
TRANSCRIPT OF MORNING PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

TUESDAY, 10 MARCH 2020

(19th day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH QC

Counsel Assisting: Mr Michael Tovey QC
Ms Amber Harris

OPERATION SANDON INVESTIGATION

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

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

1 <THOMAS JAMES KENESSEY, recalled:

2 COMMISSIONER: It might be apparent to some during the course
3 of the day that I'm exhibiting some signs of a cold, which
4 I regrettably inherited from other members of the family.
5 But, given the community disquiet about cold symptoms,
6 I took the precaution of having my condition checked at
7 the Royal Melbourne Hospital and I'm both free of Corona
8 virus or flu symptoms, but I just thought I should let you
9 all know. I just remind you, Mr Kenessey, you are still
10 on oath.

11 <EXAMINED BY MR TOVEY, continued:

12 Mr Kenessey, I'll go back to where we left off on Thursday in a
13 little while, but I just wanted to continue on on some
14 general enquiries about the way in which these matters
15 progressed. So, having appointed Mr Woodman in mid-2014,
16 I take it you were in very regular contact with him as to
17 the progress of matters relating to the C219
18 rezoning?---Yes, we caught up regularly.

19 And was there any formal regimen of meetings or was it only as
20 required?---It was a short period of formal, but it was
21 more as required.

22 Now, in the course of your dealings with him did you come into
23 contact with Councillor Aziz?---Very rarely.

24 And in what circumstances?---I'd see him at council meetings
25 prior to the council meeting. John usually - well, John
26 wasn't at any of the council meetings. There were a
27 couple of fundraising functions, I believe, where Sam and
28 John both were. We've been in - I think it was the
29 Cranbourne Hotel. I might be getting the name wrong, but

1 that was for I think Geoff Ablett. Matthew Guy was there.
2 There was another function in the last election that Sam
3 was there, but I didn't speak to Sam at that event, just
4 waved and said "hello".
5 In 2014 which party was in power in government?---At the start
6 it was the Liberal Party.
7 And was Labor voted in later that year?---I believe it
8 was - I can't remember. I think it might have been
9 November. It was later in the year, from memory.
10 You mentioned Matthew Guy. In 2014 did you have any contact
11 with him or did Mr Woodman, to your knowledge, have
12 contact with him?---I spoke to Matthew at those public
13 functions.
14 And what role did he have at that stage?---None that I'm aware
15 of. I'd known him previously when he was the shadow
16 planning minister, so we just chatted more generally, from
17 my recollection.
18 At that stage was he planning minister?---Yes.
19 And did you discuss with him any issues relating to C219 and
20 the rezoning?---We did. Well, I did, sorry, and he asked
21 for me to send him a brief to his advisers so that it
22 could be a more informed chat.
23 All right. On how many occasions did you speak to Mr Guy about
24 C219?---Once I'd sent the brief to Mr Guy, I never saw him
25 again. It was Gary Rowe and I met one of his advisers at
26 Shell House, I think it's number 1 Spring Street.
27 Yes?---Steve Dunn from the NPA came. Jim Gardiner from the
28 planning department, I can't remember what it was called
29 back then. There was also - - -

1 If I could just stop you there and we'll get there in a
2 minute?---Sorry, okay.

3 How did the first contact with Mr Guy occur? What was the
4 context of that?---There was - Gary Rowe had invited
5 me - I can't remember if it was this one, I think it was
6 this one - to a fundraiser for Susan Serey in Berwick and
7 Matthew Guy was the guest of honour.

8 And who was Susan Serey at that stage?---She was a councillor
9 and a candidate for that state election.

10 A Liberal candidate?---Correct, from - sorry.

11 So this is some stage in 2014?---I have to check my notes, but
12 if I had a guess I would say August.

13 And so - - -

14 COMMISSIONER: You were speaking with Mr Guy as Leighton's
15 representative, were you? What was the capacity in which
16 you were dealing with him?---I was working for Leightons
17 at the time.

18 And when you spoke to him on the first occasion - - -?---Yes.
19 You indicated to him that you wanted to make some
20 representations about the rezoning of this area of
21 Cranbourne?---Yes.

22 And what was his response?---He said to "Provide me a brief and
23 then once I cast my eye over that then, you know,
24 potentially we could meet or you could meet some of my
25 advisers." I can't remember the exact wording of the
26 response. But he said, "Email me what you want to talk
27 about so it can be an informed discussion."

28 The nature of the function that you were attending, what was
29 it? Was it a - it was a function for the purpose of

1 raising campaign donations?---Yes.

2 And how did Leightons come to be invited?---Gary Rowe invited

3 me.

4 Why did he think that you might be interested?---It was an

5 opportunity to speak to the planning minister.

6 Yes, but why did he think you might want to do that?

7 MS KEATING: Commissioner, perhaps if the question could be

8 asked not what the witness was aware - perhaps if the

9 witness could be asked on the basis of what was

10 communicated to the witness about why he would come along,

11 because he can't anticipate what was in the mind of Gary

12 Rowe unless it was communicated to him.

13 COMMISSIONER: I don't accept that. Are you able to tell us

14 why Mr Rowe thought that you would be interested in

15 meeting the minister?---So that we could discuss the

16 merits of the rezoning. That's my recollection.

17 And how would Mr Rowe know that you would be interested in

18 doing that?---Because we had already been working together

19 on the rezoning by that stage.

20 You and Mr Rowe?---Well, I'd been updating him about the merits

21 of the rezone and the review process that Peter Williams

22 and I had been undertaking with officers.

23 Sorry, Mr Williams is?---Peter Williams is who worked with me

24 at Leightons.

25 Yes. And you had been working with who?---Council officers.

26 Doing what?---A review of our land in the PSP.

27 You had raised with council officers the issue of rezoning and

28 they were looking at it, were they?---That was after the

29 1 April 2014 motion where councillors voted that council

1 officers conduct a review with Leighton Properties as to
2 the issues raised of attracting large format industrial
3 uses to the site.

4 I see. Thank you. Yes, Mr Tovey.

5 MR TOVEY: Had you been to political fundraisers before
6 this?---I'd have to check my file, but we did go to a few
7 fundraisers in that period.

8 Did you make - were you asked to make any contribution to the
9 campaign of Susan Serey?---No, I made it clear to Gary and
10 Susan that I could attend but couldn't donate anything.

11 And was that because you were an officer of a public
12 company?---Correct.

13 So the only purpose then you had for going was to get the
14 introduction to Matthew Guy?---By and large, that's what
15 I recall.

16 I just want to understand exactly how this transpired. So did
17 you meet with Mr Guy privately during that function?---No.

18 Were you introduced to him?---I was, but as I said earlier I'd
19 known Matthew since he was the shadow planning minister.

20 Had you been in a position to discuss planning issues with him
21 on previous occasions?---My initial reaction is, yes,
22 I probably would have.

23 And how would that operate? What was the context of having
24 discussions with him generally about planning
25 arrangements? Were they done by you going to Spring
26 Street or were they done by meeting him in more informal
27 circumstances?---So I met Mr Guy through my original state
28 manager, Bill Beck, who became friendly with Matthew when
29 he was the shadow Minister for Planning and would just

1 offer him general advice about the industry and I suppose
2 they'd catch up to talk in that kind of scenario and he'd
3 usually take me along with him and that's how I met
4 Matthew.

5 COMMISSIONER: What did you understand were the constraints on
6 Leightons as a public company supporting a political
7 campaign?---Weren't allowed to do it.

8 What weren't they allowed to do?---To make donations to
9 political parties.

10 Or to individuals?---Correct.

11 Who were standing for election?---Correct.

12 At local council level?---Any level.

13 Or State Government level? Both?---And Federal.

14 During the entire period that we're looking at the development
15 of the C219 project, was that obligation adhered to, that
16 Leightons made no contribution direct or indirect?---It's
17 my belief, yes.

18 MR TOVEY: So as an officer of a public company it would, you
19 understood, not be appropriate for a public company to be
20 involved in any way in the electoral process of either
21 councillors or State Government candidates?---Sorry, can
22 you clarify what you mean by "involved in the process"?
23 Yes, involved in a process of either selecting candidates,
24 contributing to candidates?---We wouldn't be involved in
25 anything like that. We would research who candidates are
26 and that sort of thing, but there's no way we would try
27 and be involved in that type of - I mean, I supported Gary
28 Rowe in trying to get re-elected as a friend.

29 When you say you would research who candidates were, was that

1 at local government level, State Government level?---Even
2 before I met John I'd make notes on who people were and
3 tried to find out what their views were.

4 And after you met John was that something that you
5 did?---I think in the state election I called around to
6 some of the candidates who were standing for Casey, trying
7 to gauge their view and offer them the opportunity to hear
8 about Cranbourne West. I remember one of them telling me,
9 "Look, stop wasting all our time and just call whoever is
10 successful after that."

11 And who said that to you?---I'd have to check my file.

12 And what about councillors? Did you help sift through lists of
13 councillors who were standing - sorry, lists of council
14 candidates?---What do you mean by "sift through"?

15 Well, go through lists of council candidates to try and work
16 out what their views were, and did you canvas them, go to
17 them?---Well, I thought I just said that, I'm sorry.

18 Sorry?---I thought I just said that.

19 I thought you were talking about State Government
20 candidates?---No, that was council.

21 All right.

22 COMMISSIONER: Mr Kenessey, you said a moment ago you helped
23 Mr Rowe as a friend?---Yes.

24 How did you help him?---I handed out some leaflets for him,
25 letterboxed in my spare time on the weekend.

26 Was that the only thing that you did for him in terms of - -

27 -?---I think I helped him design a leaflet, put some input
28 into that. That was it, from the best of my recollection.

29 Is that something you had to clear with your employer?---If

1 it's done in a personal capacity and the code of conduct
2 allows, so as long as I'm not espousing the views of
3 Leighton, I'm allowed to engage in the political process
4 in my own time and so long as I'm not representing the
5 company.

6 You've referred to a code of conduct?---Yes.

7 What's that code you are speaking of?---The code of conduct for
8 Leighton Properties.

9 They have a code of their own?---They do.

10 And you have obviously given careful consideration to whether
11 or not, in relation to the matters that you anticipate you
12 are going to be questioned about, whether or not you
13 complied with that code; have you thought about
14 that?---I have.

15 And do you think that at any point of time you didn't comply
16 with the code?---To the best of my recollection I don't
17 think I - I've always complied with the code.

18 MR TOVEY: When you letterboxed with Mr Rowe - let me ask you
19 about - actually, I will come back to Mr Rowe. I just
20 don't want to get diverted first of all from how the
21 process worked with Matthew Guy or Mr Guy when he was
22 planning minister. So, in any event, you met him at a
23 fundraiser that Mr Rowe had taken you to; is that
24 right?---He was there, yes.

25 And that was the purpose of you going there, was to meet
26 him?---I think it would have been one of them. I think
27 Gary also probably wanted to help me get to know Susan
28 better as a person.

29 At that stage - - -?---I can only - sorry.

1 At that stage - - -

2 COMMISSIONER: Just a moment. What were you going to say,

3 Mr Kenessey?---I don't know, but that's my recollection.

4 MR TOVEY: At that stage was Susan Serey a councillor?---Yes,
5 she was.

6 Did she remain on council or did she get elected? What
7 occurred?---She failed in her state election bid and
8 remained on council, is my recollection.

9 COMMISSIONER: I'm just mystified, Mr Kenessey, and perhaps you
10 could explain to me. If you were not going there either
11 in a personal capacity or on behalf of Leightons for the
12 purpose of providing any financial support in relation to
13 anyone's campaign, why were you invited to the function at
14 all? It was a fundraising function?---I understand,
15 Mr Commissioner. Rezoning are very different to the
16 normal planning scheme, planning permits, and highly
17 political. It was a way to build relationships with
18 people who were decision makers.

19 I'm sorry, what was a way of building
20 relationships?---Attending a function.

21 Attending a fundraising function?---Yes. I've got notes that
22 I went and didn't contribute any funds.

23 I understand that. That's your position, that you made no
24 contribution and your employer made no contributions. So
25 you were there taking advantage of an opportunity then
26 that presented itself to engage with people that might
27 advance your planning objectives; is that the
28 position?---Well, they're your words, but we wanted
29 to - - -

1 What words would you like to use, Mr Kenessey?---It's very hard
2 to contact politicians and people at state local level.
3 So if there is an opportunity to talk to them and build
4 rapport, then we took it.

5 And did Mr Rowe understand that neither you personally or your
6 employer was in a position to contribute at all to either
7 his campaign or Ms Serey's campaign?---I believe he was
8 made aware of that, yes.

9 How did he become aware of that?---I would have told him, is my
10 recollection.

11 Yes, thank you.

12 MR TOVEY: So who introduced you to Mr Guy? Sorry, at that
13 stage you already knew Mr Guy?---Yes.

14 So did you have a private discussion there, at the
15 fundraiser?---No, we were just in the restaurant with
16 everyone else in the room.

17 And you then discussed what? What did you say to
18 him?---I couldn't recall accurately, but it would have
19 been along the lines of, "We've had trouble finding large
20 lot users." I probably would have acknowledged his
21 previous refusal of Leightons' prior attempt to rezoning
22 and that if it was possible we'd like to come in a more
23 formal capacity to brief him on what we think is an issue
24 with the Cranbourne West PSP.

25 COMMISSIONER: Can I just be clear about something,
26 Mr Kenessey. As you mentioned a few moments ago, it's
27 very difficult for a citizen to get the ear of a minister.
28 That's correct, isn't it?---I've got examples of that,
29 yes.

1 So this wasn't out of the ordinary then for you on behalf of
2 Leightons to try and get an opportunity to brief a
3 minister or someone close to the minister about a planning
4 issue that you wanted to see implemented; that's a
5 common - - -?---We went to numerous functions.
6 And were all of those functions in some way related to the
7 gaining of campaign donations?---Some of them would have
8 been Progressive Business or the Enterprise 500 club.
9 Yes, but all for that objective, for the purpose of
10 fundraising?---Ultimately it would appear so.
11 So is it fair to say, given your length of experience, that as
12 a very general position these fundraising activities
13 enabled people like yourself to have a quite special
14 opportunity to make representations?---From my experience
15 there's not a quite special opportunity, to use your
16 words. It's more to meet someone and try and build enough
17 of a relationship that if possible you could go and meet
18 them with their staffers at their office, if it ever got
19 that far. But it's more about trying to at least get your
20 foot in the door or the message.
21 But it's an opportunity that you wouldn't have if it were not
22 for these types of functions?---It would be very difficult
23 to see ministers, yes, or councillors.
24 MR TOVEY: When you were at that Susan Serey function, was
25 Mr Woodman there?---My recollection is that Gary Rowe told
26 me he was on the wrong side of the Liberal Party and there
27 were a couple of factions within the local council and
28 that he would not be invited to this function.
29 Was Megan Schutz there?---She was not, from my recollection.

1 Were you aware of whether or not Watsons or Megan Schutz had
2 made donations to the campaign of Susan Serey?

3 COMMISSIONER: At what time, Mr Tovey?

4 MR TOVEY: This is at the time that you attended the
5 fundraiser?---At that fundraiser, I believe no.

6 Did you become aware at some subsequent stage?---In her last
7 election campaigning - what was the last state election
8 year, sorry? 2018?

9 Yes?---He told me he did, I believe. I think he might have,
10 yes.

11 Was anybody associated with you or Leightons making a donation
12 at that stage, this is in 2014, to the Serey campaign to
13 your knowledge?---Sorry, could you please repeat that?

14 Was anybody else associated with Leightons making a
15 contribution to the Susan Serey campaign in 2014 to your
16 knowledge?---In my personal capacity I helped her hand out
17 flyers, if that's a contribution. We've become friends
18 over the journey.

19 For whom? For Susan Serey?---For Susan. I had done it in a
20 Federal election to help her out as well.

21 When was that?---The last Federal election. The year would
22 have been - sorry, I can't recall the year. I could check
23 my file.

24 COMMISSIONER: Were there any other - you mentioned Mr Rowe and
25 Ms Serey as councillors that you privately assisted in
26 their campaigns?---No, not to my knowledge.

27 I'm sorry?---Not to my knowledge. What do you mean?

28 You've handed out, I think you've said - - -?---Yes, I said for
29 Serey and Rowe, yes.

1 And your employer knew that you were doing that?---I didn't
2 tell them. It was in my personal capacity.
3 I see. And were there any other councillors during the period
4 you've been involved in C219 that you assisted in that
5 way?---Not to my recollection.
6 Only those two?---Correct, is my best I can recall.
7 MR TOVEY: The function where you met up with Mr Guy at, was
8 that a dinner or cocktails; what was it?---It was a
9 dinner.
10 And no doubt you had to pay?---My recollection is there was an
11 email from Gary inviting me to it saying that, "There's no
12 admission or price but it would be good if you could
13 contribute, you know, \$80 or \$100 for the meal."
14 And did you?---I did not.
15 Now, as a result of that in any event you had a meeting with
16 bureaucrats or staffers at Spring Street?---We did.
17 Who did you get to meet? I don't want to know names
18 particularly, but people filling what roles?---So there
19 was the planning minister's adviser, Steve Dunn, who was a
20 senior MPA officer - - -
21 Sorry, what is MPA? Melbourne Planning Authority?---Melbourne
22 Planning Authority, which is now the Victorian Planning
23 Authority. There were two officers: a senior officer,
24 I think Jim Gardiner I recall was his name, who was maybe
25 the head of planning and then another employee who was in
26 charge of regionally for the south-east for administering
27 amendments.
28 And was Mr Guy there?---He was not.
29 Did you meet him there or was he totally absent?---He never met

1 with us after I'd provided the brief to Luke Parsons.
2 All right?---Or Daniel Parsons, I apologise.
3 In any event, you were able to meet with a reasonably powerful
4 group of senior bureaucrats as organised by Mr Guy?---By
5 his adviser.
6 Yes, but with his imprimatur, having met him at the
7 fundraiser?---It would seem so.
8 So it was still in 2014, was it, that you met with those
9 people?---We were mid-way through our review with
10 officers, yes.
11 Did you have Megan Schutz with you at that time?---No, we did
12 not.
13 So who was with you?---Gary Rowe. I'd have to check my notes,
14 but potentially Peter Williams. I think Peter was there,
15 but I'd prefer to confirm that after looking at my notes.
16 And was that the sole purpose of advocating for the rezoning
17 amendment?---The purpose of it was to inform State
18 Government bureaucracy of the progress of our review with
19 council to provide them the data, the methodology, the
20 reason why we were originally there, give them the
21 opportunity to ask questions. It was merely to,
22 I suppose, inform and get them, I suppose, hearing
23 information from the horse's mouth and there was no actual
24 query, from recollection, of support, more as a, "We're
25 working on this and hope to come and speak to you after
26 the completion of the review."
27 With Susan Serey, how was it that you came to meet her?---To
28 the best of my recollection it would have been at that
29 Berwick dinner that Gary Rowe had invited me to.

1 COMMISSIONER: Can you remember the date of the dinner,
2 Mr Kenessey?---I could check it easily. As I said, off
3 the top of my head I think it was August '14.

4 MR TOVEY: At that stage how long had you known Mr Rowe?---We'd
5 met, from my recollection, again it was mid-March '14.
6 And by this stage was he - did he become a friend of the family
7 or - - -?---No, at that stage we were - I was just
8 providing him updates on the review that we were
9 conducting with officers as he'd requested.

10 Did you socialise together at each other's homes?---I've never
11 been to Gary's home.

12 Has he been to your home?---He's dropped me off, but never been
13 inside my home.

14 So your association has been an association which is not a
15 family association?---No. I've met his wife. He's met my
16 wife.

17 So, insofar it's a social association, it has been an
18 association which has revolved - sorry, which has related
19 to your interest in rezoning C219?---The genesis, yes, and
20 we have been working together with officers as well. But
21 I believe we'll continue to be friends after this is all
22 finished.

23 When did you last see him?---I last saw him - we were at Future
24 Future, it was a Richmond Japanese restaurant. I think he
25 was on his way to see his barrister. I told him we
26 couldn't talk about anything. He went and saw his
27 barrister and we haven't seen each other since.

28 And when was that?---I'd have to check my diary, I must
29 apologise.

1 But I mean are we talking months ago or - - -?---Months. Like,
2 it would have been - it would have been just after serving
3 summons, so whatever that date was.

4 And after Leightons no longer had an interest in C219 having
5 sold the land, did you continue to have an association
6 with Mr Rowe?---Sorry, did you say that Leighton no longer
7 had an interest in the land?

8 Did it get to the stage at some point in March 2019 where
9 Leightons sold its land?---No, that was '16. 2016.

10 Yes. But in 2019 was it the case that Leightons sold any
11 interest in its land?---2019, no. It had already sold the
12 land in '16 with retaining an interest to manage the
13 rezoning.

14 Yes, with conditions, yes?---Yes.

15 I'll have to go back to that. In any event, since the IBAC
16 investigation was announced was the occasion that you've
17 spoken about the only time that you've seen
18 Mr Rowe?---Sorry, could you just repeat - - -

19 Since the IBAC investigation became apparent - - -?---Yes.

20 Is that the only time that you've spoken to Mr Rowe?---So when
21 I first became aware of the investigation, which would
22 have been the Wednesday prior to the preliminary final,
23 I rang Gary that same day. No, sorry, he rang me and
24 I thought he already knew, so we started discussing it
25 because I was a bit freaked out.

26 And why was that?---It's a pretty serious spot to be sitting.
27 But why were you freaked out?---Well, I questioned whether my
28 friendship with Gary was undue influence or, you know, the
29 mind starts to race.

1 At that stage had you been - had any warrants been issued on
2 Leightons, to your knowledge?---That day I saw a warrant
3 issued for Leightons and myself, information.
4 And had a warrant been issued on Mr Rowe?---I don't believe so,
5 but I believe the Commission contacted him the next day.
6 So then after that initial flurry, you said you saw him when he
7 was on his way to see his barrister?---Yes.
8 And has that been the only communication between you?---Since
9 then?
10 Yes?---I've sent him a "Merry Christmas, Happy New Year, I hope
11 you're well", type stuff.
12 So if we go back then to 2014, you're at the fundraiser where
13 you meet Susan Serey through Mr Rowe. At that stage did
14 you come to understand whether or not Ms Serey was likely
15 to or was pledging to support the C219 rezoning?---I can't
16 recall discussing it.
17 You would agree, would you not, that's something that would
18 have been the subject of your attention at that
19 stage?---My recollection is that Gary I think - he said
20 that he would have already briefed her and that she was
21 supportive and at that - sorry.
22 So after that you became friends with her as well as
23 him?---Yes.
24 So when was the next time you saw her after that?---I had lunch
25 with her the day after I was issued a warrant. That was
26 pre-booked. It was a pre-booked lunch catch-up.
27 Sorry, the day after you were - - -?---Issued a warrant. The
28 Wednesday before the prelim final, whatever that date is.
29 That's how I remember it, I'm sorry.

1 After the fundraiser I thought you said you became friends with
2 her?---Yes.

3 How did that friendship develop?---We are both son of
4 new - sorry, she's not a son. We are both children of new
5 Australians. I thought she was a hard worker.
6 Personality-wise I liked her. She had most values, not
7 all, we have differing opinions on a few things. But she
8 was giving life a crack and I said, you know, when I was
9 younger at university I'd helped someone by handing out
10 flyers and I offered to give her an hour of my time on a
11 weekend and we became friends that way.

12 So you became part of her campaign, did you?---I handed out
13 flyers for her.

14 On regular occasions or once?---I helped her on two of her
15 campaigns and then, as she was short of people to hand out
16 for the Federal election, she asked me if I would provide
17 an hour or so, and I said I would and did.

18 What about in 2014? Did you help her out then?---I handed out
19 flyers, yes.

20 This is just on election day - - -?---Yes, just election day.
21 Or were you letterboxing or doing other things?---No, just
22 election day.

23 How long was it after first meeting her that you did
24 that?---That would have been, to the best of my
25 recollection, November. So, what, three months.

26 You're not saying, are you, that that had nothing to do with
27 the interest of Leightons in C219?---I was happy to help
28 her. I didn't - - -

29 You're not answering the question?---Sorry, what was the

1 question?

2 You're not saying, are you, that your preparedness to hand out
3 brochures for her on election day had nothing to do with
4 her commitment to support C219?---I think if it was the
5 sole purpose, then I would have helped Councillor Crestani
6 as well and the other councillors who were running, to
7 build relationships with them, but I didn't do that.

8 COMMISSIONER: So the answer to the question is Leightons'
9 interests have nothing whatever to do with your
10 friendship, your making a friendship with Ms Serey?---I'm
11 trying to build a relationship. I liked her, still like
12 her.

13 Sorry, I'm still not clear on what the answer then is. It had
14 something to do with you - - -?---In looking back
15 I suppose it must have, yes. You'd think so, given that
16 that's the context we met in.

17 Mr Kenessey, I just want to remind you of something I said to
18 you at the outset of your evidence. Counsel assisting
19 asks you a lot of open-ended questions?---Yes,
20 Mr Commissioner.

21 You shouldn't assume that in doing so he doesn't already know
22 the answer to some of those questions?---I understand.

23 I imagine you, with your counsel, have discussed those parts of
24 the evidence that have become public over the course of
25 the public hearings, so you know that there are phone
26 calls between you and Mr Woodman. I'm just wanting to
27 impress upon you the importance of you ensuring you are
28 absolutely accurate in what you say?---Thank you.

29 MS KEATING: Mr Commissioner, if I could just indicate there's

1 been no discussion in relation to the transcripts of
2 evidence, newspaper articles or the evidence specifically
3 that has been in the public forum in that way. So
4 Mr Kenessey is - - -

5 COMMISSIONER: So you have not - I'm not asking you to tell me
6 what your discussions have been with your client.

7 MS KEATING: Yes, Commissioner.

8 COMMISSIONER: Thank you. (To witness.) Have you not followed
9 at all in the paper, in the newspaper, what sort of things
10 have been published that would be of interest to you?---My
11 counsel advised me strongly to focus on looking at my own
12 evidence and not to read the paper.

13 Very good?---The only thing I've done is during coffees is
14 flicked through the paper and seen some headlines and
15 photos.

16 All right. In that case it may come as a surprise to you then
17 that there are numerous phone calls that have already been
18 played in the public hearings concerning conversations
19 between you and Mr Woodman. So I really just want to
20 caution you to ensure that you are absolutely accurate in
21 your answers; do you follow?---I will try my best,
22 Mr Commissioner.

23 Good. Yes, Mr Tovey.

24 WITNESS: Can we have a break soon, Mr Commissioner?

25 COMMISSIONER: Yes, certainly. Would you like to do that
26 now?---That would be nice, thank you.

27 Very good. We will adjourn for 10 minutes.

28 (Short adjournment.)

29 COMMISSIONER: How are you feeling, Mr Kenessey?---Better.

1 Thank you.

2 Very good. Yes, Mr Tovey.

3 MR TOVEY: After the 2014 state elections did you continue to
4 have contact with Susan Serey?---Yes, I did.

5 And how regularly would you be in contact with
6 her?---Infrequent. Quarterly at a guess.

7 And was your contact with her - did that involve consideration
8 of issues relating to C219?---We very rarely ever spoke
9 about C219.

10 Did you ascertain from her at some stage that she was in favour
11 of C219?---She had already - when I first spoke to her
12 in - no, actually, August must have been when I first met
13 her but I had spoken to her just prior to the April '14
14 meeting. My recollection is, and I would prefer to
15 double-check my notes, that she understood what we were
16 saying but was keen to probably look at ways of retaining
17 job or maybe even car dealers or bulky goods on the
18 frontage. That rings a bell in my mind.

19 What about Mr Rowe? With him you had a regular association; is
20 that right?---I think that would be a fair way to - - -

21 And that was generally or invariably, you tell me, in the
22 context of his interests in C219 and your corresponding
23 interest in seeing the rezoning go through?---It would
24 happen a lot of the time, but there were also catch-ups
25 where nothing was happening in the rezoning but we'd still
26 catch up.

27 In respect of Susan Serey, did you ever directly or indirectly
28 fund her involvement - sorry, her political aspirations in
29 respect of either the state or council?---So after C219

1 had left council and she was running for state election
2 again, John held a fundraising lunch for her with Tony
3 Abbott and some young people from her electorate at
4 Rosetta. After that time she asked me - - -
5 So Rosetta is a restaurant in the city?---In Crown, yes.
6 Yes?---After that time she had asked me if I could ask John
7 whether or not he would send some mail for her, for which
8 I asked John whether he would.
9 And did he?---I assume so because she asked me on a second
10 occasion if he could send some mail.
11 COMMISSIONER: Why would she ask you?---I don't know.
12 More particularly, why would she ask you to ask John?---John's
13 well known as a contributor to political campaigns.
14 I don't know. I don't know.
15 I'd just like you to reflect on that a little more,
16 Mr Kenessey. Are you suggesting that prior to that moment
17 in time you hadn't come to any arrangement with Mr Woodman
18 that if councillors or any other aspiring politician
19 should be supported in any way in an election campaign,
20 but given your limitations through Leightons, that
21 Mr Woodman would be the appropriate instrument for
22 providing those funds?---As far as I was concerned, John
23 could by rights have said no. It's his money. He can do
24 what he likes with it.
25 That's not what I asked you?---Sorry, can you - - -
26 Are you saying that you had not come to any arrangement with
27 Mr Woodman that if there were councillors or others with a
28 need for political support in a campaign, that given you
29 or Leightons could not provide that support, the vehicle

1 for doing so would be through Mr Woodman?---To the best of
2 my recollection we would have never done that because it's
3 against our code and John has multiple projects and
4 multiple things that he supports and what John does is
5 what John wants to do. To the best of my recollection
6 I wouldn't have asked him or told him to do something.
7 So you never had any arrangement at any time with Mr Woodman
8 that insofar as there should be financial support for
9 campaigns, that should come via him because it couldn't
10 come from Leightons?---To the best of my knowledge and
11 recollection it was made very clear that he couldn't
12 donate on behalf of Leightons.
13 I understand he's not donating on behalf of Leightons. But as
14 you had a common purpose, you and Leighton - Leightons and
15 Woodman, did you have any arrangement with Mr Woodman that
16 if councillors required support for a political campaign
17 the financial support would come via Woodman?---I don't
18 believe so, to the best of my recollection.
19 You've shown a very good memory thus far in terms of detail.
20 Do you think your memory might be failing you there or can
21 you say with confidence that you had no such arrangement
22 with Mr Woodman?---If you've got an example that you'd
23 like - - -
24 No, I'm asking you what your memory - - -?---To the best of my
25 memory, no, never such - - -
26 MR TOVEY: So on that occasion was it that Ms Serey came to you
27 and how much mailing-out did she want to have
28 done?---I can't recall if it was 9,000 letters
29 or - I think it was 9,000 letters, I think, but I would

1 have to check.

2 COMMISSIONER: And you can't tell us why Ms Serey thought that
3 Woodman would be the vehicle that you would go to to ask
4 for that financial support?---You would have to ask
5 Ms Serey, Mr Commissioner, I'm sorry.

6 You're in the middle, and she's your friend?---Yes.

7 And you can't provide any explanation for why Ms Serey thought
8 you would go to Woodman and ask him?---We'd just been at
9 the function together. I don't know. It would be totally
10 speculating of me.

11 MR TOVEY: How much was spent on the mail-out?---I don't know.
12 Did you ever ask?---I can't recall. There was correspondence
13 he sent to me in - hold on, what year are we in - early
14 '19, I think, where he detailed a figure.

15 Did you meet with him at a restaurant in St Kilda where this
16 matter was discussed?---If it's below his office, that's
17 possible.

18 Serano restaurant?---I couldn't confirm. I'd have to - if
19 I saw it I could confirm it for you.

20 Look, let's get serious. It's inconceivable, is it not, that
21 Susan Serey would come to you, it turns out - before
22 I frame that question I'll give you a piece of
23 information. \$16,500 or close to it was spent on that
24 mail-out. It is inconceivable, is it not, that Susan
25 Serey would come to you asking you to arrange that with
26 Watsons unless it was something which was being done for
27 the specific purpose of supporting Watsons' interest and
28 your interest in C219?---Mr Tovey, we'd left council by
29 then and it was my recollection that it was about to be

1 approved, because it had been ticked off by an independent
2 panel, and that, you know, in my mind it wasn't in
3 connection.

4 I'll just put this straight. You're saying, are you,
5 truthfully, that you didn't ask Ms Serey why she didn't go
6 directly to John Woodman or to Megan Schutz?---I don't
7 know why she wouldn't have gone to either of those people,
8 but I would have expected that if there was a donation she
9 would do the right thing and declare any conflict.

10 COMMISSIONER: Did she do that?---I believe so. She didn't
11 vote on H3.

12 Did she declare the conflict?---I don't know the answer to
13 that. All I know is that she didn't vote on H3. I'm
14 sorry to - - -

15 MR TOVEY: We need to understand how this came about. To your
16 knowledge Susan Serey knew both Megan Schutz and John
17 Woodman and knew them quite well? This is by December
18 2018 when the mail-out was done. Sorry, November of
19 2018?---I don't recall Susan knowing Megan, but I could be
20 wrong.

21 All right. Well, she knew John Woodman?---Yes.

22 Did you say to her, "Why are you coming to me and not John
23 Woodman"?---No.

24 The only reason - you tell me if you can think of some other
25 reason, but the only logical reason which appears to
26 someone looking at this from outside would be that she
27 expected you to instruct Woodman to do it. Otherwise she
28 would have gone to him herself. You understand what I'm
29 saying?---I understand what you're saying, but I don't

1 agree with what you're saying.

2 What logical reason could there be other than she expected you
3 to leverage John Woodman?---You'd have to ask her,
4 Mr Tovey. I can't answer that.

5 No, I'm just asking whether you can think of something. You
6 are somebody who is involved in a series of communications
7 relating to this.

8 COMMISSIONER: I'm sorry, I just don't follow your last two
9 answers. You flatly rejected Counsel Assisting's
10 suggestion that an outsider would likely come to the
11 conclusion that she came to you because she thought you
12 would then go to Woodman and say, "Please do this." You
13 flatly rejected that and then in the very next question
14 your answer was, "I don't know why she came to
15 me"?---Sorry, I misunderstood, Mr Commissioner. I can't
16 control what other people think.

17 MR TOVEY: You getting involved in that would have been a
18 breach of Leightons' code of conduct, wouldn't it?---My
19 review and recollection of it was she asked me, I passed
20 on a message, I asked John. In my mind he was well within
21 his rights to say, "No, I don't want to do that. I don't
22 want to be involved." I just - I asked him and my
23 recollection is he said yes. There was no instruction
24 that, "You must do this."

25 Did you ask her why she was asking you?---I don't recall.

26 Did you ask John Woodman why she would have been asking
27 you?---I don't think I would have.

28 COMMISSIONER: What was Mr Woodman's contractual relationship
29 with Leightons at this point of time?---It would have been

1 via his normal consulting agreement. Sorry, not normal,
2 by his consulting agreement that was still afoot.

3 And what was the object of that consulting arrangement?---To
4 provide introductions to people in his network to get the
5 merits of the rezoning heard. To provide advice on the
6 way in terms of strategy. His company would provide plans
7 and drawings in the engineering sense required for
8 submissions as part of the amendment.

9 And what ancillary support was it expected Mr Woodman would
10 provide in discharging that consulting service?---Sorry,
11 could you rephrase the question?

12 Yes. What was the expectation - what was your expectation
13 arising out of that consulting arrangement as to the level
14 at which Mr Woodman would provide financial support to
15 discharge those objects?---By financial support do you
16 mean to politicians?

17 Yes?---I would have - my view was that he shouldn't - - -

18 That what?---Sorry, can you - - -

19 No, what were you about to say? Your view was?---My view was
20 that he was never to - it was always - what he did with
21 his money was his business. There was never to be a quid
22 pro quo in any of his donations to anybody.

23 And you never discussed with Mr Woodman that it would be a good
24 strategic step for him to provide support for any
25 electoral campaign of any person in order to further the
26 objectives of the rezoning?---We had thousands of
27 conversations.

28 I will ask the question again, given your last answer. You
29 never discussed with Mr Woodman that it would be a good

1 strategy for him to provide financial support to
2 particular campaigns in order to further the interests of
3 the rezoning application?---He would have talked about
4 that to me, but to the best of my recollection I don't
5 think I ever would have thought it was a good idea.

6 So the issue of supporting electoral campaigns with financial
7 donations in order to further a planning development that
8 Leightons was interested in, you never - whether it was in
9 relation to Casey or Woodman or anyone else, you never
10 thought it appropriate that there should be such support
11 given in order to advance the interests of a planning
12 development?---I'm really sorry, if you could rephrase it.

13 It's just a bit - - -

14 You never thought that in relation to any planning developments
15 in which you had an interest or your employer had an
16 interest that it was an acceptable strategy to provide
17 campaign donations in order to further the prospects of a
18 particular planning issue being achieved?---My view is
19 that elected officials, always first and foremost their
20 duty is to the organisation that they are elected to and
21 that they will always do the right thing. I understood
22 John made political donations, but I never would have
23 thought anyone would do a quid pro quo, if that's the
24 right terminology I'm thinking of.

25 That's not what I'm asking you at all?---I'm sorry. I don't
26 mean to be difficult. I apologise.

27 You are not answering the question. I'm asking you whether
28 your entire lifetime as someone discharging functions in
29 relation to advancing planning issues you never ever

1 thought it an appropriate strategy to have anyone support
2 an electoral campaign to further those planning
3 issues?---To the best of my recollection, I think that's
4 right, if I understand correctly what you're asking.

5 You tell me what you think I'm saying, Mr Kenessey?---I think
6 you're asking me did I think making a donation is a good
7 strategy to get a rezoning.

8 Yes?---No, I don't believe that that is a good strategy.

9 Or to achieve any other planning objective?---Or any other
10 planning objective.

11 And you would never have participated in such an objective,
12 that is to finance an electoral campaign to try and
13 influence the outcome of a planning issue?---I don't
14 believe so. On the merits. I like merits and data.

15 Mr Kenessey, when you keep using this phrase "I don't believe
16 so", do you have a very clear sense that that would have
17 been improper, do you?---No, it was - when we started on
18 Thursday, Mr Commissioner, you warned me about being
19 absolute, so I've taken that on notice.

20 Yes?---So I'm very much following your advice.

21 Yes. But you have a clear sense, as I follow your evidence,
22 that it would be improper?---Yes.

23 So can you not say one way or the other that you did or did not
24 follow a strategy from time to time that was
25 improper?---I don't believe we followed a strategy that
26 was improper.

27 Yes, Mr Tovey.

28 MR TOVEY: You see, what the Commissioner is putting to you is
29 that what you were doing was greasing the wheels, using

1 Mr Woodman to grease the wheels by insinuating himself
2 with councillors or politicians by making donations. Do
3 you agree that you expected him to grease the wheels?---We
4 didn't expect him to grease the wheels.
5 That's your understanding of that phrase, I take it?---Yes.
6 That's not something you ever discussed with him, greasing the
7 wheels?---Not to the best of my knowledge, no.
8 Was there any conversation with him in which you were concerned
9 that people might look unfavourably on whether or not what
10 you and he were doing was ethical?---Since halfway through
11 the review, Mr Tovey, there have been rumours circulating
12 that this rezoning was dodgy - - -
13 Could you speak up, please, Mr Kenessey?---Sorry, Mr Tovey.
14 There were rumours that this rezoning was dodgy and that
15 started about the time mid-way through our review
16 where - - -
17 So when was this?---2014.
18 Yes?---We were working with officers and we were agreeing data,
19 we were agreeing methodology, and I think it was about
20 June/July, and I could provide an email, I emailed Gary
21 and I said, "We've been working very well with officers.
22 It's been going great. We have agreed data, we have
23 agreed methodology, but we are starting to encounter the
24 'because' argument", where essentially - if I could, it's
25 the argument that a parent would use to a small child.
26 When they're realising they're not going to win a rational
27 argument, they'll say, "Well, because I'm your mother or
28 father." So, I emailed Gary to that, that we were hitting
29 roadblocks, that we agreed that this was the number 2 and

1 number 3 with officers, that we were going to use an
2 addition sign. Our version was 2 plus 3 equals 5, but
3 officers all of a sudden were coming up with 2 plus 3
4 equals negative 13. It was about that time that we
5 started hearing rumours or perception issues that the
6 bureaucrats thought that this was a - I can't think of the
7 word - inappropriate development or it was dodgy.

8 And did you discuss that with Mr Rowe?---We would have probably
9 discussed rumours.

10 Mr Rowe was your friend and he was intimately involved in all
11 of this. So surely you would have discussed with him
12 whether or not your approach was being perceived as dodgy
13 in 2014?---Sorry, I thought I had already answered that
14 question.

15 Surely you would have discussed with Mr Rowe any allegation
16 that the approach you were taking was ethically challenged
17 in 2014?---It wasn't - there was no specific moment and it
18 wasn't the methodology that was being undertaken with
19 officers that was being called into question with Peter
20 Williams and I, but more the rezoning itself. They were
21 the rumours coming back to us.

22 Did Mr Rowe ever say to you that he was concerned about the
23 behaviour of a group of other councillors and that they
24 might be on the take?---He had difficult working
25 relationships with some councillors and he did mention
26 that he thought some of them might be, but in 2015 an IBAC
27 ombudsman cleared them all.

28 Is that the way you saw it?---That's my recollection.

29 COMMISSIONER: I imagine, Mr Kenessey, that if the ombudsman

1 had this Commission's powers, the outcome of the
2 ombudsman's inquiry would have been different. Did you
3 read the ombudsman's report?---I did not. It was recently
4 disclosed to me by Peter Williams - by recently I mean
5 within the last fortnight - that the ombudsman didn't have
6 the power to force people to talk and none of them
7 actually talked. I never read that report back then. We
8 just thought that the ombudsman had written a report and
9 we moved on.

10 MR TOVEY: In any event, was it part of Mr Woodman's contract
11 that he act in accordance with Leightons' code of
12 conduct?---He was required to act in accordance with
13 Leightons' code of contract. That was appended to his
14 agreement.

15 If he had been a Leightons employee, he wouldn't have been able
16 to make contributions to any politician, would he?---No,
17 he wouldn't have.

18 Or any councillor?---No, he wouldn't have.

19 Or mail-outs for Susan Serey?---No, he wouldn't have.

20 So how did this code of conduct work then? From your
21 perspective he has a contract that says, "I'm going to act
22 in accordance with the Leightons' code of conduct." He
23 does all these things that you yourself can't do. How
24 does that work?---He can't make them on Leightons' behalf.
25 The code specifies what you can and can't do when you
26 represent Leighton and he can't do them on Leighton's
27 behalf. What he does with his own personal funds is his
28 business.

29 This is, I'd suggest to you, self-evidently a strategy just to

1 use him as your attack dog and to remain at arm's length,
2 isn't it?---I disagree. He was brought on board to
3 provide us access to his networks to get our message
4 heard.

5 The effect of what you do is with your knowledge he starts
6 greasing the wheels by giving contributions here and
7 there, providing money to various people - I'm not
8 suggesting cash payments or things of that nature, but
9 contributions which Leightons can't give and you are in a
10 position to say, "He didn't do that on our behalf," even
11 though you know he's achieving your purposes. That's the
12 situation, isn't it?---Well, we went through more than a
13 handful of consultants and Leightons' preferred consultant
14 said they didn't know any Casey councillors. So John as
15 the representative of the Kelly family, he had a track
16 record. All of what we could tell he was a reputable
17 operator who had been working for decades.

18 Mr Kenessey, Mr Woodman is reporting back to you that he has
19 made contributions; true?---He would talk about donating
20 to political campaigns. They are on the AEC website.
21 They are on the VEC website.

22 No, but he would tell you what he'd been doing?---John Woodman
23 tells you lots of things.

24 He told you that he had made a significant contribution, for
25 instance, to Pauline Richards, who had made an undertaking
26 to support C219. He told you that, didn't he?---I would
27 have thought - - -

28 Look, did he tell you that? Yes or no?---I would have thought
29 he would have, yes. But my main - - -

1 It's not "I would have thought". He did tell you that. It's
2 not something you can forget?---As I said earlier, I've
3 had thousands of phone calls with John Woodman.
4 Did you understand him to have made a contribution to Pauline
5 Richards?---He would have said that he would, yes.
6 Sorry, is that a "yes" yes or a "maybe" yes?---He would have
7 said that he would have made contributions to her.
8 Whether he did or he did not, I have no visibility to.
9 So he told you that he had made contributions to Pauline
10 Richards. Did he tell you that he had secured from her an
11 undertaking to support C219?---He did, but Gary Rowe was
12 telling me the contrary at the time.
13 So he tells you he has made a contribution to somebody who was
14 committed to support C219. How could that not be in
15 conflict with the code of conduct which he was supposed to
16 have signed up to?---Because I didn't believe him. Gary
17 Rowe provided me evidence - - -
18 So you thought he was lying to you?---Well, I didn't think he
19 had her support.
20 Did you meet Pauline Richards?---I have, yes.
21 Did you ask her?---No. I met Pauline at a boardroom lunch.
22 I sat next to her. I talked to her at length.
23 I told - John asked me to pass on a message to her because
24 he asked me to go as a Watsons person because neither him
25 nor Megan could go on that occasion. He said he wanted to
26 hold a fundraiser for her. Pauline and I spoke at length.
27 Great conversation. I didn't speak to her about C219
28 once. Phil Staindl was there. My recollection is that he
29 might have spoken to her about it a little bit, but I - my

1 recollection is I have never seen her since, but maybe it
2 was a "hi" at a Leighton party function, but that could
3 have been before.

4 But on your own admission, at the very least Mr Woodman had
5 told you, firstly, he had made a donation to her. Did he
6 tell you it was first 5,000 and then 20,000?---I don't
7 believe so, but it's - - -

8 He told you he had received a commitment from her in respect of
9 her support for C219?---He said that he had her support.

10 Yes, all right. He was reporting this back to you pursuant to
11 the normal communications that you would have whereby he
12 would report back how things were going in respect of C219
13 and surrounding circumstances?---Sorry, he did communicate
14 it, if that's the question.

15 All right. Did you report that to anybody?---I would have to
16 check my file.

17 Did you report to anybody at Leightons that this man had gone
18 feral and was purporting clearly to ignore the terms of
19 his contract and act unethically?---I didn't report it
20 because I was in the midst of trying to remove him from
21 the project and was days away from submitting a written
22 strategy to remove him from the project. And I didn't
23 want to cause a big - I just wanted to get him off the
24 project as smooth as possible.

25 Did you ever discuss with him the fact that you or he had acted
26 unethically?---Nothing that comes to mind.

27 Did you ever discuss with him that you or he had acted
28 criminally?---Again, nothing that comes to mind.

29 Going back then to persons who got involved in the C219 saga.

1 COMMISSIONER: I'm sorry, just before counsel does that, to
2 your knowledge was Mr Woodman's only interest in the
3 rezoning, the C219 plan, his consultancy arrangement and
4 the benefits that might come in the event that Leightons
5 was successful in having the land rezoned?---Originally he
6 was negotiating a deal with the Kelly family and when the
7 minister came back and authorised exhibition for only half
8 of the amendment area, not in those words, but it was in
9 effect that's how it was interpreted, he ceased being the
10 Kelly family's representative at that time.

11 Yes. So from that time onwards his financial interest in
12 relation to C219 was the interest that he stood to gain
13 from the consultancy arrangement with
14 Leightons?---I believe so.

15 So anything thereafter that he did to see the C219 successfully
16 rezoned was pursuant to that consultancy, advancing his
17 interest in the consultancy, and you would have understood
18 that?---I would have.

19 MR TOVEY: On 19 September 2019, the day after the search
20 warrants were issued or, sorry, executed, did you have
21 lunch with Susan Serey?---Yes, I believe
22 I said - confirmed that earlier.

23 And how did that lunch come about?---It was pre-booked.

24 And who had booked it when?---We'd been on the phone and just
25 said "Let's catch up". She wanted to show me a restaurant
26 from her Chilean culture.

27 Now, at that stage was C219 still unresolved?---It's still
28 unresolved.

29 Yes?---Yes.

1 Did you speak about C219?---I can't recall, but I don't think
2 so.

3 Did you speak about the search warrants?---No. I had spoken
4 with my friend Peter Williams about it and he said, "Look,
5 just don't talk about it." I took his advice on that one.

6 Did you attend a fundraiser involving Susan Serey and Mr Tony
7 Abbott?---I did.

8 When was that?---That would have been - again I could check my
9 notes, but off the top of my head I would say August-ish.

10 What year?---18, if that was the election year.

11 Yes. And where was that?---At Rosetta at Crown.

12 And how did you happen to be there?---I was invited by John.
13 By John Woodman?---Yes.

14 And so what was the - I take it you made no contribution, did
15 you?---That's correct.

16 Did he pay for you?---You'd have to assume.

17 How much was that?---I don't know. On the top of my head he
18 had said he was going to contribute 10,000 to each of
19 their campaigns.

20 To each of whose, Serey's and Abbott's?---Correct.

21 What interest did he have in what Mr Abbott did, do you
22 know?---I don't know.

23 Was this again a sit-down dinner?---It was a lunch.

24 Sorry, a sit-down lunch?---Yes, it was a sit-down lunch.

25 How much a seat?---I don't know.

26 Did you attend a fundraising function for Mr Ablett?---From my
27 recollection that was the one with Matthew Guy at the
28 Kelly's Hotel. I think I said a different name earlier,
29 but it's in Cranbourne township proper.

1 And when was that?---That would have been in '14, I think, if
2 that was the election year.

3 Did you go by yourself or with somebody else?---I'd have to
4 confirm it, but my initial reaction is Peter Williams was
5 there with me.

6 And what was the nature of that function?---It was a sit-down
7 dinner.

8 So you and Peter Williams were there?---I'd have to check my
9 notes about Peter's attendance, but that's my
10 recollection.

11 How did you come to be there?---We were invited by John.
12 Was John there?---He was there, yes. Megan was there.
13 And did you pay?---No.
14 Well, you couldn't pay?---Correct.
15 But he paid?

16 COMMISSIONER: I'm sorry, did you say Megan was there?---That's
17 my recollection.

18 Ms Schutz?---Yes.

19 This is the fundraiser in 2014?---I'd have to check my notes,
20 but that's my recollection. That's my recollection.
21 I'm just querying you, Mr Kenessey, because my memory is that
22 you said earlier today Ms Schutz was not there?---No, that
23 was at the Berwick dinner.

24 This is a fundraiser - - -?---This one is the Geoff Ablett one
25 we're talking about at I think it's the Kelly Hotel.
26 I see. Thank you.

27 MR TOVEY: And this was in Cranbourne?---Yes.
28 Have you regularly gone to fundraisers with Mr Woodman?---Yes.
29 How many, do you reckon, over that period from 2014 to

1 2019?---Several.

2 We know about Serey. We know about Ablett. Were there any

3 others?---There would have been - and this is just - - -

4 Patterson?---Who?

5 Did you go to a Patterson - sorry, a Richards

6 fundraiser?---Pauline?

7 Yes?---Probably. There would have been a Brian Tee. There

8 would have been a Pakula, Graley, Perera. I'd have to go

9 back through all my notes.

10 All right. So these were all things where you'd be

11 paying - it's all fundraisers funded by the price of your

12 seat, plus any contributions you wanted to make?---In the

13 early days it was made clear to John that Leighton

14 employees couldn't attend unless they were guests of

15 Watsons, and then he started inviting us as guests.

16 As guests, and was he reimbursed?---No, not to my knowledge.

17 All right. I just want to get this straight. So, what, we are

18 really talking about maybe eight, maybe 10 fundraisers

19 over a period of time, perhaps more?---Probably more.

20 Yes. So this is thousands and thousands of dollars expended by

21 him, you'd expect, wouldn't you?---I don't know.

22 I mean, most of these things are \$1,000 a seat or

23 something?---I don't know. I've never been on the mailing

24 list of Progressive Business.

25 Didn't you ever ask?---Not to my recollection.

26 So the reason - what did you see to be the reason that existed

27 for the provision in the Leightons' code of conduct

28 requiring that you not make contributions by going to

29 fundraisers or any other way? What was the reason for

1 that sort of provision?---To build relationships. I mean,
2 if I can explain it for a second.

3 No, I'm sorry, it was a clumsy question?---Can I explain?

4 If I can just stop you there?---Okay.

5 I will start again.

6 COMMISSIONER: I think you misunderstood Mr Tovey's question.

7 MR TOVEY: Yes?---Okay.

8 The code of conduct provided that you weren't to make

9 contributions to politicians or councillors; true? Sorry,
10 you'll have to say it audibly?---Yes, sorry.

11 That being the case, it was the case that you couldn't pay

12 yourself to go to a fundraiser?---That's correct.

13 And that was because as a public company Leightons couldn't be

14 seen to be doing anything which might be interpreted as

15 fishing for political influence?---It was just part of the

16 code. I mean, part of it was we had to get authority to

17 attend functions, so put it up the line, which we did in

18 the early days, but they became so numerous that it became

19 I suppose a going forward undertaking. So long as we were

20 invited as guests, then we were able to attend.

21 COMMISSIONER: But it followed then, as night follows day, that

22 someone else was paying for you to attend on each

23 occasion?---That would be the case. It's hard to argue

24 that, Mr Commissioner.

25 And did the code of conduct or anything else that Leightons did

26 seek to address that issue?---I'd like to double-check,

27 but my recollection of my review last year of the code of

28 conduct was that we were permitted to attend functions,

29 just not donate. We were permitted to attend functions

1 and interact with politicians.

2 Yes. But how was the problem addressed that someone had to be
3 paying for you to attend?---Well, it was put to John
4 that - - -

5 No, never mind John?---No, I'm trying to explain to you there
6 was an email where it was - an email internally to me and
7 then put to John that Leightons employees cannot attend
8 these types of functions. If they're guests, that's all
9 right, so it's up to you whether or not they are invited,
10 in essence. We didn't know what these functions were or
11 when they were on or so on and so forth.

12 How was Leightons seeking to address the problem that on each
13 occasion that you or any other Leightons representative
14 went to one of these fundraising functions someone had to
15 be paying for your attendance there?---I don't believe
16 they saw it as a problem.

17 And what do you think now, as you sit here?---It's not that
18 comfortable sitting here.

19 Why is that, though?---Sorry.

20 I'm not asking that. I'm asking you, reflecting now on the
21 fact that all this time - and I take it Mr Woodman and the
22 C219 was only one of a number of planning issues in which
23 Leightons had an interest?---If I may, can I try and
24 answer your question?

25 Yes?---At the moment the system dictates that you need to try
26 and build relationships with politicians, because at the
27 moment what happens in a rezoning is that if you go to
28 officers and you agree, that's fantastic, because then
29 they are in charge of sending the message up the line. If

1 officers and a landowner are on opposing sides, you
2 need - if you're speaking solely through council officers
3 it's like being in a courtroom and having the prosecution
4 give the defence or whichever way their argument to
5 present to the judge.

6 Your argument is not going to be advocated as the council
7 officer's opinion?---Correct, correct. So the system
8 dictates that if you want your voice heard you need to
9 speak to politicians, so that there's no unfiltered
10 message put up, you know, to the people who are
11 adjudicating.

12 Yes. But, I'm sorry, my question is do you see now that it's
13 all very well to say there's a policy that we can't go to
14 these functions if we are expected to, that is Leightons,
15 are expected to make a contribution, but that doesn't then
16 address the problem that someone on your behalf is making
17 a contribution on each occasion you go?---I understand
18 what you're saying.

19 And has that ever been addressed internally?---I don't believe
20 so.

21 And it should have been, shouldn't it?---I'd prefer to check
22 the code of conduct and point in my own mind to resolve to
23 accurately answer that question, if possible.

24 But whether or not the code of conduct does deal with it, the
25 net result of what you were doing was achieving the same
26 objective without you, that is Leightons, being the entity
27 that makes the contribution?---I think I understand the
28 logic of what you're saying. Could I have a break soon,
29 Mr Commissioner?

1 Sorry?---Could I have a break soon?

2 Yes, certainly?---I'm happy to go for a few more minutes if

3 Mr Tovey has somewhere he would like to go.

4 Are you about to move on to something else, Mr Tovey?

5 MR TOVEY: I'm about to move on to an association with somebody
6 else.

7 COMMISSIONER: Very good. We'll have a break for
8 10 minutes?---Thank you.

9 (Short adjournment.)

10 COMMISSIONER: Yes, Mr Tovey.

11 MR TOVEY: Were a number of the money raising functions that
12 you attended with Mr Woodman organised by Phil
13 Staindl?---I don't know.

14 Would he attend with you at functions?---I've met Phil probably
15 on a handful of occasions, so my recollection of where
16 they were isn't strong.

17 Did you correspond with Mr Staindl?---I don't think so.

18 What was his role as you understood it?---I probably only found
19 out about Mr Staindl well into a number of years into the
20 process where John revealed his existence.

21 Yes, so what are we talking about? 2018?---It would have been
22 before that.

23 2017?---I don't know. I would have to check my file.

24 And what was the circumstance of you finding out that

25 Mr Staindl was being used?---I think it was about relaying
26 conversations.

27 About what?---With politicians.

28 About what?---The rezoning.

29 And what was being relayed back to you?---I think on occasions

1 it was about to be approved. Without checking my file,
2 that's the first one that comes to memory.

3 Did you become aware immediately that at some stage the
4 minister's decision had been deferred in respect of
5 C219?---Sorry, what's the - - -

6 Did you become aware at one stage that the minister was
7 deferring his decision in respect of C219?---Yes, I think
8 from memory I had a phone call from John and then he
9 forwarded me an email that Megan had got from one of her
10 contacts within the department with the letter to defer
11 the rezoning.

12 And in any event when you found out about Mr Staindl's
13 existence, were you surprised?---He was described to me as
14 someone who would communicate with government.

15 Did Mr Woodman say that he was being employed to further your
16 interests in respect of C219?---I haven't specifically
17 remembered that.

18 Did you discuss how much he was costing?---The first
19 inclination to the cost of Mr Staindl to my recollection
20 was the letter that John sent me as a strategy memo in
21 January '19, February '19, early there.

22 Yes. That was the first you became aware of him?---No, no, of
23 the cost.

24 The cost?---It was just - he worked for John, I assumed, on
25 numerous projects.

26 And what was that strategy email about?---It was his proposal
27 of how to move forward post articles in The Age newspaper.

28 Yes.

29 COMMISSIONER: When you say his strategy, Mr Staindl's

1 strategy?---No, no, Mr Woodman and Ms Schutz.

2 MR TOVEY: And was that strategy, as you understood it, to seek
3 to discredit The Age if possible?---Correct.
4 And to sue them for defamation?---Correct.
5 Now, you've read the articles yourself?---The ones back then,
6 yes.
7 This is in 2012, late 2012?---No, '18.
8 COMMISSIONER: 2018.
9 MR TOVEY: Sorry, what did I say? 2018, I apologise?---Yes.
10 October and December 2018?---Yes.
11 Was there anything in those articles which was
12 untrue?---I thought so at the time. I was very angry with
13 those articles.
14 And what did you think was untrue?---The allegation that this
15 rezoning wasn't based on merit.
16 What about the allegation that there was an association between
17 Leightons and SCWRAG?---I disagreed with that also.
18 Why was that?---Because I don't believe we did, apart from
19 funding them. We worked with them, so there was an
20 association, yes, sorry.
21 COMMISSIONER: Sorry, just again I caution you,
22 Mr Kenessey?---I know. I'm sorry.
23 You don't believe that it was correct in relation to the
24 relationship between Leightons and SCWRAG, "apart from the
25 fact that we funded them".
26 MS KEATING: Commissioner, sorry, if I can just interrupt?
27 COMMISSIONER: Yes, certainly, Ms Keating.
28 MS KEATING: Thank you. The way the question has been asked is
29 did he agree or disagree with what the articles said of

1 the association between Leightons and SCWRAG. But what
2 the articles said is not before this Commission presently,
3 so there might be some disconnect between the way the
4 witness is answering and the content of the article.

5 I just raise that.

6 WITNESS: If I could try again - - -

7 COMMISSIONER: Don't be so quick to sit down, Ms Keating.

8 MS KEATING: Yes.

9 COMMISSIONER: I don't follow, though, given the answer that
10 provoked my observation was, "I didn't agree with the way
11 the paper described the relationship," and then he went on
12 to say, "apart from the fact that we were funding it."

13 WITNESS: Could I try - - -

14 COMMISSIONER: Just a moment, Mr Kenessey. Is there something
15 you wanted to say about that?

16 MS KEATING: Yes, no doubt the witness wants to go on to
17 elaborate on or describe his understanding of the meaning
18 of "association" in the context of his evidence now, which
19 is having provided funding in that way.

20 COMMISSIONER: Yes.

21 MS KEATING: But so far as it might relate to the content of
22 the article, I just rise to my feet if there be any
23 disconnect between those two things.

24 COMMISSIONER: You wanted to say something then,

25 Mr Kenessey?---Yes, I would like to clarify what I was
26 trying to say.

27 Yes?---If I recall correctly, and I'm happy to be corrected, in
28 those articles the only mention of our association with
29 the residents' group was that Leighton funded it. That's

1 true. We did. I can remember being angry at the time
2 because I understood that Mr Walker spoke to The Age for
3 two hours expressing his views on the history and what he
4 thought had occurred and all that The Age had written was
5 that Leighton had funded the group.

6 Yes, thank you?---Sorry, I didn't mean to

7 MR TOVEY: But you had discussed with Mr Woodman, had you not,
8 and/or Ms Schutz the fact that it was hoped that - this is
9 in the lead-up to that article when The Age was making
10 enquiries - it was hoped that they wouldn't connect the
11 dots between Leightons and SCWRAG, and I use those words
12 as a quote?---Okay. I'm unaware of that. My recollection
13 is that Leightons' funding of SCWRAG was announced by
14 Mr Walker at a couple of public meetings. I also recall
15 to the best of my recollection, and I've got no proof of
16 this, but on the last day of panel we had moved rooms into
17 the theatrette for whatever reason, I can't remember, and
18 Mr Stuart Morris had asked me, because we'd just received
19 the State Government's submission, to find examples where
20 they provided examples of industrial and residential
21 working next together, that I should find examples of the
22 ones they provided that weren't correct. So I can
23 remember sort of half listening, but I can remember
24 Ms Porter and Ray Walker providing evidence, working quite
25 well together, and my recollection, but I cannot prove it,
26 is that he said to the panel that Leightons was paying for
27 Ms Porter. I can't prove it, but that's my recollection.

28 And did you pay for Ms Porter?---We did. About 26,000 and
29 something.

1 And who told the panel that?---I can't recall if - I think it
2 was Ray. But I've got no - that's just my - the
3 best - - -

4 That's not what he says in evidence?---I can't speak for other
5 people. As I said, I was working on my laptop. But
6 that's just my memory. I can't prove it, Mr Tovey.

7 Did you provide material for the briefing of Emily Porter?---We
8 always tried to keep a level of separation between myself
9 and the residents group, and Megan was the liaison between
10 us. My understanding was that Megan met with the
11 committee of the residents group and did a site tour and
12 briefed Ms Porter.

13 COMMISSIONER: Insofar as Ms Schutz was incurring costs
14 associated with supporting the residents' group, SCWRAG -
15 - -?---Yes.

16 Who was paying for those costs?---Leighton was. I did a
17 reconciliation of it last year.

18 MR TOVEY: Did you work out how much Leightons had contributed
19 in respect of SCWRAG activities?---My reconciliation I did
20 last year came to about 68,000 something, but it's
21 possible that there would be a couple of invoices omitted
22 from that, but I wouldn't expect that it would be much
23 more than that.

24 All right. So, what, you're talking about 70,000
25 perhaps?---Circa. Maybe 80.

26 COMMISSIONER: Why did you undertake that task,
27 Mr Kenessey?---It's just - I'm an engineer. I look to go
28 through all sorts of things. I believe my barrister said
29 it might be a good thing to aggregate - - -

1 I'm sorry, you did that for the purpose of the hearing, did
2 you?---Preparing, yes, correct.

3 I see.

4 MR TOVEY: Did you ever tell The Age - I assume you didn't, but
5 I'll ask you: did you ever tell The Age that you had put
6 in not 15, but 70?---I'm not permitted to speak to the
7 media. Mr Royce Millar rang me on a Friday afternoon. It
8 was probably after 3 o'clock. He rang me on a private
9 number, then his own mobile number and then text me on his
10 own mobile asking that I call him back. I spoke to my
11 bosses and they said, "Don't speak, call him back."

12 I'll come back to that. Mr Ablett - - -

13 COMMISSIONER: Just before you move on there, Mr Tovey. (To
14 witness.) You mentioned that you were not to deal
15 directly with SCWRAG, that Ms Schutz was interposed to
16 deal with SCWRAG on your behalf. What was the reason that
17 you weren't to deal directly with SCWRAG?---We thought
18 from a perception point of view it wasn't a good look for
19 the developer to be going to every community group
20 meeting.

21 But you were distancing yourself from any connection with
22 it?---Well, no, I drafted documents for them, made
23 suggestions to them, they would always be for their
24 approval and - - -

25 No, no, you were distancing yourself from any public perception
26 that you were funding - - -?---Not from funding; that, you
27 know, we were in the driver's seat.

28 So you didn't make any attempt to hide the fact over time that
29 you were funding SCWRAG?---I think there may have been a

1 discussion about it at point, but it was resolved that the
2 best policy would be just to be open and upfront.

3 MR TOVEY: Was that after The Age articles?---Well before.

4 How long before?---The community group started after the first
5 community day, which would have been the start of '15. It
6 would have been some time after that, '15/16, at a guess,
7 without checking my file.

8 COMMISSIONER: Is there any code of conduct for Leightons as to
9 how it should deal with a community group?---I'd have to
10 check.

11 Where did your instructions come from that you should interpose
12 Ms Schutz in dealing with SCWRAG?---It wasn't an
13 instruction. In our view the organisation started
14 organically. I introduced Ray and Verlie to Megan, is my
15 recollection. She introduced them to the Polkwitz and
16 other families and she would go and attend - I mean, the
17 planning system is very complex even for professionals who
18 do it every day, and then you add the political nature of
19 a rezone, you know, in an unusual circumstance of
20 developers and landowners wanting the same thing, we
21 thought we would work together.

22 What I asked you was where did the instruction come from to
23 interpose Ms Schutz rather than you dealing directly with
24 SCWRAG?---I think - I don't believe there was an
25 instruction. I think that - we discussed it. I thought
26 that would probably be best also.

27 It's not the first time that you've dealt with a community
28 representative group, is it? Have there been other
29 planning issues that have involved Leightons and community

1 representative groups?---I'm trying to think. Sorry, I'm
2 just trying to go back through all the other projects that
3 I've worked on. I don't believe so.

4 So where did the idea come from that you shouldn't deal
5 directly with SCWRAG?---It's just - there needs to be
6 independence. A community group, you know, they're their
7 own group.

8 Sorry, I don't follow that, Mr Kenessey. You are paying for
9 everything - all of the costs that SCWRAG incurs. So by
10 definition they can't be independent of you, can they? So
11 if that's the case they are not in fact independent of
12 you. What was it you were trying to achieve in having
13 Ms Schutz interposed?---To help them articulate in the
14 planning scheme what their view was.

15 That's no reason for you not to deal directly with them if all
16 you were wanting Ms Schutz to do was to assist them in
17 formulating their position on issues. What is the reason
18 why she was interposed so that you didn't deal with
19 SCWRAG?---Well, I think Ray liked her. Sorry, I'm trying
20 to answer your question.

21 I don't think you are, Mr Kenessey. You must have had a reason
22 why you did not deal directly with SCWRAG?---I did on
23 occasions speak to Ray directly. Sorry, if you could just
24 rephrase the question?

25 All I'm asking you is was your decision to interpose Ms Schutz
26 because of a concern as to how it might otherwise publicly
27 be perceived if the closeness of your relationship was
28 understood publicly?---But I didn't see that as a problem
29 because publicly it was told to people at public meetings

1 that we were paying for the signs and the website.

2 MR TOVEY: Were you at those public meetings?---I was at one in
3 a football pavilion. The Kelly family were there. Gary
4 was there. I would have to check my file for the other.

5 Geoff Ablett, did you have any - you indicated you went to a
6 fundraiser for him?---Yes.

7 Were you aware that he was the benefit of a contribution

8 I think it was of \$40,000 from Mr Woodman in respect of
9 his 2014 election campaign?---I wasn't aware of the
10 quantum.

11 You were aware that there had been a donation?---Given that he
12 excused himself from voting on future - on C219, it sort
13 of - the data matched up that he had provided something to
14 Geoff's election campaign.

15 You are not saying, are you, that you were unaware, even though
16 he excused himself from council meetings, he was
17 nevertheless regularly briefed and disseminated
18 information in respect of C219?---I hardly had anything to
19 do with Mr Ablett.

20 When you say "hardly had anything to do with" him what
21 associations did you have?---I probably met him on a
22 handful of occasions.

23 Did you ever correspond with him?---I would assume that in his
24 time as mayor if we were sending letters in terms of C219
25 then yes?---Did you ever communicate with Megan Schutz as
26 to his role or with John Woodman?---I'm not sure what you
27 are referring to.

28 Did you ever communicate with Megan Schutz or John Woodman as
29 to what support, if any, Mr Ablett was providing in

1 respect of C219?---My recollection is that Megan and John
2 said that Geoff was supportive.

3 And what was he doing?---I don't know.

4 Did you ask them?---No, I don't think so.

5 You knew that he was conflicted in respect of his relationship
6 with John Woodman from voting in respect of
7 C219?---I attended council meetings and he would declare a
8 conflict and leave the chamber.

9 You were aware that he was conflicted because of his
10 relationship with John Woodman?---I think they claimed
11 they owned a racehorse together, is my - that's what
12 springs to mind.

13 So what did you understand his support to be if he was
14 excluding himself from council votes?---That John had
15 contributed to his election campaign and they owned a
16 racehorse together.

17 Yes, but what was his support to C219, that is Ablett's support
18 to C219?---That he agreed with it. That he agreed with
19 it.

20 And that he promoted it?---I don't recall that specifically .

21 Megan Schutz has given evidence that he and she were on a
22 working party with Mr Walker which was designed, amongst
23 other things, to progress both C219 and the H3
24 intersection; is that something that you were not aware
25 of?---I don't believe I was aware of that. There might
26 have been some correspondence where Ray had spoken or
27 briefed to Geoff, but without sifting through a lot of
28 stuff I can't - - -

29 What about Amanda Stapledon? Did you have any association with

1 her?---I had met Amanda a few times, particularly more so
2 in the early days.

3 How did you come to meet her?---This may not be the first time,
4 but she was also our ward councillor. I believe I had
5 spoken to her on the phone, if I check my notes in terms
6 of briefing her, for her pre-April meeting. I went to one
7 of her fundraisers in Hallam. I was emailing her - she
8 might have been mayor at the time; I can't remember -
9 about emailing her the copies of update minutes with
10 officers to her and Gary. But from those early days
11 contact with her trailed off materially to virtually
12 non-existent.

13 When you say you were sending minutes to her and Gary, what was
14 that about?---So when Peter Williams and I were conducting
15 the review post 1 April '14 Gary asked me to provide them
16 updates. I would forward on to them copies of the minutes
17 of the workshops we were having with officers.

18 And why did you do that?---So that they had unfettered hearing
19 of what our view was in terms of the review.

20 Did you do that to all councillors?---I did that to primarily
21 Gary and Amanda through the course of the review. But
22 then Gary advised prior to the October 21 '14 council
23 election that I should go with Peter and brief as many
24 councillors who would see us. So we on the morning
25 of - I would have to check the date, we did Louise
26 Berkelmans, Susan Serey and Rafael Kaplan, and that
27 afternoon we did Wayne Smith and Damien Rosario. We met
28 Gary for lunch that day and, weirdly, we briefed Gary
29 Ablett at his house over coffee at the start of that day.

1 And I did, sorry, Rosalie Crestani I think it was two or
2 three days post that.

3 In any event it started off with you just briefing two of them.

4 How did you pick those two? Was that what Mr Woodman told
5 you to do?---No, because we had met Gary in March '14 and
6 again he told us that since the '90s he thought the land
7 should be residential prior to his entering into
8 parliament and that we should work through him and not
9 Sam, who - "It's not Sam's ward. He shouldn't be meddling
10 in my ward", and he wanted to take carriage of the
11 process, is my recollection.

12 So this is the process in respect of the rezoning. And did he
13 continue to be an ardent supporter in that way?---Gary
14 Rowe?

15 No, Mr Ablett?---I don't know. I think - - -

16 COMMISSIONER: Mr Kenessey - I'm sorry, did you want to add
17 something?---I'm not sure. I don't - I can't recall,
18 unless - - -

19 Mr Aziz has told the Commission that there was a protocol
20 within the Casey Council that if a councillor was to meet
21 with a developer for the purpose of a discussion about a
22 planning proposal that the developer wanted to pursue that
23 there would always be a requirement that a council officer
24 be present. When you had the opportunity to make
25 representations to each of the councillors you have
26 enumerated were there council officers present?---No,
27 there weren't. But Gary Rowe told me a different story
28 about their process.

29 What did he tell you?---He told me that if there were private

1 meetings and, for example, a lunch that they had an
2 obligation to record that or notify senior people within
3 council, and that - yes.

4 So Mr Rowe told you that the protocol was if a councillor meets
5 with a developer - - -?---Yes.

6 They have an obligation to report the meeting or the substance
7 of what's discussed?---I think particularly if there was,
8 for example, lunch involved. I don't know if it was,
9 like, you met - - -

10 Are you talking about hospitality and gifts, are you?---Well,
11 that's my understanding.

12 I'm not asking you about hospitality or gifts?---Okay.

13 But I'm asking you whether or not you understood from Mr Rowe
14 that there was a protocol that if a developer was going to
15 try and brief or, to use a term Ms Schutz has used,
16 advocate for a particular planning proposal there should
17 be a council officer present?---I have not heard that ever
18 before.

19 So you were able to freely access all of these councillors that
20 you enumerated in private?---Yes, at council - - -

21 And to your knowledge did any of those councillors report to
22 the council the fact that they had had those private
23 discussions?---I don't know. All I know is that Gary
24 regularly told me that he would report what we discussed
25 with officers.

26 Do you know whether any other councillors reported on your
27 discussions?---I have no idea.

28 I should have asked you: and when you met with each of those
29 councillors was it part of your concern whether or not the

1 individual councillors had a conflict of interest in
2 relation to C219?---As I think I stated earlier, my
3 expectation is that any politician who has a conflict of
4 interest would exclude themselves.

5 I'm talking about your meetings - the meetings you have just
6 enumerated with the individual councillors?---Yes.

7 Did you concern yourself with whether any of those councillors
8 that you were speaking to had a conflict of interest in
9 relation to C219?---I don't recall. I don't think I did.
10 I think we were just briefing them, giving them
11 information.

12 MR TOVEY: So you went to a fundraiser in Hallam for Amanda
13 Stapledon. When was that?---It would have been that year
14 of the election of '14. I remember it quite well because
15 a truck had backed into my car, bent the back wheel and
16 Amanda gave Peter and I a lift to the train station in
17 Dandenong.

18 Thank you. Was Mr Woodman there?---I believe so.

19 Had he paid for your attendance at that fundraiser?---I would
20 assume so as we were guests of Watsons.

21 So was it the case then that over the period from 2014 to 2019
22 you regularly attended political fundraisers?---Yes.

23 And was it always Mr Woodman who paid?---I would assume so as
24 we were invited as guests.

25 Did you have any other clients who were paying for you to
26 attend political fundraisers during that period of
27 time?---I don't believe - - -

28 When I say "clients", I'm sorry, did you have any other
29 contractors who were paying for your attendance at

1 political functions?---Not that I recall.

2 So the fundraiser in Hallam, can you remember precisely when it
3 was?---I could find it pretty easy. It was the minister,
4 the Liberal minister - I can see his face; I could find
5 his name for you - who was the guest speaker. He was the
6 minister for transport, maybe.

7 Were you aware of any association, then or later, between
8 Mr Woodman and Amanda Stapledon, particularly relating to
9 the position of her son, who had special needs?---Megan
10 had referred to him to me and said that she was providing
11 advice and helping her with planning of some sort of - a
12 care home for older people with needs.

13 And was that in the context of her indicating to you that they
14 had a good association with her?---I suppose so.

15 Could you please look at court book page 3649? Could we go to
16 3650, please? Can we go to 3694, please? I apologise.
17 3695? And 3696?

18 COMMISSIONER: Sorry, Mr Tovey, are you wanting the witness to
19 take all of this in?

20 MR TOVEY: No, the first page was not the page. I had a group
21 of pages noted, Mr Commissioner.

22 COMMISSIONER: Very good.

23 MR TOVEY: There was a cocktail function on Friday, 4 April,
24 and this is just a flyer which advertised that function.
25 Could you have a look and tell me whether that was a
26 function which you attended?---Can you give me the year of
27 that?

28 2014, I think?---I believe I did attend and I believe we had
29 extra Leighton people also attend. But I would like to

1 cross-reference that with my file just to be 100 per cent
2 certain. But it looks familiar.
3 That was an event at Crown Casino where Martin Pakula, who was
4 the Shadow Attorney-General, and gaming, racing and other
5 portfolios, Jude Perera, Judith Graley were all to be
6 there; is that right?---Correct. And I believe I made
7 reference to it earlier in evidence. I believe I made
8 reference to it earlier in evidence.
9 Were you there with John Woodman?---He was there.
10 And he had paid for your attendance?---I would assume so.
11 And did you have any reason - - -?---If I could change that,
12 sorry. I think he was holding the function, so I - - -
13 Yes. Did you have any reason to be there other than to pursue
14 your employer's interest?---No.
15 Which was C219. Were you conscious as a result of that, as a
16 result of being at that function, as to whether or not
17 Martin Pakula or Jude Perera or Judith Graley came to
18 support C219?---I'm not sure about Mr Pakula. I know that
19 Graley was talking to people about C219, and Perera.
20 And did you yourself have discussions with them?---With who,
21 sorry?
22 Jude Perera and Judith Graley?---Not many discussions with
23 Jude. I spoke to him on that evening. We emailed back
24 and forth a little bit after he invited me to his
25 fundraiser some months after, which I didn't attend.
26 I had met Judith Graley on a couple of occasions at
27 dinners.
28 Did you discuss Judith Graley's association with Mr Woodman
29 with Mr Woodman? I won't leave it as broad as that. In

1 particular at a time when she was leaving parliament did
2 you discuss with him whether she might take over Lorraine
3 Wreford's role as a lobbyist for him?---I will tell you
4 what I recall; that on that late January '19 he told me
5 that the Premier or the senior ministers had advised her
6 to stay away from C219. She was devastated. She was
7 going to take a holiday I think, from memory, for
8 12 months and that she didn't want to work for John. But
9 I could find the reference for you if you like.
10 Just give me your own recollection at this stage. So when was
11 this?---That would have been just before I removed John
12 from the project within the confines of our agreement.
13 And when was that exactly?---I would have to check my file, but
14 it would be - - -
15 When I say "exactly" - - -?---Early '19. Like, early February,
16 late January.
17 All right. At that stage how did this information come to you
18 in respect of Ms Graley?---John. John told me that at one
19 of our catch-ups, cups of tea, and he seemed a bit
20 despondent when he was giving me that message.
21 And what was the message now, as you recall?---What I just said
22 earlier; that the senior Labor Party ministers told her to
23 stay away from C219, and probably John is the insinuation.
24 Before that had you been aware that she had been seeking to put
25 forward pro C219 arguments to the minister?---I can recall
26 conversations where John - you know, she was waiting to
27 bump into the planning minister to seek updates on timing
28 of approval.
29 So it was part of the strategy, as you understood it, to use

1 local politicians who were supported by John Woodman to
2 seek to advocate for C219 to the minister?---He would have
3 his contacts relay our message of the merits to people we
4 couldn't get access to.

5 But, getting back to my original question, it was part of your
6 strategy to seek to have politicians who he supported who
7 weren't in the ministry advocate for C219 to the
8 minister?---It wasn't part of Leightons' strategy.

9 No, it was part of his strategy, as you understood it?---It's
10 hard to argue with that. Is it time for lunch; sorry,
11 Mr Commissioner, a break, unless Mr Tovey wants to finish.
12 I was going on to another topic.

13 COMMISSIONER: Yes. You want another break?---If that's all
14 right; sorry.

15 Yes. You are about to start on something else?

16 MR TOVEY: Yes, Commissioner.

17 COMMISSIONER: All right. We will adjourn until 2 o'clock.

18 <(THE WITNESS WITHDREW)

19 LUNCHEON ADJOURNMENT

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