
TRANSCRIPT OF MORNING PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

THURSDAY, 12 NOVEMBER 2020

(28th day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH AM, QC

Counsel Assisting: Mr Michael Tovey QC
Ms Amber Harris
Mr Tam McLaughlin

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 <PHILIP JOSEPH STAINDL, recalled:

2 <EXAMINED BY MR TOVEY, continued:

3 COMMISSIONER: Good morning, Mr Staindl, Mr Lavery. Are you
4 ready to proceed?---I can see neither my legal
5 representation nor Mr Tovey on the screen.

6 Can that be addressed, please? You still don't have them on
7 screen?---No, I don't. I can see Mr Tovey now.

8 OPERATOR: Mr Lavery, if you just speak your face may come up
9 on your screen.

10 MR LAVERY: Yes, can you hear me okay?---I have vision now.

11 COMMISSIONER: Very good. Yes, thank you. Yes, Mr Tovey.

12 MR TOVEY: Thank you. Just while we are in that mid-period of
13 2018 I'd like to direct your attention to some matters
14 relating to the Hall Road issue involving a meeting with
15 Minister Donnellan in May of 2018. Could you have a look
16 at 5026, 5027, please. Before you actually read that, we
17 might be able to avoid wasting time if you can remember
18 it. It would appear from these emails that there was a
19 meeting with Luke Donnellan at your request relating to
20 the Hall Road issue, and that meeting was conducted with
21 Ray Walker and Megan Schutz present, and that in the
22 course of that a letter written from SCWRAG but indeed
23 written by Megan Schutz was handed over. Do you have any
24 recollection of any of that?---I'm not sure if it's the
25 same meeting, and, to the best of my knowledge, I've never
26 met Mr Walker. I do recall a meeting with Minister
27 Donnellan at one of the business forums, the 15-minute
28 meetings, with Ms Schutz, myself and Mr Donnellan to
29 discuss Hall Road, I'm pretty sure that's to do with an

1 intersection.

2 I think your recollection is in fact correct because what I've
3 referred to was in fact a request for a meeting with
4 Mr Donnellan. So there was a request for a meeting
5 involving yourself, Ray Walker and Megan Schutz, and then
6 following that there was sent to you a letter under the
7 hand of Ray Walker for transmission to Mr Donnellan. Do
8 you recall that letter being provided to
9 Mr Donnellan?---Not precisely, but it's possible that it
10 did happen, yes.

11 Well, it's consistent, is it not, with what was going on at
12 that time, and that is that from time to time through you
13 SCWRAG would be providing letters supporting submissions
14 to the government?---Yes.

15 Okay. I'll leave that be. Can we go on to - I'm not sure,
16 Mr Commissioner, whether we need to tender those. They
17 weren't really explored in any detail.

18 COMMISSIONER: No.

19 MR TOVEY: Could we go then to 5031. Looking at that document,
20 at the bottom of the page Megan Schutz has emailed you
21 indicating that she has heard from Stuart Morris QC, who's
22 a planning lawyer. Was he at the Bar at that stage or was
23 he still at VCAT?---I think he was at the Bar.

24 'The VPA are absolutely seething about the outcome of
25 Cranbourne West. The bureaucrats are actively doing what
26 they can to sideline it.' Then she indicates to you in
27 the penultimate paragraph, 'We will definitely need word
28 to come down from above to the bureaucrats to send the
29 brief up and for Dick to have someone next to him helping

1 him put his signature on the brief approving the
2 amendment.' And then you respond, 'Judith is onto this
3 big time,' if you look at the top of the page. So what
4 you see there is Megan Schutz indicating that the
5 bureaucrats need to be pulled into line and you're going
6 to need somebody helping Dick, that's Dick Wynne, put his
7 signature on the dotted line; is that a fair assessment of
8 what's there being discussed?---My recollection at this
9 point was that the independent planning panel had
10 unanimously recommended that the amendment proceed.

11 Yes?---That there were government agencies that still were not
12 happy with that, and, via the feedback provided from
13 Stuart Morris, it was going to be - continued to be
14 resisted within departmental ranks.

15 Yes. Look, the fact that - was it the case that after the
16 Planning Panels Victoria decision came out you and
17 Mr Woodman and Megan Schutz thought that it would almost
18 routinely be the case that the amendment would go on to be
19 approved?---I had no reason to think otherwise of that.

20 And in fact Megan Schutz got really angry about that to the
21 extent to which she made a pest of herself at a function
22 with the minister, was very aggressive towards him and he
23 refused to have anything to do with her thereafter?---That
24 is an accurate assessment, yes.

25 But what she's pointing out to you here is that, 'We need to
26 find somebody to come down from above to the bureaucrats,'
27 all right, 'and to send the brief up for Dick and have
28 someone next to him helping him put his signature on the
29 dotted line.' That was the strategy that she was

1 proposing?---Well, from reading that email, yes, she was.
2 And then your response to that was to say, 'Judith is onto this
3 big time'; right? That was your response - - -?---I was
4 not necessarily concurring with Ms Schutz's strategy, but,
5 given that Ms Graley and Mr Perera had been such strong
6 supporters of this amendment, I felt it was entirely
7 appropriate that the local member or local members be the
8 ones who continued the advocacy to the minister to see
9 that the Planning Panels recommendation was adopted.
10 But what you're talking about in the course of - sorry, what
11 she's proposing there is somebody comes down from above on
12 the bureaucrats and someone sits next to Mr Wynne and
13 basically guides his hand to the signature, and your
14 response, you'll forgive me if I observe, seems to be - it
15 seems to be the only explanation for your response is
16 you're saying, 'Look, Judith Graley is performing that
17 role or can perform that role'?---No, I think there is
18 another explanation, that I basically ignored the proposed
19 strategy from Ms Schutz and had spoken to Ms Graley, who,
20 through the normal course of events, will make
21 representations into the minister's office.
22 Didn't that email to you cause you to squirm because it
23 indicates an unbelievable sense of entitlement to
24 manipulate both bureaucrats and the minister?---I had
25 learnt over time to be very measured in my responses to a
26 lot of emails from Ms Schutz. She had a particular
27 passion for the way she would approach issues. It did not
28 necessarily marry with my style because I had, for want of
29 a better term, a softer method of approaching government,

1 and I was not going to dictate to Ms Graley and Mr Perera
2 how they should deal with the ministerial office on this
3 issue. I was to leave it with them to decide how they
4 could best advocate to have the minister adopt a planning
5 scheme amendment which had been unanimously supported by
6 Planning Panels Victoria.

7 The problem, sir, is that when you look at that you see Megan
8 Schutz is a representative of John Woodman, who has been
9 dealing with you for years and years and years, with an
10 expectation which involves not only a sense of entitlement
11 but an expectation that they, through you, will be able to
12 exercise remarkable control both over the minister and
13 bureaucrats. Had you done anything to encourage her to
14 that expectation or to that view?---Definitely not.

15 Following that, on 14 June 2018, there was an email chain
16 between yourself and Ms Schutz where you discuss
17 discussions you've been having with Mr Keogh about the
18 progress of Cranbourne West and in which you observe that
19 Judith had a really good relationship with Andrew
20 Herrington. Who was Andrew Herrington?---He was one of
21 the minister's advisers.

22 All right. Then you observe, 'I think this is much better
23 coming from her.' So there you were discussing with
24 Ms Schutz whether you would use Judith Graley as a channel
25 into the minister's office, were you not?---Correct.

26 And, again, the problem, you might think, is that when you say,
27 'I think it's much better coming from her,' it seems that
28 there is an expectation on your part that Judith Graley,
29 when it comes to this issue, will simply do what you ask

1 her to do?---No. She had been very supportive of
2 the proposal, and it had gone through a public hearing
3 conducted by Planning Panels Victoria, come back with a
4 unanimous recommendation supporting the amendment; so that
5 was a process that I think ran for five or six weeks and
6 had opportunities for multiple agencies and individuals to
7 make submissions to. She was in her judgment - felt it
8 was the best outcome for that area and was happy to
9 advocate accordingly.

10 COMMISSIONER: Mr Staindl, just going back to your response to
11 Ms Schutz, though, that 'Judith is onto this big
12 time'?---Yes.

13 Do you not see that on the very face of it Ms Schutz would
14 understand from your response that you are entirely in
15 agreement with her strategy and that Judith is going to
16 implement that strategy?---No, I don't. I have my own
17 strategy. I - - -

18 No, I'm not asking you what your strategy was. I'm asking you
19 whether you accept that the response you gave Ms Schutz
20 would lead her to think you supported that
21 strategy?---I don't know how she would have interpreted
22 it. But I have my own method of operation, and I wasn't
23 about to be dictated to by another consultant if that was
24 not in accord with the way I would operate. Now,
25 (indistinct) told her that, I don't know - - -

26 Mr Staindl, one would never know from your response that that
27 was your position, would one?---Well, I can't recall what
28 I wrote at the time or if there was a follow-up discussion
29 and I said, 'This is how I'm handling this.' That may

1 have occurred. But the mere fact that she has written
2 that doesn't - should not be construed as saying
3 I automatically endorsed that strategy.

4 No, you're not grappling with the point that your response on
5 the face of it suggests you're supporting that strategy
6 and that Judith is onto it big time?---Well, I'm sorry,
7 I don't concur with that assessment.

8 What is it you don't concur with?---That I have implicitly
9 endorsed Ms Schutz's strategy.

10 Do you remember speaking with Judith?---Not off-hand, no.

11 Look, I probably had multiple conversations, but I can't
12 recall a specific instance of a phone call.

13 So you have no memory of it but your explanation is nonetheless
14 that you would not have encouraged Ms Graley to pursue the
15 course Ms Schutz was suggesting; is that your
16 position?---That's - that is - it's not the way I operate.
17 I would allow someone like Ms Graley to handle this matter
18 in the way that she saw best.

19 Mr Staindl, are you familiar with the decision of the
20 High Court in McCloy's case? It's a 2015 decision in
21 which the High Court had to grapple with the question
22 whether or not the New South Wales parliament had
23 exercised an unconstitutional power by passing legislation
24 which restricted donations from developers. Do you recall
25 that was a very hot issue in New South Wales?---In very
26 broad terms, yes, but not the specifics.

27 And one of the things the High Court said in distinguishing
28 between bribery of a politician and political donations is
29 that there are different kinds of corruption, and one of

1 the corruptions that the High Court talks about is a more
2 subtle kind of corruption which concerns the danger that
3 officeholders will decide issues not on the merits or the
4 desires of their constituencies but according to the
5 wishes of those who have made large financial
6 contributions valued by the officeholder. That kind of
7 corruption is described as clientelism. Were you familiar
8 with the fact that the High Court made a statement to that
9 effect?---No, I wasn't.

10 And isn't that what Counsel Assisting is now pursuing with you,
11 that this was not just a case of members of parliament who
12 received substantial political donations from your client,
13 Mr Woodman, pursuing their own view; this was a case of
14 the perception that they were doing more than would
15 ordinarily be expected of someone in their position if all
16 they were doing was wishing to advocate their view about
17 the merits of the proposal?---Ms Graley and Mr Perera saw
18 this as a critical political issue because they had stated
19 to me on numerous occasions that the level of angst by
20 that broad Cranbourne West community over the prospect of
21 industrial development in land immediately abutting that
22 residential area was considerable, and in their view it
23 had the potential to swing the seat of Cranbourne at the
24 election. So they had very strong political motivations
25 in pursuing this issue, and they indicated that to me on
26 numerous occasions. I never at any stage had a sense from
27 either member of parliament that they were - that the
28 principal reason they were advocating on this issue was
29 due to the financial support they received from

1 Mr Woodman.

2 You were conscious, and I think this is clear enough from your
3 previous testimony - you were conscious of the fact that,
4 having received significant political donations, that was
5 likely to influence them?---At the end of the day the
6 decision is theirs. I can't read their minds as to what
7 their motivations were. It's always been a vexed
8 question, and I think it's fair enough to say that is why
9 the government moved in November 2018 to break that nexus
10 between political donations and political parties, sorry,
11 and hence the changes to the legislation at the state
12 level. But, as to their motivations, I think those
13 questions are best put to them because I don't know what
14 was going through their mindset.

15 Do you not see that you're totally abdicating any
16 responsibility for what the High Court describes as a more
17 subtle form of corruption? You're totally abdicating any
18 responsibility for such an outcome by simply saying, 'All
19 I'm doing is putting my client in contact with these
20 people, and, if in doing so I also encouraged a client to
21 make particular political donations, that's no
22 responsibility of mine whether it in the end results in
23 action by the member of parliament that the High Court
24 describes as a form of corruption'?---Well, as I indicated
25 to you earlier, Mr Commissioner, I wasn't familiar with
26 the detail of that High Court ruling. I have just
27 endeavoured to operate within the confines of the law at
28 the time and operate accordingly.

29 I want to suggest to you, Mr Staindl, what the High Court said

1 was, with great respect to the High Court, no more than a
2 matter of commonsense, that surely you appreciated and
3 I have taken it from the answers you have given over the
4 last three days that you recognised that a fundamental
5 purpose of encouraging your clients to make particular
6 political donations was because that might result in
7 various people who were the recipients of those donations
8 doing things either that they wouldn't otherwise have done
9 or increasing the likelihood that they would do things
10 that your client wanted done?---I certainly acknowledge
11 that it helped build a relationship with the member of
12 parliament, and probably gave them a more detailed and
13 intimate understanding of what they were trying to
14 achieve.

15 Yes. Yes, Mr Tovey.

16 MR TOVEY: Was it the case that once Pauline Richards - sorry,
17 once Judith Graley had left parliament or in anticipation
18 of her leaving that Pauline Richards was earmarked as
19 somebody who might take up championing the Cranbourne West
20 rezoning in the same way that Graley had?---Whether it was
21 the same way as Ms Graley had, it was certainly hoped that
22 she would be supportive of the amendment which had been
23 unanimously approved by Planning Panels Victoria to
24 support the adoption of that planning scheme amendment.

25 You had a meeting, did you not, with her on 22 October 2018 at
26 the Sofitel Hotel?---That sounds right, yes. It was a few
27 weeks out from the election.

28 And who was there?---Mr Woodman, Ms Richards and myself.

29 And is my recollection of what you told us yesterday correct,

1 and that is following that Mr Woodman decided to make a
2 donation?---Correct.

3 But up until that time you hadn't been aware of any donations
4 being made by Mr Woodman to Pauline Richards?---To the
5 best of my knowledge, no. He may have attended a
6 function, but I hadn't. So that happened directly and,
7 you know, in order to pursue it.

8 The other thing I understood you to be saying is that, as far
9 as you were aware at that stage, there was no connection
10 between the donation and Ms Richards's position in respect
11 of the C219 amendment?---It certainly wasn't said
12 that - because she indicated following our meeting and,
13 you know, brief overview of it and stepping her through
14 the process that had been gone through to that point she
15 was broadly supportive, and hence that was the rationale
16 I think for Mr Woodman suggesting or authorising me to
17 offer a donation.

18 In the lead-up to that meeting was it understood by you that
19 there was a prospect of Mr Woodman making a contribution
20 if she committed?---I knew - I think I understood that he
21 was prepared to donate, yes, if she did commit.

22 And had that been conveyed to her?---No.

23 Had there been any other interaction between you and her or had
24 there been any interaction between you and her in the
25 lead-up to that meeting?---No, because - other than at the
26 time for the meeting, but - - -

27 Had she given you any information in respect of C219 or the
28 progress of C219 in the lead-up to that meeting?---No.

29 I don't want to say absolute. Just - sorry, I will

1 rephrase that by saying I can't recall, but nothing comes
2 readily to mind.

3 Had you and Mr Kenessey had lunch with her?---She was I think a
4 guest at a boardroom lunch. I think it was at a legal
5 firm.

6 Slaters?---She was one of many. I think it was a function that
7 Jill Hennessy had organised to raise funds for a number of
8 female MPs of which she was one.

9 You went to that with Mr Kenessey?---If - I don't recall, but
10 it's quite possible.

11 And your interest in going there was because of Pauline
12 Richards's potential influence in respect of C219?---Okay.
13 That sounds possible, yes.

14 That's the only reason you would go there with Mr Kenessey, of
15 all people. Did he have any interest in Pauline Richards
16 other than the fact that Leightons wanted the C219
17 amendment approved by the minister?---I doubt it.

18 All right. I just want to take you now to some documents
19 relating to the way in which this developed. Could
20 I tender, please, the last documents I referred to,
21 Mr Commissioner, which were 5031, 5032.

22 COMMISSIONER: Yes, that will be exhibit 237, 14 June.

23 #EXHIBIT 237 - Email from Ms Schutz to Mr Staindl dated
24 14/06/18, court book pages 5031 and 5032.

25 MR TOVEY: I now want to take you to 5035 to 5037 - actually,
26 just 5036 and 5037, which has any material on it that
27 contains any information that we need. All right, start
28 at 5036, and you'll see that's - - -

29 COMMISSIONER: You might need to go up slightly above that to

1 see who it's from, Mr Tovey.

2 MR TOVEY: Yes. So what's happened is that Megan Schutz has
3 written to the department asking about the state of play,
4 and Adrian Salmon from the department has written back
5 telling her that the amendment is being assessed and there
6 was still no timeframe, and that information was being
7 forwarded on to you. That's the beginning of it?---Yes.

8 If you look at the middle of page 5035, you then go on to John
9 Woodman, telling you, 'Phil, please see the email from
10 the government officer.' That's what we've just been
11 talking about. At this stage it looks like the amendment
12 won't get approved. Then, 'Please ask Judith to help if
13 she can and please let's organise a fundraiser for
14 Pauline, the new Cranbourne candidate, ASAP. Let's do the
15 fundraiser under your banner so my name is not dragged
16 into it. We will raise \$20,000 with a boardroom lunch and
17 invite Steve Bracks or similar as a guest speaker if
18 possible, thanks mate, all good.' Now, is that what he
19 wrote to you ?---Yes, he wrote it, obviously, yes.

20 So, even though at that stage the information that was coming
21 through that the amendment hadn't been processed and there
22 was no timeframe, what Mr Woodman was proposing was that
23 you get help once again from Judith, Judith Graley, and
24 then, 'Let's organise a fundraiser for Pauline to raise
25 \$20,000'; is that right?---That's what he was proposing,
26 but the function didn't occur.

27 No, but let's just look at this, though. So it's clear, is it
28 not, from that that the tardiness in the approval has
29 sought Mr Woodman to indicate to you that he wants you to

1 ask Graley to help and in the same breath he's saying, 'We
2 can organise a fundraiser for Pauline'? Now, that makes
3 it patently clear, doesn't it, that he sees Pauline
4 Richards as potentially performing exactly the same sort
5 of service to the C219 cause as Judith Graley had been
6 doing?---Well, I indicated before he was certainly hoping
7 for her support of the amendment, which had been approved
8 by Planning Panels Victoria.

9 If you go then to above that, you say, 'I had a good chat with
10 her last Thursday and she is going to follow up with
11 the right people this week. And will do on the
12 fundraiser.' Now, when you say, 'I had a good chat to her
13 last week,' I assume that was Judith Graley?---Correct.

14 Weren't you disturbed by the regularity and intensity of
15 the level of engagement between yourselves and Judith
16 Graley?---No. I don't think it's unusual when it's a
17 significant issue dealing with her electorate.

18 COMMISSIONER: Mr Staindl, you see there part of your answer,
19 you had a good chat to Judith?---Yes.

20 And 'she is going to follow up with the right people this
21 week'. That's a response after you got that email that we
22 looked at from Ms Schutz setting out what she wanted you
23 to do, isn't it?---Yes.

24 You said to me earlier you've got no memory of your discussion
25 with Judith but on the basis of how you operate you opined
26 that you would not have done as Ms Schutz
27 requested?---Correct.

28 Is that correct?---Yes.

29 What does this tell you, that you have asked her - you have had

1 a chat to her and she's going to follow up with the right
2 people this week?---This tells me that she would have a
3 discussion with the appropriate ministerial adviser, and
4 I'm pretty sure it was the person referred to earlier,
5 Andrew Herrington, to say - one, to check on progress,
6 where there are blockages, and, two, advocate or indicate
7 her support for this to happen. So it would not
8 have - I don't think I would have even suggested the
9 strategy to her that Ms Schutz was advocating.

10 I essentially say this is the information that's been
11 gleaned from Stuart Morris and others in terms of the
12 attitude to this from the various government agencies,
13 because there was a difference of view, as I understand
14 it, amongst those various department arms, and she was
15 also adding to it her political connotation, which is to
16 be expected from a local MP. They do that all the time in
17 their liaison with ministers and their officers.

18 MR TOVEY: So you thought all that contact, did you, was
19 capable of being totally transparent?---It was operating
20 within the system at the time. If a member of
21 parliament - - -

22 Are you saying it didn't occur to you that the degree of
23 connection with Ms Graley was in any way inappropriate or
24 privileged?---Not as such, no.

25 Is there any reason you would want to hide it?---No. Quite a
26 standard and I would say legitimate technique is for a
27 member of parliament to pursue an issue with a minister or
28 his or her staff because quite often if there are
29 political considerations surrounding it a ministerial

1 adviser can give them much blunter and more direct
2 feedback than if the proponent is there. And so - - -
3 So you're saying all she's doing is putting forward a view
4 which she thinks that people in her electorate want her to
5 put forward?---Correct.

6 But that's not her electorate. She was the member for Narre
7 Warren. This development wasn't in - this proposal had
8 nothing to do with her electorate. Why did she have her
9 finger in the pie?---The reason was because Jude Perera
10 had very, very serious health issues over the couple of
11 years and had specifically asked her to assist in steering
12 this through, because he had long periods of
13 hospitalisation then. It was very close to her
14 electorate, I think within a few hundred metres of the
15 boundary, although don't quote me on that, but, as
16 I understand it, the boundaries were very close, and there
17 was a related community of interest, as I think she told
18 me. But she was helping Jude out because she saw it as
19 critical to whether or not the ALP held onto the seat of
20 Cranbourne at the forthcoming election.

21 Could I tender, Mr Commissioner, 5035 to 5037, being the email
22 chain of 18 June.

23 COMMISSIONER: Yes. That will be exhibit 238.

24 #EXHIBIT 238 - Email chain of 18/06/18, court book pages 5035
25 to 5037.

26 COMMISSIONER: Mr Staindl, I really don't understand your
27 evidence on this point. What Ms Schutz asked you in
28 effect to do was to take steps so that the word could come
29 down from above to the bureaucrats to stop whatever was

1 the blockage, and what you've just told me a moment ago is
2 what you understood from your chat with Judith she would
3 do and what you then understood she did do, was she spoke
4 to someone in the minister's office with that objective in
5 mind: to try and clear the blockage. What is it about
6 Ms Schutz's proposal that you didn't implement?---I
7 think - I'm not trying to be obtuse here. My reading of
8 Ms Schutz's proposed strategy there was very direct and
9 very blunt; right? What Ms Graley would have been doing
10 in her discussions with the minister's office would be
11 seeing are there insurmountable issues, are there any
12 reasons why this planning scheme amendment should not be
13 progressed and approved, and working through the issues
14 accordingly. It would not be as blunt or as direct in the
15 way that Ms Schutz was proposing.

16 Yes, Mr Tovey.

17 MR TOVEY: Could we go back, please, to 5035. You will see
18 there, 'Phil' - at the very top of the page, this is
19 Woodman to you, 'Phil thanks mate all good. Yes we are
20 concerned that Pauline' - that's Pauline Richards - 'did
21 not front to the Cranbourne West information day held on
22 the 9 June. This could have been for many reasons but
23 just in case and following on from my chat with Pauline at
24 the Seaford Hotel fundraiser we should do as I promised.'
25 All right? Now, that's Woodman telling you that he had
26 been at a Seaford Hotel fundraiser; true?---Yes.

27 Had you been at the fundraiser at the Seaford Hotel for Pauline
28 Richards?---No.

29 And what he said is that, 'Following my chat with Pauline on

1 the Seaford Hotel fundraiser we should do as I promised.'
2 So he's promised her at a fundraiser that he's going to
3 run a fundraiser, and perhaps he's promised that he's
4 going to give her \$20,000. Is that something of which you
5 were aware?---I don't have a ready recollection of it.
6 What I do know, and prompted by that earlier email, was
7 that I spoke to someone in her campaign team and after
8 some delay in time they came back to me and said there is
9 simply not time to organise a fundraising lunch along the
10 lines that Mr Woodman was proposing.

11 And who was that?---It's possible it was Lee Tarlamis, who

12 I think was coordinating some fundraising for her.

13 COMMISSIONER: But the significant thing here is you told
14 Mr Woodman following his suggestion that 'we should raise
15 \$20,000 for Pauline' and that he didn't want it to be in
16 his name, he wanted you to do it under your name, your
17 response was, 'Will do on the fundraiser.' So you
18 understood there was an intimate connection between
19 Mr Woodman's proposal to raise these funds and the
20 Cranbourne West objective, and you said you would do
21 that?---Yes, look, I was probably referring to the
22 fundraiser itself, how it was organised. I don't know
23 I had given it that much thought. Yes.

24 You've said to me a number of times now over the last three
25 days that you hadn't given some of these issues much
26 thought. Is that because - I don't want to put words in
27 your mouth, Mr Staindl, but is that because there was a
28 culture that existed in relation to how lobbyists could
29 operate and that you were doing what you had always

1 done?---I think when he said do it under my umbrella that
2 I would promote it and organise it. I certainly wouldn't
3 have disguised where the funds were coming from, and
4 I would have advised Mr Woodman that he would be obliged
5 to declare any donations he makes.

6 Yes, all right?---But, to take your point, a number of
7 lobbyists certainly would assist in organising fundraising
8 functions for MPs because that - you're probably correct,
9 that was the culture of the time.

10 Yes. Yes, Mr Tovey.

11 MR TOVEY: It was the case, however, was it not, that what you
12 discussed with him was not only the fact that it would be
13 a fundraiser under your banner but the reason for that was
14 so his name wouldn't be dragged into it?---Yes, well, he
15 said so in the email.

16 Yes. Could we now go on to court book 3334 to 3336, which are
17 documents around 20 June 2018, starting at page 3334 at
18 the bottom of the page. At 9.52 am you write this. This
19 is reporting to the Woodman crew?---Yes.

20 First of all you write about the proposed changes to political
21 donations, and over the page, having observed it looks
22 like they aren't going to get through parliament, you
23 ultimately say, 'So on that score, it's business as
24 usual.' Is that right?---Yes. That's my email, yes.

25 Ultimately, of course, the donations laws were passed?---They
26 were, yes.

27 And the effect of those laws were to make it extraordinarily
28 difficult for developers or anybody else to exercise
29 leverage by making large payments supporting either

1 political parties or politicians?---Correct.

2 So insofar as you there said, 'So on that score, it's business
3 as usual' you and Mr Woodman were both keenly aware that
4 if the new regime did come in it would put a large dent in
5 the Woodman model of patronage, wouldn't it?---Yes, that's
6 fair enough.

7 And that model of patronage, certainly from Mr Woodman's
8 perspective and obviously, involved an expectation of
9 reciprocity?---Well, I think we've dealt with that before,
10 but yes.

11 All right. Then I want you to go on to the next paragraph,
12 'Our good friend in the south-east contacted me a short
13 time ago. (And I will be circumspect in writing with this
14 advice). She spoke to the minister about the matter who
15 in turn directed her to AH' - who is AH?---That's Andrew
16 Herrington.

17 Who?---Andrew Herrington, the ministerial - - -

18 Yes, 'for more detailed discussion. He then claims that the
19 department is not happy, fearing a loss of employment
20 related land is not good for the City of Casey and that
21 they are still working through a response. She proceeded
22 to spell out in a manner that ensured there was absolutely
23 no chance of any misunderstanding that to do anything
24 other than rezone the land would be politically disastrous
25 and also against the overwhelming views of local residents
26 in terms of what this land should be used for. She went
27 so far as to predict it will' - and that should be 'be the
28 difference between winning and losing the seat of
29 Cranbourne. She has also spoken to Jude about this, but

1 felt he might be on medication, as it didn't seem to
2 generate much of a response.' Now, is that what you
3 wrote?---Yes.

4 And who's your good friend in the south-east?---Well, that's
5 Judith Graley.

6 And why did you refer to her as your good friend in the
7 south-east rather than Judith?---Because she had become a
8 good friend. At a political level I had developed a good
9 friendship with her. We just got on well.

10 And then you immediately observe, 'And I will be circumspect in
11 writing this advice', circumspect by not identifying your
12 source?---Only because I knew this was going to different
13 people and I wasn't sure as to who else had access to
14 those emails within those organisations. So, yes, I did
15 want to be circumspect.

16 It was going to John Woodman and Megan Schutz?---Yes, I know.

17 But I don't know who else may have been viewing that.

18 That's all. There's nothing sinister about it.

19 What was there to be embarrassed about?---It's not embarrassed.

20 It's just - - -

21 Look, if you wanted to hide her name, you were concerned that
22 people other than Woodman and Schutz shouldn't know who it
23 was that you are referring to who had given you all this
24 inside information; true?---I just (indistinct) who else
25 within those organisations had access to the emails, and
26 I was just being discrete. I don't see there's an issue
27 there, but you may have a different view.

28 And you were there reporting on her very, very detailed account
29 of her interactions with the department, with the ministry

1 and indeed the tactics that she was using?---Well, the
2 arguments she was advancing, yes.

3 The arguments were that this was the overwhelming view of
4 the local residents, and that was Woodman's argument too,
5 wasn't it?---I think Mr Woodman had a range of arguments,
6 but that was certainly Ms Graley's primary focus.

7 You then went on in the final paragraph to say, 'AH' - is that
8 Mr Herrington?---Yes, it is.

9 If one just goes through this, 'then indicated to our
10 friend' - again unidentified - 'that it may take a month
11 or so to advance this matter. She stressed that this was
12 purely a delaying tactic on the part of the department,
13 was unacceptable and that she will call him next Tuesday
14 for a progress report.' So she is in fact importuning
15 Mr Herrington by telling him that this state of affairs is
16 totally unacceptable and she's going to ring back and he
17 better come up with a better account?---MPs are renowned
18 for arguing passionately at ministerial adviser level.

19 You then say - - -?---Mr Herrington is an extremely experienced
20 adviser and would have provided a very measured response,
21 I think.

22 This is all material which is specifically calculated, to your
23 knowledge, to impact on the decision-making process for
24 which the planning minister has an absolute
25 discretion?---Well, he has the power to approve or reject
26 a Planning Panels Victoria recommendation, and when there
27 has been a unanimous recommendation to support it it is
28 most unusual for a minister to overturn that
29 recommendation. But - - -

1 No, that's not what I asked you. What I'm asking you is about
2 the fact that the decision was his decision and nobody
3 else's, and - - -?---At the end of the day, yes.

4 And he has invested in him a specific statutory discretion
5 which is not shared by cabinet, it's not shared by
6 government, it's his; all right?---That's correct.

7 It's his discretion. And what I'm suggesting is that what is
8 being created here is something which is designed
9 specifically to impact on his decision-making
10 processes?---Well, it's one of many sources of input into
11 a process.

12 And it is seeking to have him make that decision on the basis
13 of the politics rather than the arguments in favour,
14 because the politics which is being put to him is this is
15 politically disastrous?---Politically disastrous if the
16 amendment unanimously recommended by Planning Panels
17 Victoria is not approved.

18 The political consequences of a decision is not something which
19 might legitimately be taken into account in the exercise
20 of his discretion?---Well, I don't necessarily accept that
21 premise.

22 Okay. You don't accept that. I understand. If you don't, you
23 don't. All right. In any event, it goes on, 'The first
24 is if it is rezoned residential there's more than likely
25 going to be a new school required, and that Lendlease
26 should be prepared to offer or donate some land for a new
27 school.' So then go back to the next page, which is 3334.
28 If you just scroll down, please, to the second email,
29 that's John Woodman's response to you: 'Phil, I would say

1 we need a miracle, pretty sad after 1 million' - that's
2 \$1 million, I take it - 'and five years (fortunately none
3 of our money), still we knew it was not going to be easy.
4 Only JG can deliver.' Judith Graley; is that
5 right?---Yes.

6 'Fingers crossed. If JG feels the need to throw in the school
7 site' - sorry, 'to throw the school site in, please advise
8 to do so, thanks.' Did you advise Judith Graley that she
9 could throw a school site in to make the deal more
10 attractive?---I can't recall specifically.

11 But Judith Graley is there being treated as a negotiator on the
12 Woodman team?---On the - - -

13 You're giving her chips which she can lay on the table, one
14 after the other. That's beyond the pale, isn't
15 it?---Negotiations of that sort are not uncommon when it
16 comes to planning decisions because, I think as you
17 indicated in cross-examination yesterday, there is always
18 an argy-bargy, to use a colloquial term, in dealing with
19 planning conditions, and if some greater community benefit
20 can be extracted as part of the outcome then that's
21 something that will be considered and thrown into the mix,
22 and it's not an uncommon practice.

23 All this is going on under the table. It's not as if this is
24 being something which is being dealt with subject to the
25 public gaze before the MPA or before any organisation
26 which has an obligation to record what's going on. This
27 is all under the table, isn't it?---No, not really,
28 because - - -

29 Look, you can't expect that the minister is going to be

1 recording that 'Judith Graley has come to me and said this
2 is politically disastrous' - - -

3 MR LAVERY: Can I just raise - - -

4 COMMISSIONER: Yes, Mr Lavery. I agree, Mr Lavery.

5 MR TOVEY: Yes, yes, I agree.

6 COMMISSIONER: What were you going to say, Mr Staindl?---Look,
7 many years ago, back in the 80s, one of my bosses at the
8 time was the Minister for Planning and there were often
9 occasions where, in an effort to reach a negotiated
10 solution, there would be give and take on both sides. So
11 I don't think it's an unreasonable proposition for the
12 government to be saying, 'If we do progress with this we
13 might be able to make it better from a community outcome
14 point of view by including a school' - you know, 'a site
15 for a school', and if that reduces the onus on the
16 government in terms of cost down the track then that's a
17 good outcome.

18 So, again, just to be clear, Mr Staindl, the issues here are
19 not about the merit of rezoning or not rezoning; nor are
20 the issues about whether or not any of the suggestions
21 being put forward for why the government should rezone are
22 good ones. It's about the fact that there is no
23 transparency and thus no accountability with respect to,
24 in this case, not only your role but the role which you
25 have encouraged Ms Graley to pursue. I just remind you in
26 New South Wales and Queensland the counterparts to the
27 IBAC Commission have for some years now been looking at
28 the activity of lobbyists and the lack of transparency and
29 accountability, and only late last year the New South

1 Wales Commission said in relation to accountability that
2 where there are undisclosed discussions with public
3 officials and lobbyists it's likely to erode confidence in
4 public administration and may give rise to corrupt
5 conduct. Are you familiar with the fact that this has
6 been an issue in New South Wales and Queensland now for
7 some years?---Yes, I am, and I have no problems with
8 greater accountability regulations or guidelines being put
9 in place and conforming with those.

10 Yes. I think you said a little earlier that, to your
11 knowledge, it's not at all unusual for members of
12 parliament to take the very active role that we see
13 Ms Graley here taking with ministerial officers; is that
14 correct?---Yes.

15 But when that happens, again, there's no transparency in
16 relation to that?---Well, I don't know that. That's up to
17 government. Usually people within the department know
18 because they're getting feedback from ministerial officers
19 that 'X' MP or representative is very strong on this.
20 Where and how you report it beyond that for public
21 consumption I don't know. But if you have a system that
22 you want to recommend arising out of these investigations
23 I think it would be welcome because, given what's gone on
24 here, I think greater scrutiny is probably a good thing.

25 Yes. Yes, Mr Tovey.

26 MR TOVEY: Thank you. Mr Staindl, if I could just run you
27 through then some things that occurred in - sorry,
28 Mr Commissioner. I tender that - I don't need to tender
29 it, I'm told. It's exhibit 56.

1 COMMISSIONER: Very good.

2 WITNESS: Sorry, before you go on, Mr Commissioner, could we
3 maybe look at taking a break soon?

4 COMMISSIONER: Yes, certainly. You would like to have one now,
5 Mr Staindl?---If there's an appropriate time - if Mr Tovey
6 wants to wrap up what he was just on, I'm happy to - - -

7 MR TOVEY: No, I'm on this topic for a while longer,
8 Mr Commissioner.

9 COMMISSIONER: Very good. We'll take a 10-minute break now,
10 Mr Staindl?---Thank you very much.

11 (Short adjournment.)

12 COMMISSIONER: Are we ready to proceed?

13 MR TOVEY: Yes, Mr Commissioner.

14 WITNESS: Yes, Mr Commissioner.

15 COMMISSIONER: Very good. Yes, Mr Tovey.

16 MR TOVEY: Could the witness please be shown page 3322. Could
17 we just scroll down, please. And scroll down, please. So
18 it would seem from - have you had a chance at looking at
19 those as we go through - - -?---I just skimmed it, but,
20 yes, I've got - that's fine.

21 It's perhaps not particularly controversial. The gist of it
22 was that there was a Progressive Business function which
23 provided access to Pauline Richards, and I think you
24 referred to the need to attend 'given her significance in
25 the scheme of things', and it was arranged that
26 Mr Kenessey would attend because others weren't available.
27 Is that about the thrust of it?---That's correct, yes.

28 All right. And that was on the 18th - around 18 July of 2018.

29 I tender that, Mr Commissioner.

1 COMMISSIONER: 239.

2 #EXHIBIT 239 - Court book page 3322.

3 MR TOVEY: Now, again, I'll take you to the next thing that
4 occurred, which was 5 September 2018, and, just for the
5 transcript, this is documents contained at court book 3750
6 to 3767, which were Watsons' bank records, which indicated
7 that on 5 September 2018 \$10,000 was contributed to the
8 Richards campaign and that you provided the banking
9 records as an accompanying email. I know yesterday your
10 recollection was that you weren't involved at that stage,
11 but would you agree that, having heard that, that you
12 were?---Yes, I can't see the documents, but if that's what
13 it shows then, yes, I was. I just didn't recall it when
14 asked yesterday, and I apologise for that.

15 3947 was the email that you sent directing where the funds were
16 to be sent?---Does that appear on the screen now or - - -

17 Sorry, if you want to look at it - - -?---No, no, I don't.

18 I was just - my apologies. I wasn't sure if it was meant
19 to be on the screen.

20 No. All right, so - - -?---I don't doubt the accuracy of what
21 you're saying.

22 I would now want to refer you to some conversations which took
23 place on 9 October 2018 which were recorded. First of
24 all, there was a conversation between yourself and
25 Mr Woodman at 2.38 pm, which is tab 243. Could that tab
26 please be obtained and played to the witness.

27 (Audio recording played to the Commission.)

28 MR TOVEY: Now that was a conversation between yourself and
29 John Woodman on 19 [sic] October 2018?---Correct.

1 I tender that telephone intercept recording, Mr Commissioner.

2 COMMISSIONER: Exhibit 240.

3 #EXHIBIT 240 - Telephone intercept recording of Mr Staindl and
4 Mr John Woodman on 9/10/18 at tab 243.

5 MR TOVEY: So while Ms Graley is advocating for the C219 cause
6 with the minister, with ministerial staffers, you and John
7 Woodman are discussing with her offering her a job, is
8 that right, after - - -?---It was - sorry.

9 What you were doing there was you were planning to - that
10 Woodman would offer her a job after she left parliament
11 and those discussions were taking place whilst she was
12 still in parliament?---At the very tail end of her career,
13 yes.

14 So the answer is yes?---At the very tail end, yes.

15 And here you are, a lot of you, with Megan Schutz, organising
16 lunch at Point Leo Estate to discuss precisely that and
17 other things, no doubt?---Yes, but that lunch didn't
18 proceed.

19 It's not so much the lunch. It's the fact that you are
20 involved in elaborate conversations with Ms Graley
21 relating to the news that is coming out from
22 the minister's office of her interactions with
23 the minister, her very assertive statements to the
24 minister that this issue is a political killer, and at the
25 same time you're offering her a job?---It was talking
26 about the possibility of employment because she was
27 concerned about what she would do post parliament. She
28 finished up as a parliamentarian I think very - in late
29 October, and that was one of a number of options she was

1 just tossing around in her head.

2 It doesn't matter, does it, whether it's one of a number of
3 options or the only option. The thing is that you and
4 Woodman are offering her a job at a time when she was
5 doing the things I've just explained to you?---Well,
6 there's probably a slight overlap of a few weeks because
7 I think she saw the end of her parliamentary career coming
8 and was starting to investigate what she does. So, yes,
9 there is that overlap, but - - -

10 As of 9 October you've indicated here that you had already been
11 involved in discussions about the sort of work she would
12 like. It could be community work, it could be other sort
13 of work. Look, forgive me, but the impression you get
14 from that is this smacks very much of a bribe because
15 you're saying - you're not saying to her, 'We need you for
16 a particular thing'; you're saying to her, 'We are
17 prepared to give you whatever sort of job you'd like.'
18 Now, you understand that if that's the case one is led to
19 reflect on whether or not that's out of a sense of giving
20 her a reward for what she's done or what she's expected to
21 continue to do; you understand that? That's how it
22 looks?---No, it was actually looking at how we could build
23 on her skill set, and the area that was being discussed
24 was community development because she had a strong
25 interest in that role, and, as I understand it, you know,
26 Watsons was one of a number of entities that she was
27 contemplating future employment in because she was - she
28 didn't want to stop work altogether, her career as a
29 parliamentarian was ending in a matter of weeks, and so

1 she was starting to actively investigate possibilities.
2 You understood what I had put to you before about the way it
3 looks? It's pretty average, isn't it?---It certainly
4 wasn't intended that way.
5 You agree it looks that way?---No, it depends on one's
6 interpretation. I'm not going to agree with it.
7 Well, you're offering a sitting parliamentarian who's been
8 advocating in favour of your commercial interests
9 basically any job she can think of that she wants with
10 you?---It was discussing with a retiring parliamentarian.
11 I don't think it's unreasonable for a retiring MP to start
12 considering options in the weeks leading up to their
13 retirement what they may or may not do post then, and, as
14 it transpired, she decided to pursue a different course.
15 So I don't think there was any sinister intent in the
16 discussions of a possible role. It was one of a number of
17 possibilities, and, if you will look back to some of the
18 feedback I gave, she wanted to take a break immediately
19 after finishing parliament. She just wanted to de-stress
20 from the life of a busy parliamentarian.
21 Had she come to you asking for a job, or was this your or
22 Mr Woodman's idea?---I think it just came up in discussion
23 about - over a cup of tea one day, 'What are you going to
24 do post parliament?'
25 A cup of tea between whom?---I can't remember if it was
26 Mr Woodman, her and myself or just her and myself. She
27 and I did meet from time to time and just talk about
28 politics generally. As I said, I considered her a good
29 political friend.

1 Then what's being asked of - in the course of that conversation
2 you have indicated that you've been asked to put up an
3 election billboard for Pauline Richards or a series of
4 billboards; is that right?---Yes.

5 And who asked you to do that?---I can't recall. It may have
6 been - look, I'm only guessing. I honestly can't
7 remember. It wasn't Ms Richards herself. I think it may
8 have been Sami from Jude Perera's office, but I can't be
9 100 per cent certain on that.

10 And were in fact the billboards put up?---I never drove down
11 there. It's more than likely but not - I'm not certain.

12 In fact, the financial information and other information,
13 documentary information, we have establishes that - and
14 indeed photos that we have establishes that they were put
15 up and Mr - - -?---Okay.

16 Woodman has indicated that he paid about \$3,000 for that. Does
17 that assist you in recalling?---It does sound right, yes.

18 At this stage, of course, The Age were in the course of the
19 investigation that a week or so later resulted in the
20 publication of a critical article suggesting corruption
21 between Mr Woodman and members of the council at the City
22 of Casey; that's right?---Correct.

23 And you had been aware for some weeks that this investigation
24 by The Age was going on before the publications?---Was
25 I aware? I think so, yes.

26 So at that stage again it was anticipated, was it not, that it
27 would be best if this - all this could be done in a way
28 which Mr Woodman's name was kept out of it?---Yes, that's
29 probably an accurate statement.

1 And, as a result of that, the discussion about the land that
2 was available, for instance, between you and Woodman
3 was - he was happy about the fact that, look, there was
4 some land which had been part of the partnership between
5 himself and Tony Johnson which wouldn't be immediately
6 connected to him where things could go up and that was in
7 a good position?---Yes.

8 MR TOVEY: I tender - that's 243. Sorry, I had already
9 tendered it.

10 COMMISSIONER: No, it's tab 243, Mr Tovey. That will be
11 exhibit 240.

12 MR TOVEY: Thank you.

13 COMMISSIONER: Mr Staindl, whilst Mr Tovey is just getting some
14 breathing space, just going back for a moment to the
15 earlier question of you providing Mr Woodman with the
16 account details as to where the \$10,000 contribution to
17 Ms Richards electoral campaign should go; do you recall
18 that?---Yes, I do, Commissioner.

19 Again, on whose behalf were you doing that?---Probably the
20 Cranbourne campaign committee, if that's how I interpret
21 your question. You know, it would have been going there.
22 It would have been someone from the campaign committee who
23 provided those campaign details.

24 Yes. But, again, you would say, 'If I was doing it on behalf
25 of that campaign committee, it wasn't the Labor Party,'
26 you weren't contravening the code of conduct in doing
27 that?---Well, my interpretation at the time was no.
28 You've, over the last couple of days, canvassed a much
29 harder edged definition which I will certainly go back and

1 review because I hadn't interpreted that definition as
2 strictly as you have.

3 No, but, even if you were right that the campaign committee for
4 Ms Richards was distinguishable from the Labor Party, what
5 you're doing plainly flies in the face of the spirit of
6 the code, doesn't it?---I didn't think so at the time, and
7 I'm suggesting that this would be very common practice
8 across the board.

9 What, for lobbyists?---Yes, from both sides of the political
10 fence.

11 Just articulate that. To do what, Mr Staindl?---To assist with
12 fundraising in the lead-up to an election campaign.

13 So it's common across the board for lobbyists to assist in
14 fundraising a person standing for parliament or for
15 councils?---My experience is more with parliament, sir.

16 Parliament, all right?---Sorry, I should add up until the
17 legislative changes of November 2018 because since then it
18 just doesn't happen.

19 Well, we might come to how patronage can still apply given
20 those new amendments. But, leaving that aside for the
21 moment, so, if it's common across the board for lobbyists
22 to be engaged in assisting on fundraising for would-be
23 parliamentarians at the next election, is that because, as
24 you acknowledged the other day, the human condition being
25 what it is, if people are assisted then they're more
26 likely if they can to reciprocate by way of
27 assistance?---I think it's more a cultural thing. So many
28 lobbyists have a past political involvement or commitment.
29 So the very nature of the contest, the political contest,

1 where they were required to resource their own campaigns
2 was 'we will help MPs achieve re-election'. In many
3 instances, it is just to see MPs from their side of
4 politics return to hopefully form part of government.

5 But a cultural disposition still requires some understanding of
6 why that culture exists. Why do lobbyists consider it
7 part of their function to assist would-be parliamentarians
8 with their electoral campaigns?---Because many of them
9 have party-political beliefs or commitments.

10 But surely that was the very thing that the - inadequate as
11 we've acknowledged the code of conduct for lobbyists is,
12 surely that was the very thing that the code sought to
13 prohibit?---I'm not sure that anyone has read it as
14 literally as or interpreted it as literally as that.
15 Perhaps that's what has in large part given rise to the
16 legislative changes that were passed in November or that
17 came into effect in November 2018.

18 But since that code was introduced in 2013 there's been no
19 attempt by government on either side of the political
20 spectrum to more comprehensively control the conduct of
21 lobbyists, has there?---Not in respect of fundraising, no.

22 In respect of anything?---Not that I'm aware of.

23 In respect of anything?---Possibly not. It's probably a fair
24 enough assessment, yes.

25 Yes. Yes, Mr Tovey.

26 MR TOVEY: Thank you. Could we please now play tab 244, a
27 conversation between yourself and Mr Woodman in response
28 to the matters that were raised in the conversation we've
29 just been dealing with. This is 9 October 2018.

1 COMMISSIONER: I'm sorry, Mr Tovey, I thought the previous
2 conversation was 19 October.

3 MR TOVEY: No, I'm sorry, it was the 9th, Mr Commissioner.

4 COMMISSIONER: I'm sorry, the 9th. And this is also on the
5 9th, is it?

6 MR TOVEY: Yes.

7 COMMISSIONER: Very good. Thank you.

8 MR TOVEY: So this is about an hour later.

9 COMMISSIONER: Yes.

10 (Audio recording played to the Commission.)

11 MR TOVEY: Does that conversation cause you any
12 concern?---Well, it's an open-ended question. Would you
13 like to be more specific?

14 It's a simple question: are you concerned about that
15 conversation, about whether it relates to - about whether
16 it is a proper conversation to be had?---With which
17 particular aspect?

18 COMMISSIONER: Mr Staindl - - -?---No, I'm - - -

19 Mr Staindl - - -?---It covered - - -

20 Just pause for a moment. Counsel has asked you a question to
21 which I think there's an obvious answer. Do you want a
22 moment to reflect on the question he's asked you? Is
23 there something in that conversation that gives you cause
24 for concern?---There would be elements that I would - yes,
25 is the answer.

26 MR TOVEY: And what were the elements that cause you
27 concern?---The direct association of financial support
28 with someone that you're looking to advocate on your
29 behalf.

1 What's being discussed there is Mr Woodman and Mr Johnson
2 bringing along money to a meeting with Pauline Richards
3 and they're going to give her the money but they want her
4 assistance in relation to a drainage issue by putting
5 pressure on Melbourne Water or getting somebody to put
6 pressure on Melbourne Water; is that right? That's the
7 long and the short of it?---I think the financial support
8 was more broadly for the campaign. The drainage issue was
9 a specific one, and I should - I think I actually followed
10 up with Melbourne Water on that drainage issue as a matter
11 of - you know, it was a fairly standard sort of issue, and
12 I can't recall what the resolution was. Pauline Richards
13 as a candidate certainly - I don't think I requested her
14 assistance with that, and nor did she get involved, to the
15 best of my knowledge, with that issue.

16 The question is not whether you did it with her. The question
17 is that that's what you were wanting to do; do you
18 understand?---Yes.

19 What you were there talking about with Mr Woodman is basically
20 giving her \$10,000 in the expectation that she'd intervene
21 in some bureaucratic decision that had been made, which
22 wasn't justifiable on the basis of some overriding
23 community issue; this was just getting paid to provide a
24 favour which would make money for John Woodman?

25 True?---It was - - -

26 That's what was being discussed?---It was to resolve a drainage
27 issue, yes.

28 Yes. So do you agree that what was being discussed was paying
29 her specifically to encourage her to support a planning

1 result which would make profit for John Woodman?---Not
2 necessarily. I don't think the drainage issue, the road
3 drainage issue, was dependent on a financial contribution,
4 and as events transpired, to the best of my knowledge, she
5 had absolutely zero involvement in pursuing that issue
6 because as a candidate, especially four or five weeks out
7 from an election, or however long it was, you just don't
8 have a capacity to pursue those issues, and I think I had
9 digested the discussion, I probably went away and thought
10 how best can that drainage issue be resolved, and I don't
11 know how I did it but I may have gone directly to
12 Melbourne Water, I may have gone to a minister's office
13 and just pursued that issue as per the normal course of
14 events. So I don't attribute the same direct correlation
15 of financial campaign support for an outcome on that
16 particular issue.

17 Look, you can't be serious? We'll have a look at this. At the
18 bottom of the first page, line 16, Woodman says to you,
19 'We want to meet' - he tells you that they want to meet
20 Pauline Richards on 23 or 24 October. That's him and his
21 partner.

22 COMMISSIONER: Mr Tovey, we might put the transcript up
23 again?---That's okay.

24 MR TOVEY: So we're now on the first page, lines 16, 17.

25 COMMISSIONER: Yes.

26 MR TOVEY: All right. So he and his partner want to give her
27 money. They went on to say at line 27, 'Basically we want
28 to give her money. Each going to make a \$5,000 donation
29 to her campaign.' You ask if that's going to include the

1 cost of a billboard, and then at the bottom of the page
2 you say, 'Yeah, I'll coordinate the meeting.'

3 COMMISSIONER: If I may interrupt, Mr Tovey, I think it becomes
4 clear, does it not, Mr Staindl, thereafter that the money
5 they're going to give her is quite separate from paying
6 for the cost of the billboard?---That would appear so,
7 yes.

8 MR TOVEY: And it appears from line 33 that it was Judith
9 Graley who had rung you and asked for the
10 billboard?---Yes, that would appear so.

11 Then at line 40 you say, 'I'll coordinate the meeting, on the
12 23rd or the 24th,' and then Woodman says, 'At the same
13 time, Phil, we've got a problem out there that we need her
14 to help us with.' So in the same breath the two people
15 who are involved in the drainage problem offer \$10,000 and
16 say they have got a problem that they need to discuss with
17 her, which is the drainage. It's impossible, is it, not
18 to contend that, from the point of view of yourself, there
19 was a significant link between the \$10,000 and the raising
20 of the drainage issue or the potential raising of the
21 drainage issue?---In response to that could I say two
22 things: one, the meeting didn't take place; and, two, she
23 was not involved in any way in sorting out the issue.
24 Now, whether or not that was at the conclusion of that or
25 subsequent to that phone conversation that I had
26 I reflected on it and decided on a different course of
27 action, I can't recall. But what was proposed there may
28 not have sat entirely comfortably with me at the time.

29 COMMISSIONER: You say the meeting didn't take place,

1 Mr Staindl, but was the political donation eventually
2 paid?---I have no knowledge of that.

3 MR TOVEY: So what I would suggest to you is what's happened is
4 that you contacted - you solved it yourself without any
5 need to pay her money, and so the meeting doesn't ever
6 take place because there's no need for a meeting or the
7 payment of money if you have already solved the
8 problem?---I think the meeting didn't take place simply
9 because it was impossible to arrange one then. She was
10 just so busy trying to get elected to parliament, and
11 I thought I would try and, as I said earlier, I can't
12 recall if I approached Melbourne Water directly or went
13 into the minister's office, but I remember a couple of
14 phone conversations on that issue. I don't know how -
15 what the final outcome was. But I do remember following
16 it up, yes.

17 And so at line 82 you see yourself saying, 'I'll arrange it on
18 the 23rd,' and Woodman says, 'Yeah, and so we're bringing
19 along some money,' 'Yeah,' 'And we're happy to pay for the
20 sign,' and that's the way it was left?---Yes.

21 And your concern was that when you look at that what you should
22 have done is said, 'Mr Woodman, I as a lobbyist cannot
23 countenance any possibility that there will be a link
24 between a political donation and the advancement by the
25 recipient of that donation of your commercial interests';
26 that's what you should have said to Mr Woodman, isn't
27 it?---I don't think I had the same direct correlation that
28 you're inferring now. But, with the benefit of hindsight,
29 yes, I probably could have handled it very differently.

1 COMMISSIONER: Was the sign - billboard put up on that site,
2 Mr Staindl?---I think it was, yes, but - - -
3 And did Mr Woodman and Mr Johnson pay for that - Mr Woodman - -
4 -?---As I understand it, yes. I think it was one of - - -
5 MR TOVEY: Mr Woodman paid \$3,000, Mr Commissioner. That's
6 what the financial records show.
7 COMMISSIONER: Yes.
8 MR TOVEY: Now, on the 18th - sorry, if I could just ask you,
9 ultimately on 20 October there was a meeting at the
10 Sofitel that we'll move onto shortly?---Yes.
11 But - I'm sorry, it was 23 October.
12 COMMISSIONER: Yes, Mr Tovey, I'll mark that second
13 conversation on 9 October exhibit 241.
14 #EXHIBIT 241 - Second telephone intercept recording of
15 Mr Staindl and Mr John Woodman on 9/10/18.
16 MR TOVEY: Mr Tarlamis, you'd indicated, had played some role
17 in connecting you with Pauline Richards; is that the
18 situation?---I think he was just a liaison point with her
19 campaign.
20 And what does that mean?---Well, he was the person to go to to
21 discuss, one, whether or not a meeting was possible and
22 also, you know, I think he had a coordinating role for the
23 south-east and where support may have been appreciated.
24 And did you discuss with him the possibility of Mr Woodman
25 offering additional support in addition to the \$10,000 he
26 had already paid?---I actually can't recall if that was
27 discussed.
28 When you went to the meeting at the Sofitel did you anticipate
29 that Mr Woodman might be prepared to pay some extra money

1 or make some extra contribution?---I think I knew it was a
2 possibility, yes.

3 And you knew when you went there that in Mr Woodman's mind that
4 was dependent on Ms Richards making - giving him a firm
5 indication that she supported his position in respect of
6 the Cranbourne West rezoning?---Yes.

7 Now, look, by that time, that is by the time of the meeting on
8 the 23rd, the announcement had already been made, had it
9 not, of the deferral, the minister on 18 October had
10 announced that he was deferring a decision?---I'm not sure
11 if that was the date.

12 Well, it was?---Okay. Then I accept your - - -

13 I just want to see whether you are aware - - -?---Sorry, yes,
14 it was; no, I've just in my mind clarified what the
15 timeframe was, yes.

16 And what the minister had indicated in deferring or in
17 announcing the deferral of his decision was that there was
18 going to be a general review, in fact there had been an
19 ongoing general review as to the availability of
20 industrial land in the metropolitan area, and he wanted to
21 see how that panned out before he made any decision in
22 respect of the specific industrial zoned land which was
23 the subject of the Cranbourne West amendment?---Correct.

24 All right. Mr Woodman's response to that was to decide that
25 the best way to keep the whole thing on track or get it
26 back on track was to try and have instituted a process
27 which had that review conducted not by bureaucrats but by
28 a panel to which submissions could be made; was that the
29 situation?---I think so, yes. Yes, that does sound

1 familiar, yes.

2 And that's the position which he was seeking to have Pauline
3 Richards adopt as a step towards achieving the rezoning
4 when you and he and she met at the Sofitel on
5 23 October?---Yes, I'm pretty sure that was raised.

6 All right. Just by way of diversion, on 17 October Mr Woodman
7 told Mr Kenessey that he had been told the previous night
8 that the minister was going to - and in fact had been told
9 by you the night before the deferral that the minister was
10 going to defer a decision. Did you have an awareness as
11 to the fact that the minister was going to make that
12 announcement in advance?---I'm trying to think how I found
13 out about it. If there's a record of me saying that on
14 the 17th then, yes, I've got no reason to dispute it.
15 I just can't recall off the top of my head how I came by
16 that information.

17 Was it from the minister's office?---I doubt it. It was more
18 likely to be from Ms Graley.

19 All right. Excuse me, Mr Commissioner. I now want to play to
20 you a number of conversations which occurred in the period
21 leading up to the meeting at the Sofitel?---M-hmm.

22 I think most of these are already within exhibit 58, but it's
23 tabs 17 to 20. Can we start with tab 17, please.

24 Mr Commissioner, could I just be given a moment. I'm told
25 that one tab in fact might embrace the whole call rather
26 than those tabs.

27 COMMISSIONER: Yes.

28 MR TOVEY: Thanks, Mr Commissioner. It will be easier,
29 I understand, if we played tab 16.

1 (Audio recording played to the Commission.)

2 MR TOVEY: So I tender, Mr Commissioner, that call dated
3 18 October 2018.

4 COMMISSIONER: Exhibit 242.

5 MR TOVEY: And for the transcript that's tab 16.

6 #EXHIBIT 242 - Audio recording dated 18/10/18, tab 16.

7 MR TOVEY: So in the course of that meeting you discuss Megan
8 Schutz's run-in with the minister?---Correct. Yes.

9 Mr Woodman told you about what his response to the deferral was
10 going to be, and that's what I think you've already agreed
11 became his policy, that was to seek that the matter
12 ultimately be put in the hands of an independent panel,
13 that is the industrial land supply issue be put in the
14 hands of an independent panel?---Yes.

15 And that was the policy he was going to be taking to Pauline
16 Richards?---Yes.

17 Now, Pauline is referred to as in Jill Hennessy's office, was
18 working there. Did Jill Hennessy have any portfolio
19 responsibility at that stage?---She was the Minister for
20 Health.

21 And you indicate at line 63, 'Assuming she gets elected she
22 will have a considerable role to play.' That was your
23 anticipation - - -?---Correct. She would have been the
24 local member, yes.

25 And the role that you're there discussing with Mr Woodman was
26 the role in promoting the Cranbourne West rezoning?---And
27 supporting the industrial land supply analysis.

28 Yes, which was part of the - that was really a subplot of
29 the same plan, was it not?---Yes, yes.

1 Then at line 66 and following, over the page, line 68, there's
2 reference to Mr Woodman referring to issues arising about
3 the political influence of local members and too much
4 pressure. Were those issues which had been brought to
5 your attention, given the sorts of conversations that
6 we've recently adverted to between Ms Graley in particular
7 and the minister's officers?---Not overtly. I was aware
8 there was some tensions I think from the minister and his
9 office and some of the MPs involved.

10 At the bottom of - in the course of the conversation it was
11 then discussed that Woodman didn't want to bring Johnson
12 to the meeting with Richards. Then he said at the bottom
13 of the page at line 92, 'And in fact I'm going to up the
14 ante to \$20,000 but - but I'm not going' - and then you
15 say, 'Well, she actually may prefer that a few dollars to
16 go to a couple of other candidates.' So at that stage it
17 would seem that you had already sought some indication
18 from either her or Tarlamis or somebody else as to what
19 the attitude would be to receiving additional funds from
20 Woodman?---To the best of my recollection I think it may
21 have been Lee Tarlamis because, as I indicated, he was
22 coordinating broader south-east group and had a better
23 sense of who needed some resources and who didn't. I just
24 couldn't recall having spoken directly to Ms Richards
25 about that.

26 COMMISSIONER: And who was Mr Tarlamis doing that on behalf
27 of?---I think he had a coordinating role via the ALP.

28 And so when he then in turn communicates to you what might
29 happen with any donation that comes to Ms Richards who are

1 you acting on behalf of?---In that case Mr Woodman.
2 I'm sorry, when you get a proposal from Mr Tarlamis, who are
3 you acting on behalf of when you then convey a request to
4 Mr Woodman in the end as to how that money is to be
5 distributed?---Look, I think Ms Richards was reflecting
6 Mr Tarlamis's viewpoint, but in the one discussion that
7 I recall having with her about fundraising - about
8 donations was she said - told me her campaign was well
9 resourced, she could probably do with an additional
10 \$10,000 because she was keen to get out one more brochure
11 in the final week of the campaign, and she knew of a
12 recently endorsed candidate in the seat of Ringwood whose
13 electorate was running on the proverbial smell of an oily
14 rag because it was a non-targeted seat and he had only
15 been endorsed very, very recently, and I think that's when
16 I indicated that my bookkeeper was running in the seat of
17 Ferntree Gully, which was another non-targeted seat and
18 very poorly resourced, and she indicated that she would be
19 happy to - if Watsons' contribution was forthcoming, to
20 have the 5,000 to be paid to each of the Ringwood and
21 Ferntree Gully campaigns. And the discussions with
22 Mr Tarlamis was just - I probably put on, you know, my
23 Labor ideology hat - ideological hat which says, 'Where
24 can we help the ALP'.

25 Yes?---But at the end of the day it was a strategic decision
26 based on need.

27 Yes, but you understand why I'm asking these questions?---I do,
28 Mr Commissioner. I get that. And, as I said a number of
29 times, I didn't have the literal interpretation of

1 the lobbyists' code or the more precise, sorry, definition
2 of the lobbyists' code that you've drawn to my attention.
3 Because - - -?---So I understand that going forward.
4 You agree that an onlooker would perceive this as it seems you
5 doing something for the ALP?---Yes, and I have been - I'm
6 an ALP life member. I've been involved in - - -
7 Yes - - - ?---Time and time again. So, yes, I can see how that
8 perception can arise.
9 But at no time - I think maybe you've explained why, but at no
10 time did it enter into your thinking that this was
11 contrary to the spirit of the lobbyists' code of
12 conduct?---In all honesty, no, it didn't.
13 Yes. Yes, Mr Tovey.
14 MR TOVEY: You then had further discussion about Mr Woodman's
15 views being put to Pauline Richards and his expectation
16 that those views will 'allow her to go in with the guns
17 loaded'. Then further on at page 135 - - -
18 COMMISSIONER: Is that line 135?
19 MR TOVEY: Sorry, 135, Mr Woodman - you've spoken about the
20 stoush between Pauline Richards and the minister - -
21 -?---Ms Schutz.
22 And then Mr Woodman says to you at line 135, 'Yeah. I mean
23 between you and me I know that I said I wouldn't go to the
24 boss but if we get pushed back on this I'm going to go to
25 the top.' Now, who does the boss refer to there from your
26 perception?---Look, I'm assuming he's talking about the
27 Premier. But there's been numerous instances over the
28 years where Mr Woodman sort of sounds off like that and
29 I tend to in a cricket parlance let it go through to the

1 keeper because I felt we had a process to go through then,
2 and I felt that at that particular point in time I thought
3 the process arguments would win out.

4 But his expectation that he could go to the top, you would
5 agree, would appear to have been borne of the fact that he
6 felt that the Premier would owe him some sense of
7 obligation because of his support for the party, for the
8 lunches they had had, to dinner together, through his
9 support of Progressive Business; he must have had some
10 reason, you'd agree, for - - -?---No - - -

11 Anticipating that he could go to the top?---No, he had
12 certainly met the Premier on a few occasions. But I would
13 not agree that there would be an expectation that he would
14 intervene based on his financial support. He may do it by
15 way of advocacy, but I don't think there's a direct
16 correlation there.

17 What I'm saying is - I'm not suggesting that the Premier did
18 intervene. What I'm asking you about is that it's
19 apparent from this - if you look at this conversation,
20 this is a conversation between two people who are subject
21 to the same information, the same esoteric information, as
22 to political relationships, that's you and Mr Woodman;
23 right?---Yes.

24 You understand that?---Yes.

25 And in that context he's saying to you, 'If I get pushed back
26 on this I'm going to go to the top.' He's not saying this
27 to somebody who he's just bragging to. He's talking to
28 somebody who is in fact a professional political lobbyist.
29 Now, in those circumstances what I'm asking you is

1 what from your perspective would have given him - put in
2 his head the thought that he could go to the top to exert
3 pressure in respect of a planning matter?---I'm not sure
4 what was going through his mind. I just know from my
5 perspective that I would have remained very process
6 oriented with this because a panel process was I think the
7 only way you could get a positive outcome from
8 Mr Woodman's perspective.

9 COMMISSIONER: I don't know whether that was an answer to the
10 question, Mr Staindl. It's not about what your intentions
11 were. Mr Tovey is really just asking you, and let me put
12 it in slightly different language, was it not evident from
13 the entirety of the way in which you had facilitated your
14 client's access to senior people within government that
15 Mr Woodman had the impression, 'If I needed to, with your,
16 Mr Staindl's, assistance I would be able to go to the top
17 if I had to'?---I'm not sure that we would succeed in
18 getting there on this issue.

19 It's not what I'm asking. I'm just asking - what we're
20 exploring is what is the expectation that you left the
21 client with. He might be able to go to the top if needs
22 be?---I'm not sure that I left any expectation there.
23 I may have said 'yeah', but that was more I think a
24 continuation of the discussion. I remember quite clearly
25 when I said earlier, 'We can still win this,' that
26 I was - I thought if we can focus on the issues that
27 successfully - that had Planning Panels Victoria
28 successfully - or unanimously advise or recommend approval
29 of this amendment, then they're the arguments that are

1 going to hold sway. There are times in a discussion like
2 that where your client, particularly someone who's a
3 little flamboyant in the way that Mr Woodman is where he
4 will say something and I don't automatically challenge or
5 respond to it at the time because I like to be more
6 strategic in my thinking and assess what the issues are,
7 what the way forward is, and how those arguments and
8 issues are best prosecuted.

9 I see the time, Mr Tovey. Mr Tovey, can you give me some
10 indication of what lies before us with Mr Staindl? I note
11 that his examination was to be concluded today. Is it
12 your expectation that we can finish Mr Staindl's evidence
13 today?

14 MR TOVEY: It is, Mr Commissioner.

15 COMMISSIONER: Very good. We'll have a break now for lunch,
16 Mr Staindl, and I'll resume at 1.45?---Thank you very
17 much, Mr Commissioner.

18 <(THE WITNESS WITHDREW)

19 LUNCHEON ADJOURNMENT

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