next paragraph?---Yes,

3           yes.

4   And you also thought it would be a good idea to start a

5           petition to be signed by members of the community?---Yes,

6           so I asked them if - I said to them, "It may be that you

7           also think it's a good idea to start a petition".

8   Yes?---But I said, "If you're going to start a petition, it's

9           really important, to ensure it has legitimacy, that it's

10          prepared in a certain way."

11   Was there in fact a petition started following that?---My

12          recollection is a petition was never started.

13   All right. There was ultimately a - there were petitions from

14          time to time provided. Were they petitions which related

15          to Hall Road or only to other issues, only to

16          C219?---There were two petitions that were prepared as

17          part of the C219 rezoning.

18   Yes?---And they were tabled in parliament by Jude Perera, the

19          member at the time for Cranbourne.

20   And did you design or did you assist in having those petitions

21          designed?---Yes, I assisted with putting them together.

22   And were those petitions, did they propose - I'm just trying to

23          think of the right word. Were those petitions designed in

24          a way which was most likely to get the answer that you

25          wanted?---The two petitions were - yes, they were asking

26          the community to support - to lobby government to support

27          the rezoning of the land from industrial to residential.

28   And was the way in which the issue was stated in those

29          petitions carefully considered by you to ensure that it

1 had the most likelihood of being attractive to residents  
2 of the area?---I was mainly asked to look at it from the  
3 perspective of - there were parliamentary guidelines for  
4 preparing petitions, but the wording was - I had some  
5 input into the wording, but I didn't finalise the wording.  
6 There are numerous letters that are discussed in various  
7 documents going either to ministers - - -?---Yes.  
8 Or to council - - -?---Yes.  
9 In respect of both C219 and in respect of Hall Road. Would you  
10 routinely be involved in vetting or designing those  
11 letters?---Yes, I would routinely have input.  
12 And how would that work? Would you draft a letter and send it  
13 to Mr Walker or would he draft a letter for you to look at  
14 or would you sit down together? How did it work?---There  
15 were a few different ways it worked. Sometimes Ray Walker  
16 would draft a letter and ask me to look at it. Sometimes  
17 I would ask Ray to write a letter in relation to a  
18 particular issue and I'd say to him, "Do you want me to  
19 prepare a draft of it first?" But on all occasions where  
20 letters went out on SCWRAG letterhead, it was Ray that  
21 finalised the letter and sent it.  
22 And on all occasions where letters of that nature went out,  
23 were you involved?---I don't think on all occasions, but  
24 I'd say most occasions.  
25 You indicate at the bottom of the page, of page 3578, that, "A  
26 report commissioned by Elysian and provided to me by  
27 Watsons by a traffic engineer is attached"; is that  
28 right?---Yes. So I was asked to obtain traffic  
29 engineering advice to support Hall Road being delivered as

1           soon as possible.

2   And who asked you?---Who asked me to?

3   You say you were asked. You were asked by Mr Woodman?---Yes.

4   Was that traffic engineering advice used as part of SCWRAG's

5           submissions to council?---Yes. It ended up addressed to

6           SCWRAG and used by SCWRAG in its submissions to council,

7           but it was paid for by Watsons.

8   Was it used in council for the purpose of debate?---I can't

9           recall at the moment.

10   You also attached a plan prepared by Watsons laying out what

11           was going on along Hall Road; is that right?---Yes,

12           showing the various intersections that had been delivered

13           and the outstanding works to be delivered.

14   Could you please have a look at page 3580, thank you. While

15           that's being brought up, was the report that you provided

16           that was referred to in exhibit 117, that is the traffic

17           report, was that a Traffix report or some other

18           report?---Given the date of that email, it must have been

19           the TTM Group report. Sorry, I was wrong in saying that

20           it had been addressed to SCWRAG. It hadn't been addressed

21           to SCWRAG. TTM Group had prepared a report that

22           I think it had been commissioned by Watsons.

23   Yes?---And that was a report prepared to council officers in

24           December 2017 which supported the release of DCP funds.

25   If I look at 3580. I tender that, Mr Commissioner. That is

26           the response by Mr Walker to exhibit 117.

27   COMMISSIONER: Mr Ray Walker and Verlie Walker, is it?

28   MR TOVEY: Yes.

29   COMMISSIONER: What's the date of that document, Mr Tovey?

1 MR TOVEY: We're not sure, your Honour.

2 WITNESS: I think it came pretty quickly after my instructions  
3 to him on 23 April 2018.

4 #EXHIBIT 118 - Response of Ray and Verlie Walker to email of  
5 Ms Schutz dated 23/04/18.

6 MR TOVEY: In the course of that, you'll see if you go to the  
7 second paragraph he says he has read your brief or they  
8 say they've read your brief. They have concern selling  
9 the proposal to residents "which we need to consider and  
10 discuss on a number of levels". You acknowledge that was  
11 the response that he gave you?---Yes.

12 And that makes it clear, does it not, that the brief was  
13 reflecting what was coming from Mr Woodman at that stage,  
14 not what was coming from the Walkers, because they were  
15 worried they would have difficulty in selling what was  
16 being proposed?---Yes, Ray - yes. Yes.

17 So, if you go down, first of all he said Hall Road residents  
18 would want more. Then, if you go down further where it  
19 says "not necessarily in order" and he refers to the other  
20 issues being the Evans Road bottleneck, and then if we go  
21 right down to the paragraph at the bottom, could we scroll  
22 up, please, another issue is the Western Port Highway  
23 roundabout?---Yes.

24 And then that section of Hall Road which is on the other side  
25 of the Western Port Highway to the east?---Yes.

26 So, in order to sell the issue he was saying that you would  
27 have to make it a bit broader than what was being  
28 proposed?---Yes.

29 If we just go down to the bottom, go over the page, and so at

1 the top of page 3581 they observe that Hall Road, if it's  
2 to get up, would have to be part of a planned staged  
3 overall strategy; true?---Yes.

4 If we could just scroll down to the bottom. Have you had the  
5 opportunity of reading all that?---Yes.

6 And he's telling you there - in the third last paragraph he  
7 indicates that - sorry, they indicate that they have set  
8 up SCWRAG - sorry, agreed to set up SCWRAG to join with  
9 developers to get the rezoning?---Yes.

10 And then go on to say that they believe they can get some level  
11 of commitment and agreement in respect of that, then they  
12 can sell it to the - sorry, "commitment and agreement  
13 above"?---Yes.

14 "I feel we can sell it to the residents"?---Yes.

15 Is that a commitment he's talking about there in respect of  
16 widening the issue in respect of Hall Road?---Yes, I think  
17 my understanding of this email was that he was saying,  
18 "You've written me a brief that focuses on the piece of  
19 Hall Road between Frankston-Cranbourne Road and Western  
20 Port Highway, but the Hall Road issues are far broader  
21 than that and to get community support they need to be  
22 framed as such."

23 Then he said, "Look, they are all wanting road redevelopment.  
24 There will be no real opposition." But what that  
25 indicates, does it not, is that this isn't being driven by  
26 the residents; he is there discussing with you how he's  
27 going to motivate the residents to get them to adopt the  
28 strategy that you're proposing?---Yes, to support the  
29 planning strategy. He's saying to me that the only way

1 the community will support - like, the community already  
2 have issues with Hall Road, but in order for the community  
3 to support the strategy of lobbying council and the  
4 minister to upgrade Hall Road, it will need to be much  
5 broader than the ambit, the scope of what you're talking  
6 about - what I was talking about in my email to him.

7 Could we go to 23 May 2018 and a document which appears at  
8 3620. Sorry, 3621. Mr Commissioner, this was already  
9 attached as part of a previous exhibit.

10 COMMISSIONER: 116.

11 MR TOVEY: Yes. It should have been exhibited independently,  
12 so if it could be exhibited.

13 COMMISSIONER: All right. I will mark that exhibit 119 then  
14 and I will remove that part of it from 116.

15 #EXHIBIT 119 - (Formerly part of exhibit 116) Email from Walker  
16 to Schutz dated 23/05/18.

17 MR TOVEY: That email is 23 May 2018 and it's talking about a  
18 community information day flyer?---Yes. So, I'm pretty  
19 sure that I had been asked by Leightons and John Woodman  
20 to organise another, and I think Dacland was involved in  
21 this as well. Yes, they were, because Dacland had  
22 purchased the Leighton Properties land from them. So the  
23 C219 land, Dacland was the purchaser of that land.

24 Yes?---So I had been asked by Leightons, John and Dacland to  
25 organise another community information day to let the  
26 community know where the rezoning had got to, and Ray was  
27 proposing - I might have suggested or Ray might have  
28 suggested that we also use that community information day  
29 to let the community know about Hall Road, to fix Hall

1 Road.

2 Yes?---So Ray had written to me. My recollection is that Ray  
3 thought the holding of that community day, community  
4 information day, was really late in the piece given the  
5 panel had delivered its positive report to support the  
6 rezoning. So that's the independent panel that had been  
7 appointed by the Minister for Planning had made a  
8 recommendation that the rezoning should be supported, and  
9 Ray's view was that that should have been communicated to  
10 the community as soon as possible, and I hadn't been  
11 instructed to, you know, get on and communicate that as  
12 soon as possible.

13 Could you just go on down slightly, thank you. So the two  
14 messages, those are what it's anticipated will be brought  
15 up at the community information day, but does that  
16 indicate that the day is going to be used as a bridge to  
17 start the campaign on the roads?---Yes, I think my  
18 recollection of it, the community day went ahead in a  
19 local park in Peet's Estate and Ray and Verlie - I think  
20 there was a bit of - there was probably a bit of - no, not  
21 at that stage there wouldn't have been, actually. Like,  
22 Dacland was there. Dacland had done a plan that they  
23 shared with the community for the Leighton Properties land  
24 where it set out the new community for the land that was  
25 anticipated would be rezoned from industrial to  
26 residential. So, Jonathon Fetterplace from Dacland, the  
27 urban designer at Dacland, was there talking about the new  
28 community and seeking input from residents from Cranbourne  
29 West about what it should look like.

1 Yes?---And I'm pretty sure that Ray and Verlie were there and  
2 they were looking to, yes, recruit new members to SCWRAG  
3 and they were advocating about the Hall Road, to fix Hall  
4 Road, yes.

5 So if you look at that it's clear, is it not, that this  
6 community day was going to be taken advantage of as a way  
7 in which to start up or kick off the campaign in respect  
8 of Hall Road?---Yes.

9 And they indicate, "We're not comfortable with SCWRAG endorsing  
10 the community information day in the brochure." What was  
11 that about?---I think the brochure, there was a bit  
12 of - there was some politics in relation to the brochure.  
13 I had prepared it and I think Dacland's logo was used on  
14 the brochure and maybe council's, I can't remember, but  
15 I don't think SCWRAG wanted to be on the same brochure as  
16 a developer's name. They wanted their own separate.

17 So, in any event, that was in May 2018. On 27 June 2018, and  
18 I won't take you to it, there was a newsletter sent out  
19 alerting members to a new campaign, and that campaign  
20 being in respect of Hall Road. So that would coincide  
21 time-wise with the way you understood things to be  
22 developing?---Yes.

23 Just going back to that document in which there is the first  
24 mention of commencing the Hall Road campaign, there is a  
25 comment there at the bottom where Ray Walker says, "I'm  
26 trying to make it a win/win and that SCWRAG is working in  
27 residents' best interests while serving your masters'  
28 needs, if that makes sense." Is that right?---Yes.

29 What did you understand him to mean by that?---He was talking

1 about my clients' needs, which would have been Leighton  
2 Properties and Elysian Group.

3 And was he talking about the possibility of an ongoing tension  
4 between - the possibility of a tension between what's in  
5 the residents' best interests and what John Woodman  
6 wants?---I think when you take this email in context of  
7 his other emails as well, he was always - he's got the  
8 community's hat on and he always let me know if the work  
9 he was engaged to do was not aligned, in his opinion, with  
10 the community's interests, and if it wasn't, then he had a  
11 problem with it.

12 Over this period of time in February, indeed throughout 2018,  
13 how regularly were you in contact with Ray Walker?---I had  
14 periods when, like, if John had asked me to get Ray Walker  
15 involved in something and I was the planning consultant  
16 working on a matter and Ray was part of John's strategy,  
17 then I had quite a lot of communication with him because  
18 he was doing work. But where he was doing other work that  
19 was unrelated to the planning work I was doing, there were  
20 periods when I didn't have contact with him at all.

21 Throughout this period you had both C219 and Hall Road being  
22 live issues?---Yes.

23 And you were together strategising how to achieve the various  
24 objectives that had been set out in respect of those  
25 issues?---Ray and I were strategising? Yes, so Ray would  
26 talk to me about the community's interests.

27 And your job was to seek as far as possible to have him  
28 accommodate the Woodman interests?---I'd be the  
29 go-between, yes. I'd be going between him and John

1 Woodman to get my instructions on behalf of the two  
2 clients.

3 And was that something which resulted in nothing of  
4 significance being done by SCWRAG in respect of either  
5 C219 or H3 without you being consulted and you consulting  
6 John Woodman?---Nothing of significance being done by  
7 SCWRAG? No, in terms of the planning process I was  
8 identifying to Ray Walker where SCWRAG's input would be  
9 helpful to the process.

10 So you are agreeing with my proposition, that you would be  
11 involved in anything of significance relating to C219 or  
12 H3?---Sorry?

13 What I was putting to you was that you would be involved in  
14 anything of significance being done by SCWRAG to promote  
15 C219 or Hall Road?---Yes, I'd be providing the planning  
16 markers for SCWRAG.

17 And you'd be going back to John Walker discussing with him what  
18 was - - -?---John Woodman.

19 John Woodman?---Yes.

20 Discussing with him what was being proposed?---Yes, yes. Well,  
21 yes, getting instructions.

22 You'll recall that when Councillor Aziz first became involved  
23 in a motion relating to H3, an issue arose as to the  
24 legality of that motion?---Yes.

25 And it was in respect of that that you sought advice from  
26 Mr Chiappi?---Yes.

27 Was that something that you organised personally?---Yes.

28 And was he a solicitor or barrister?---He's a barrister.

29 He was briefed by you?---Yes, but I was asked to - for the

1 advice to - I was asked to organise a direct brief from  
2 SCWRAG to Mr Chiappi so that the advice that came back was  
3 to SCWRAG but Watsons paid for that advice.  
4 Yes?---That could then be provided to councillors if necessary.  
5 And how much was that advice?---\$1,100 including GST.  
6 Was that advice forwarded on to Mr Aziz?---I don't recall that  
7 it was, because council - what ended up happening was  
8 council had got its own advice.  
9 This is in respect of the legality - - -?---Of the September 4  
10 resolution.  
11 Yes?---Council had got - sorry.  
12 And the issue was whether there should be a rescission or - -  
13 -?---Yes, whether the recommendation that had been passed  
14 by council was invalid.  
15 Yes?---And the advice had been that there wasn't - that Dacland  
16 should have been afforded natural justice because as it  
17 turned out there wasn't a secondary consent application in  
18 the system at that time.  
19 All right?---Yes.  
20 So there were two bases. Then from Mr Woodman's point of view  
21 and your point of view what was being proposed to try and  
22 get around that or to address that?---Well, I was asked  
23 to - it was all very 11th hour, but in the end I was asked  
24 to organise for SCWRAG to write to council asking whether  
25 an alternative resolution which would be - because I think  
26 Dacland had been lobbying Ray as well, whether an  
27 alternative resolution that said both developers, if they  
28 try to re-sequence, try to delay delivery of H3, then they  
29 should have their applications considered by council

1 directly. So that alternative recommendation went in a  
2 letter from SCWRAG to the councillors, and then Councillor  
3 Aziz forwarded it to council's legal adviser, yes.  
4 And were these documents being prepared by you?---With my  
5 input, yes, via SCWRAG.  
6 These would have been fairly technical documents, would they  
7 not? That's why I suggest you may have prepared them  
8 rather than just supervised them?---I know that Ray and  
9 I worked on it together, but I think Ray had some other  
10 stuff in there that he wanted to put in. But I would have  
11 been the driver for including in that letter John's  
12 strategy which was to go to - for a councillor to go to  
13 council's legal adviser to find out whether an alternative  
14 recommendation would be legally valid. In that way  
15 Councillor Aziz would have got his legal advice.  
16 And what came of that?---The letter went to council's legal  
17 adviser and the advice from council's legal adviser was  
18 that the alternative resolution that went up on  
19 19 September was acceptable, was valid and it was a valid  
20 alternative resolution.  
21 And was that passed?---Yes. So Gary Rowe moved the rescission  
22 notice and then the alternative resolution was passed.  
23 And who put forward the alternative?---Sam Aziz.  
24 And what was the effect of the alternative, as you understood  
25 it?---If either Elysian Group or Dacland sought to  
26 re-sequence to delay the delivery of the H3 intersection  
27 and get release of title early, that they would have  
28 to - any application would have to go to council for  
29 council's decision.

1 Throughout this period you have obviously regular  
2 communication, both physical and by phone, with - sorry,  
3 when I say "both physical", both in person and by phone  
4 with Mr Walker. During 2018 was Mr Walker, to your  
5 knowledge, in communication directly with  
6 Mr Woodman?---Yes.

7 Was that communication by phone or by meeting or both?---My  
8 recollection is that after 16 October I had said to both  
9 of them I don't want to be involved in this matter, and  
10 John had taken over liaising directly with Ray himself and  
11 he was dealing directly with Dacland as well and the  
12 council officers.

13 What was it on 16 October - I know you have already told us  
14 about it, but just so we have some context for this  
15 transcript what was it about 16 October that so unsettled  
16 you?---The fact that I was texting a councillor. The fact  
17 that I was - that it was all - the whole thing was an  
18 argument between two developers, really, and I believed in  
19 the community arguments for H3 intersection being  
20 delivered as soon as possible, but I just felt extremely  
21 uncomfortable about what was going on.

22 About the process whereby you - Mr Aziz was being coached  
23 during the meeting?---Yes, I was uncomfortable with that  
24 process and I was uncomfortable with the fact that Mr Aziz  
25 didn't really - I didn't think he had a full understanding  
26 of the matter.

27 I think you have already told us he didn't seem to understand  
28 it much at all?---No.

29 So he was just being totally supine from your observations in

1 respect of requests from you?---I was asked to brief him  
2 in relation to the matter and, yes, he was not very  
3 interested in my brief.

4 From your observation he was going to do what he was told, even  
5 if he didn't understand; is that right?---Yes.

6 So you indicated after that to Mr Woodman that you no longer  
7 wanted to be involved?---Yes, I think I told Heath Woodman  
8 I didn't want to be involved in the matter.

9 And how did you - what was that communication? Was it by email  
10 or by phone?---No, I think I just said to him, it might  
11 have been in a meeting, "I don't want to be involved in  
12 this."

13 And did you explain why?---I just said I felt extremely  
14 uncomfortable.

15 And why were you saying that to Heath  
16 Woodman?---I think - because you say things like that to  
17 John and he would be - he would just sort of, you  
18 know - he wouldn't say to me, "Oh, sure." He would sort  
19 of be pretty, like, sort of, "Man up" would be the  
20 attitude towards me, I think; you know, "Be more robust,  
21 Megan."

22 But in order to discuss your discomfort with Heath Woodman you  
23 would have been, I assume, telling him what you were  
24 uncomfortable about, why you couldn't be involved  
25 anymore?---I think, to be honest, I felt so anxious about  
26 it that I did not feel clear about what was going on at  
27 all, and I had a lot of other projects on and - - -

28 But up until then you had been performing a very much needed  
29 role, had you not, in respect of both C219 and H3?---The

1 planning arguments, yes. I was putting the planning  
2 arguments together. I was liaising with the community  
3 group, with Ray Walker, not SCWRAG directly, with Ray  
4 Walker and Verily, and briefing.

5 You were the connection with Ray Walker?---Yes.

6 And SCWRAG?---But I mean - - -

7 And also you were the one who was basically coaching Aziz - -  
8 -?---Yes.

9 And providing information to Ablett?---But I didn't ring up  
10 Aziz and go, "Oh, do you want me to provide you with a  
11 brief?" I was told to provide Councillor Aziz with a  
12 brief.

13 That's the matter that you felt uncomfortable about?---Well,  
14 I felt uncomfortable - - -

15 Surely if you said to Mr Heath Woodman, "Look, I'm disturbed by  
16 this and I feel I can't go on," there must have been some  
17 understanding between you as to what you were talking  
18 about?---Because I was watching the council meetings and  
19 I said, "What's going on in the council chamber? It's  
20 just ridiculous." And I didn't understand what was going  
21 on between Rowe and Councillor Aziz, and I thought it was  
22 all about the mayor, who was going to be mayor. But  
23 I just didn't want to be involved in it because I didn't  
24 have - I obviously very clearly didn't have the full  
25 picture of what was going on.

26 You wouldn't have discussed that, I suggest, with Heath Woodman  
27 unless you understood that he knew what was going  
28 on?---No, I said to Heath, "I don't want to be involved in  
29 briefing councillors on this matter anymore."

1 Did he ask you what you had been doing or did he already

2 know?---No, he just said, "That's fine."

3 COMMISSIONER: So what was it that you didn't

4 understand?---I didn't understand why there was so much

5 hostility in the council chamber about an outcome in terms

6 of the community that was a good outcome. Also I didn't

7 feel comfortable with both of those councillors,

8 Councillor Rowe and Councillor Aziz, pushing private

9 commercial interests when the community was just being

10 used, really.

11 So what private commercial interest was Mr Rowe pushing?---He

12 was pushing - and I still don't understand it, he was

13 pushing for Dacland to get early release of titles. They

14 were at their last stage of their estate and he was

15 agreeing that they shouldn't have to deliver the H3

16 intersection.

17 And what was the private interest that Mr Aziz was

18 pushing?---Mr Aziz was pushing the private interests of my

19 client, which was they wanted to see the intersection

20 delivered because it would be to their commercial

21 advantage for another developer to deliver the lion's

22 share of it. But that was clothed in

23 community - I thought robust community interest arguments.

24 Like, we were - I was sufficiently comfortable that the

25 community wanted Hall Road upgraded as well and they

26 wanted the H3 intersection delivered as soon as possible

27 as well, and they wanted the Evans Road-Hall Road

28 intersection delivered as well, and we were piggybacking

29 on their - we basically - there was - you know, the

1 community - Ray Walker's position always was, "I don't  
2 care if Wolfdene or Dacland deliver that intersection.  
3 I don't care who does it," and that was his position from  
4 May 2017 when he contacted [REDACTED] at council,  
5 he wanted that intersection delivered as soon as possible.  
6 And it wasn't - like, as you've said to me, my  
7 client - Dacland were in a much bigger rush to deliver  
8 that intersection than my client was because of financial  
9 imperatives, and my client had decided because they  
10 couldn't get the funds out of the DCP to do the culverts  
11 and the Hall Road duplication immediately they would just  
12 sit there and wait for Dacland to deliver the lion's share  
13 of it. So when they found out that Dacland were seeking  
14 to defer delivery of it that's when it all started, you  
15 know, when the strong disagreement between Dacland and my  
16 client arose.

17 So that's the history?---Yes.

18 But I still don't follow what is it you didn't understand  
19 about - - -?---I didn't understand the hostility between  
20 Rowe and Aziz.

21 But what you did realise was that Mr Aziz was pressing ahead  
22 with the motion which - - -?---He didn't understand.  
23 Pressing ahead with a motion that he was told he had to move,  
24 but he didn't have any understanding of why that motion  
25 should be pursued?---And I thought he - the way I remember  
26 Sam Aziz saying to me, "I am the councillor for road  
27 safety" at the time. "I'm on the road safety committee.  
28 It's appropriate for me to move it. I support the local  
29 community." But it was clear that he didn't understand

1           what he was supporting.

2   So did that not tell you that there was some other reason why

3           Mr Aziz was mindlessly pressing ahead with that motion?

4           Did you not realise at that time that Mr Aziz had some

5           other reason why he was wanting to move that

6           motion?---I trusted John Woodman, and he went to such

7           great efforts to explain to me who he had conflicts of

8           interests with, and he never told me that he had a

9           conflict of interest with Sam Aziz and it was always

10          presented to me that that was why I was to brief Sam Aziz.

11   So is that a roundabout way of saying that, notwithstanding

12          that Mr Aziz didn't seem to understand the reason for

13          which the motion should be pressed, it didn't occur to you

14          that Mr Aziz had some improper reason for wanting to

15          pursue Mr Woodman's motion; it just didn't occur to

16          you?---I didn't think about it, no, because I - no,

17          I trusted John, who he had told me he had conflicts of

18          interest with. I trusted him.

19   Do you mean by that that you believed Mr Woodman had fully

20          explained to you every conflict of interest which any

21          councillor had on a motion which was pursuing his

22          interests; that is, you believed he exhaustively told you

23          about every councillor that might have had a

24          conflict?---Yes, because I said to him in relation to the

25          hostility between Gary Rowe and Sam Aziz, I said, "Are you

26          sure there's the numbers in council to support this

27          motion, this alternative recommendation?" But, you know,

28          in fact my knowledge at that time was that Rowe had a

29          conflict of interest with him as well.

1 This wasn't the only planning issue where Mr Aziz was pressing  
2 ahead with Mr Woodman's agenda, was it?---No, Pavilion as  
3 well; yes. Yes.

4 And again it never occurred to you that there must be some more  
5 sinister explanation for why Mr Aziz was voting as he  
6 was?---I thought there was a faction in council of Liberal  
7 councillors. So I thought Geoff Ablett, Amanda Stapledon,  
8 Sam Aziz, Wayne Smith, they would always sort of vote in a  
9 bloc on things, and that he had sufficient numbers.

10 The bloc voting - - -?---Yes.

11 That bloc voting for a motion that was in the interests of  
12 Mr Woodman?---Yes. So I had seen over the years that John  
13 had had these social relationships with councillors, and  
14 I assumed those social relationships had been - had arisen  
15 from the fact he had been developing land for such a long  
16 time in the City of Casey. And apart from where he had  
17 said to me, "You know, I've donated money to Amanda  
18 Stapledon, I've got a horse with Geoff Ablett, I've  
19 donated to the campaigns of Rowe, Serey, Ablett and  
20 Stapledon in relation to their Liberal candidacy,"  
21 I didn't think there were any other donations or conflicts  
22 with councillors.

23 And did all of those councillors that you have mentioned that  
24 were a bloc, did they always disqualify themselves from  
25 voting on a motion when they had a conflict?---Well, when  
26 you look at the Pavilion - sorry, you look at the H3  
27 council chamber at the time I think Susan Serey  
28 disappeared out of the chamber not on a conflict of  
29 interest; Stapledon and Ablett conflicted and declared a

1 conflict and removed themselves from the chamber for the  
2 decision; Rowe stayed in the chamber and strongly  
3 advocated against; Councillor Aziz. You know, I knew that  
4 Aziz and Ablett were seeking to persuade Flannery and  
5 Jackson and Crestani and the other councillors to support  
6 their position in chamber.

7 None of that, Ms Schutz, despite the fact that you were, it  
8 might be said, in the inner sanctum of Mr Woodman's  
9 strategies, none of that caused you to realise that he was  
10 able to exert improper influence over  
11 councillors?---I think on reflection and what I've read  
12 and seen I can see that it was a completely unsatisfactory  
13 situation; it was a corrupt situation.

14 COMMISSIONER: Yes, Mr Tovey.

15 MR TOVEY: Time for lunch?

16 COMMISSIONER: What's your estimate for how much longer you  
17 will be with Ms Schutz?

18 MR TOVEY: I'm not a good person to ask, Mr Chairman.

19 COMMISSIONER: I think Ms Schutz would like to know.

20 MR TOVEY: I anticipate that we will certainly finish this  
21 afternoon.

22 COMMISSIONER: Very good. I can't say any more than that at  
23 the moment, Ms Schutz. We will try and ensure that your  
24 evidence is finished today. 2 o'clock. Have some lunch.

25 <(THE WITNESS WITHDREW)

26 LUNCHEON ADJOURNMENT

27

28

29