
TRANSCRIPT OF PROCEEDINGS

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

TUESDAY, 26 NOVEMBER 2019

(6th 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

**WARNING - CONTAINS LAWFULLY INTERCEPTED INFORMATION AND
INTERCEPTION WARRANT INFORMATION**

These documents contain information as defined within ss 6E and s 6EA of the *Telecommunications (Interception and Access) Act 1979 (Cth)* (TIA Act). It is an offence to communicate to another person, make use of, or make a record of this information except as permitted by the TIA Act. Recipients should be aware of the provisions of the TIA Act.

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

1 COMMISSIONER: Mr Woodman.

2 <JOHN CHARLES WOODMAN, recalled:

3 COMMISSIONER: I remind you you're still on oath, Mr Woodman.

4 Yes, Mr Tovey.

5 MR TOVEY: Thanks, Mr Commissioner. I want to go back to

6 11 November 2018 where yesterday we were missing part of a

7 conversation. So this is a conversation between yourself

8 and Geoff Ablett on 11 November of 2018 at 4.33 pm.

9 COMMISSIONER: Is that the phone call exhibit 41, Mr Tovey?

10 MR TOVEY: Yes.

11 COMMISSIONER: Thank you.

12 MR TOVEY: This is at tab 203.

13 (Audio recording played to the Commission.)

14 MR TOVEY: That goes on. I might just read the transcript.

15 COMMISSIONER: Yes.

16 MR TOVEY: It's obviously been cut off just a little bit too

17 early. "You know the part that shat me, now that

18 everything's been done. Four times I asked Amanda to come

19 in that room and talk to Tyler with me. Four times she

20 shat herself and wouldn't come in." Now, that's you and

21 Mr Ablett talking about the way in which he deals with

22 council staff; is that right?---Yes, sir.

23 How on earth can you as a developer be expecting to be talking

24 to a councillor about who gets a job and who keeps a job?

25 How can you possibly justify that?---Councillor Ablett and

26 myself have established a very close friendship over many

27 years, sir. He discussed numerous things with me,

28 including that conversation.

29 You are there expressing your gratitude to him for getting rid

1 of - for nailing, if I could use the expression - for
2 nailing the previous CEO. How is it that you can
3 legitimately have such a conversation with a councillor?
4 How is it? It's impossible, is it not?---Well, I think
5 I've conveyed that the performance of the previous CEO was
6 in question, sir.

7 COMMISSIONER: I thought you told us that, save for one
8 exception, you had no complaint about Mr Tyler?---That one
9 exception, sir, was the C214 determination that
10 effectively if the councillors wanted to do something
11 about it, the council officers weren't going to.
12 You saw Mr Tyler as an impediment to getting the C219 approval
13 through?---Yes, sir.

14 MR TOVEY: Look, you've heard us play a number of conversations
15 that you had with either Mr Aziz or Mr Ablett in which you
16 have directed them how to vote or where Megan Schutz has
17 directed them how to vote where they didn't even know what
18 the vote was about. You recall those
19 conversations?---I don't believe I've spoken to Mr Aziz,
20 sir, but I stand to be corrected.

21 You keep on saying, do you not, that you have these dealings
22 with council, either directly or through your consultants
23 or lobbyists, whatever you want to call them, only to give
24 clarification; is that right?---Correct, sir.

25 What I'm going to suggest to you is this: when you listen to
26 those conversations it is patently obvious that what you
27 are doing is giving direction and providing scripts, are
28 you not?---No, sir.

29 I suggest to you that no sensible human being could interpret

1 the conversations in any other way when you are or when
2 one of your minions are speaking to Ablett and Aziz
3 directing them how you want votes to go and indeed putting
4 together notices of motion. You can't possibly - I mean,
5 are you seriously saying that that conduct is capable of
6 being characterised as mere clarification?---I believe so,
7 sir.

8 If you're saying that, what I'm suggesting to you is that that
9 is self-evidently a lie, just a blatant lie. It is
10 calling black white. Do you understand what I'm
11 saying?---I understand what you're saying, sir, but - - -
12 When you hear somebody directing a councillor who doesn't know
13 what the vote is about what they are going to say and what
14 motion they are going to put forward, you cannot, if you
15 are trying to be honest, characterise that as
16 clarification, can you?---Sir, are you talking about - - -
17 No, I'm asking you a simple question. If that is happening,
18 can it legitimately be characterised as clarification, yes
19 or no?---Is that the Megan Schutz and Aziz discussion
20 you're talking about?

21 That's one of them?---Well - - -

22 There's one of them is you writing a notice of motion sending
23 it to Aziz?---That was many years before.

24 Well, you did it?---I disagree. It's a clarification of a
25 normal recommendation made by council officers which we
26 disagree with and which we are attempting to clarify for
27 the councillor who is going to support the alternative
28 motion, sir.

29 But what you're just saying is the most blatant dissembling,

1 I would suggest.

2 COMMISSIONER: You understand what counsel is
3 suggesting?---Yes.

4 You can't - - -

5 MR TOVEY: I mean, it's not capable of being logically true,
6 what you're putting. Do you just bat ahead in
7 circumstances where there is no logical explanation and
8 just try and beat us off by merely muttering words that
9 just aren't true?---Sir, I disagree with you. It's a
10 clarification of a position that a landowner wishes to
11 take, which is in difference to the council officer's.
12 I just want to understand this. So you say in circumstances
13 where Megan Schutz rings up Aziz, he doesn't know what the
14 motion is, he doesn't know anything about it, he doesn't
15 know what the issue is, and she directs him and gives him
16 a script and a notice of motion, do you say that is
17 capable of being characterised as mere
18 clarification?---Sir, it's not my - - -
19 I'm just asking you. Do you honestly expect us to accept
20 that?---Yes, sir.

21 COMMISSIONER: What about the conversation that was played at
22 the end of yesterday where you were telling Mr Ablett what
23 he's to accept or not accept in relation to a motion? Do
24 you remember that conversation, the last conversation of
25 yesterday that was played to you?---It was a very lengthy
26 conversation, Mr Commissioner.

27 MR JUEBNER: If a particular conversation is going to be put in
28 this particular way, namely that effectively the evidence
29 is false, in fairness rather than just describing it

1 because we've now heard so many different conversations,
2 could he be taken back to it and asked the question in
3 respect to the particular conversation? I'm just
4 concerned that the way in which the question is being put
5 presently, "Do you recall a conversation yesterday," we
6 did hear a lot of them and even I sometimes have
7 difficulty recalling which specific conversation with
8 Mr Ablett for instance you are now addressing,
9 Mr Commissioner.

10 COMMISSIONER: Mr Juebner, this is the last conversation that
11 was played yesterday. If the witness, Mr Woodman,
12 indicates that he's not clear about that conversation, of
13 course it can be shown to him again.

14 MR JUEBNER: Certainly, sir.

15 COMMISSIONER: (To witness.) You know the conversation I'm
16 asking you about, where Mr Ablett says, "What am I to do
17 here? Are we accepting this motion?" And you tell him
18 unequivocally it's to be accepted. Do you recall that
19 conversation?---I recall the conversation, sir, yes.

20 And there was nothing in that conversation that could be
21 described as you providing Mr Ablett with an explanation
22 or clarification. You were telling him what you wanted
23 him to do?---I think, Mr Commissioner, he had asked the
24 question whether the council officer's recommendation was
25 satisfactory to the community and I said, yes, it was, as
26 far as I was concerned.

27 Were you telling him what you expected him to do?---I was
28 answering a question that he had asked me, whether or not
29 the council officer's recommendation was acceptable, and

1 I agreed that in my view the community would be accepting
2 of that recommendation, sir.

3 I don't think we see any discussion there about what the
4 community would accept. Your discussion with him was
5 about what you wanted him to do and what you expected him
6 to do with other councillors; isn't that right?---Well,
7 sir, you'd have to, please, replay that part of it because
8 my understanding was that he was asking about a
9 recommendation that had been already drafted and prepared
10 by the council officers or had been agreed by the
11 landowners, but I stand to be corrected, sir.

12 Yes, Mr Tovey.

13 MR TOVEY: That was the conversation where you discussed with
14 Ablett about whether you were accepting or not accepting a
15 proposal. Do you recall that conversation being played to
16 you yesterday?---A proposal of - - -

17 No, the conversation went this way. He asked you whether - you
18 have a discussion about some proposal. He says to you,
19 "Are we accepting this?" You say, "No, we're not." Then
20 he says, "Or are we accepting it?" And you said, "No,
21 we're accepting it." Now, that was the way the
22 conversation went. And then you heard Mr Ablett say,
23 "Okay, we're accepting it with whatever conditions you
24 want." So there Mr Ablett was accepting from you (a) that
25 he was going to be accepting a proposal, he didn't even
26 know what the proposal was, he didn't know - sorry, he
27 didn't know whether you were accepting it or weren't
28 accepting it. He had no personal view. Do you understand
29 that? That's what appears from this? He's asking you

1 whether to accept it or not. He doesn't say to you, "I'm
2 inclined to accept it," does he?---No, he doesn't say
3 those words.

4 So there's an open question to you, "Do I or do I not accept
5 it?" You say in the end, "No, we're accepting it." Then
6 he says, "Okay, we're accepting it with whatever
7 conditions you want," all right? Now, that's the
8 conversation. What I'm suggesting to you is that the only
9 possible logical interpretation of that conversation is
10 that you are directing Mr Ablett as to what you want, and
11 there is no aspect of clarification whatsoever involved in
12 that interchange.

13 COMMISSIONER: Do you agree or disagree?---I disagree.

14 MR TOVEY: The only thing that is being clarified is what are
15 you wanting him to vote?---No, I disagree, sir.

16 Insofar as you refer to clarification, I suggest to you that's
17 rubbish. It is mere dissembling on your part as a tactic
18 that you have decided to use time and time again to
19 justify the unjustifiable?---I disagree, sir.

20 Is that something you've worked out with your advisers - - -

21 COMMISSIONER: I don't think we need to go there, Mr Tovey.

22 MR TOVEY: All right. I now want to take you to 27 November
23 2018, tab 59.

24 COMMISSIONER: While that's being brought up, the last phone
25 call of yesterday, 22 November 2018 between Mr Woodman and
26 Mr Ablett, I'll mark that exhibit 43.

27 #EXHIBIT 43 - Phone call between Mr Woodman and Mr Ablett on 22
28 November 2018.

29 MR TOVEY: This was a conversation, Mr Commissioner, on

1 27 November 2018 between Mr Woodman and Megan Schutz.

2 (Audio recording played to the Commission.)

3 MR TOVEY: That says it all, doesn't it, Mr Woodman. That was
4 your relationship with Ablett?---Yes, sir. It's a very
5 friendly relationship, sir.

6 Well, not only that. In the end you said "GA", that's Mr Geoff
7 Ablett, "has got massive - leverage of massive proportions
8 over me and you for the next 12 months." True? That's
9 what you said?---That's what I said, sir, yes.

10 And what you are there talking about is the way that Geoffrey
11 Ablett was able to manipulate votes in your favour from
12 the background after declaring a conflict?---My
13 understanding is, sir - - -

14 No, I'm just asking you. Could you just address the question
15 for once. What I'm asking you is: was it the case that
16 this is the process you used to have Geoff Ablett,
17 although not voting, organising votes in your favour? It
18 was, wasn't it?---No, I don't believe so, sir.

19 What you are there doing, I suggest, is you are explaining to
20 Megan Schutz the way the system works when he disqualifies
21 himself and when Stapledon disqualifies herself, that
22 you've still got the numbers and he still has leverage of
23 massive proportion over you. It can't be anything other
24 than what I've suggested, can I?---Sir, I think you are
25 using the word "we" when it should be Geoffrey has the
26 power. Maybe it's a misuse of my word when I say "we",
27 but Geoffrey has an association obviously with Councillor
28 Crestani. That's what the conversation is about, sir.

29 You there, did you not, have intimate knowledge of the way in

1 which the voting process worked to allow Geoff Ablett and
2 Amanda Stapledon to still prevail even if they weren't in
3 the room. That's what the conversation was about?---The
4 conversation is about the chairperson who takes over when
5 they leave the room, yes, sir.

6 COMMISSIONER: No, the conversation is about much more than
7 that, Mr Woodman. It's about your recognition of
8 the level of power which Mr Ablett is able to wield,
9 notwithstanding that he absents himself from the council
10 at the moment that a motion is made. Isn't that the
11 essence of the conversation?---Yes, sir.

12 And what does that say about your evidence yesterday, your
13 acknowledgment that it would be quite unethical for a
14 councillor who has got a conflict of interest to try and
15 manipulate other councillors?---Sir, I stick by that
16 evidence, sir. Yes, it's - - -

17 I'm sorry?---I stick by that evidence. It's inappropriate,
18 sir.

19 Unethical?---Yes, sir.

20 And you knew it was unethical at the time?---Yes, sir.

21 Why did you do it?---I didn't intervene, sir.

22 Why did you utilise Mr Ablett in an unethical way?---I don't
23 believe I used him, sir. It was Geoff Ablett's decision.
24 I don't believe I directed him to conduct himself in any
25 way. I don't believe so, sir.

26 Can I just come back to something counsel assisting said to you
27 a little time ago this morning. You followed that
28 conversation. Are you serious in the last answer that you
29 gave? Do you believe that to be a truthful answer by way

1 of explanation of that conversation?---I think the counsel
2 is suggesting that I am directing how a council officer
3 should conduct himself, and I don't believe that is the
4 case, sir.

5 MR TOVEY: I just wanted to give you the opportunity of saying
6 this straight out. You say you never directed Ablett how
7 to vote? Do you say that?---I can be unsure of that, sir.

8 What, are you saying that you might have directed him how to
9 vote on issues but you just can't remember?---I may have,
10 sir, at one stage, but - - -

11 That's a fanciful answer. Either you know you directed him or
12 you don't know?---It's not something - it's not something
13 that I would do - - -

14 All right. So do you say then that you never did it? It's not
15 something you couldn't remember if you did?---As I said,
16 we're talking about a relationship that goes back for
17 many, many years, so at some stage or other he may have
18 asked me the question, "John, what do you think about
19 this? How do you think I should react?" And it would not
20 be abnormal for one friend or an associate for me to turn
21 around and say, "Oh, well, Geoffrey, if I was in your
22 position I would take X, Y." Yes, sir, if that's the
23 answer you are looking for.

24 I'm not looking for any answer. I'd much prefer if you would
25 just tell us the truth. So what is your position? You
26 might have directed him how to vote but you can't
27 remember?---Correct, sir. It's not a regular - it's not
28 something that happens every Thursday before a council
29 meeting. There may be - there may be over the last

1 15 years or 14 years there may be an occasion where
2 I have. But - - -

3 COMMISSIONER: The process, Mr Woodman, of selecting a
4 chairperson for the council meeting where the mayor's got
5 to absent him or herself because of a conflict, do you
6 think it's appropriate for you to be involved in any way
7 in how the chairperson is selected?---No, sir.

8 But that's what you were doing, wasn't it?---Sir, it was - it
9 was a discussion we had on how Ms Crestani would take the
10 chair. I don't believe that I was actually directing. It
11 was a discussion that Ablett was having with me about how
12 the chairperson would be selected at the end of the day.

13 This is not the first conversation that's been played to you
14 where you've had discussions about the process of
15 selecting a chairperson when the mayor has to absent
16 themselves?---And at that stage, Mr Commissioner, I said
17 that I didn't think it was appropriate.

18 Yes, and is that still your view?---Yes, sir.

19 Well, why were you doing it?---Sir, I don't believe that I am
20 actually doing it. I believe that it's a discussion
21 between two people where he is explaining to me what is
22 going to happen.

23 No, he was assuring you, I suggest. Wasn't he assuring you
24 that when Ms Stapledon exited the room because she had a
25 conflict, that a person was going to be elected
26 chairperson that would support the motion you wanted
27 carried?---Yes, sir, support the motion that I thought was
28 in the best interest of the community, yes, sir.

29 Let's not go there, Mr Woodman. We can have a debate about

1 those things at some other time. He was telling you that
2 Crestani - and I think he used the word
3 "ventriloquist" - he was telling you that Crestani would
4 get the nod to be the chairperson?---Yes, sir. He was
5 saying to me that that's what he anticipated would happen
6 at the council meeting, yes, sir.

7 Do you accept now, reflecting on that conversation, that it was
8 not an appropriate conversation for you to be having with
9 a serving councillor who had a conflict of
10 interest?---Yes, sir. I think that's you and I, we've
11 discussed that before, that it's something that should be
12 looked at closely, that if you have not - if you have a
13 conflict of interest it should be carried forward to not
14 only when an issue is to be discussed at council, but
15 prior to when an acting chairperson has to be selected,
16 sir.

17 And the point about a conflict of interest that someone has and
18 recognises means that they can thereafter do nothing to
19 seek to influence those who have to make the decision in
20 relation to that decision?---Correct, sir.

21 That's not what Mr Ablett was doing, was he?---Sir, I believe
22 Mr Ablett was telling me what would transpire at a council
23 meeting.

24 Yes, Mr Tovey.

25 MR TOVEY: I now want to go to tab 162, 28 November of 2018.

26 COMMISSIONER: That last transcript and phone call, the excerpt
27 of 27 November 2018 will be exhibit 44.

28 #EXHIBIT 44 - Excerpt of phone call between Mr Woodman and
29 Ms Schutz on 27 November 2018.

1 MR TOVEY: Just before we start that, Mr Commissioner, this is
2 a conversation on 28 November and the start time of that
3 conversation was 11.53. This excerpt is at midnight.

4 (Audio recording played to the Commission.)

5 MR TOVEY: So you're there speaking with your son; is that
6 right?---Yes, sir.

7 And did you indicate to him that you had "just had a meeting
8 with Ablett and told him to clean them all out"?---Sir,
9 that's - - -

10 Is that what you said?---That's what it says, yes, sir.

11 And is that what you did?---No, sir, because I'm not in a
12 position to clean out council officers, sir.

13 So you lied to your son, did you?---Sorry?

14 You lied to your son when you said you had just had a
15 conversation - just had a meeting with Ablett, not a
16 conversation, a meeting, and told him to clean them all
17 out?---My suggestion - - -

18 No, I'm asking you a simple question. Did you lie to your
19 son?---No.

20 Okay, so what you told him was the truth?---Sir, there is - - -

21 No, what you told him is the truth?---I don't believe so, sir.

22 Did you have a meeting with Ablett where you told him to "clean
23 them all out" and to quote you further down, "they need to
24 be cleaned out"?---Sir, we are talking about council
25 officers that - it needs to be explained as to what the
26 conversation was about. The council had decided after the
27 review that I mentioned yesterday that, with a new acting
28 CEO, that because the performance of the council officers
29 was seen to be somewhat poor, to use my words, they

1 started up a project control group meeting and at that
2 patrol group meeting I felt, although I had only attended
3 one of them, that the feedback was that they were saying
4 one thing in the project control group meeting, but
5 outside they were conducting themselves in a different
6 manner and I think the discussion with Mr Ablett was that
7 this was inappropriate.

8 That's not what you told your son. You didn't say, "Look,
9 I made the point to Mr Ablett, we had a meeting, where
10 there was a lack of consistency in the way in which the
11 council officers dealt with an issue." You told your son
12 you told Ablett to clean them out.

13 MR JUEBNER: Sorry to interrupt.

14 COMMISSIONER: Yes.

15 MR JUEBNER: But this is only an excerpt of the conversation.

16 I don't know what went before this. It may well be that
17 there is other context to it that we are not aware of.

18 COMMISSIONER: Yes.

19 MR JUEBNER: It may be quite unfair to say "in the conversation
20 that wasn't said" without having an opportunity to see
21 what else was part of the same conversation.

22 COMMISSIONER: Mr Tovey?

23 MR TOVEY: Mr Commissioner, some care has been taken to make
24 sure that these things aren't taken out of context, but at
25 the moment we aren't in a position to play the whole
26 conversation, but we will - - -

27 COMMISSIONER: You have only got this excerpt available.

28 MR TOVEY: Yes. And the TI product isn't in a digital state
29 just to be cut and pasted without some work. But I will

1 arrange to have that whole conversation prepared in the
2 way in which we can hear it. (To witness.) If you're
3 looking at that sentence, you're saying to your son that
4 you "had a meeting with Ablett and told him to clean them
5 all out". Did you or did you not have such a
6 meeting?---The date, sir?

7 The date of this is 28 November?---Look, I couldn't be sure
8 that I met with Geoff on that particular day or the day
9 before.

10 COMMISSIONER: No, but the thrust of it, Mr Woodman, is had you
11 had meetings or discussions with Mr Ablett prior to this
12 date in which you discussed having certain council
13 officers removed so that they would not be impediments to
14 the objective that you wanted achieved at council?---No,
15 sir.

16 The council officers had made a recommendation to the council
17 that was contrary to your objectives in relation to C219;
18 is that correct?---I don't believe we are talking about
19 C219, but I stand to be corrected, sir.

20 No, no, is it correct that council officers had reported to
21 council that they did not think that there should be
22 approval given to rezoning in relation to C219 in the way
23 in which you wanted it rezoned?---The way in which the
24 community wanted it rezoned, yes, sir.

25 The way in which you wanted it rezoned, Mr Woodman?---Well,
26 yes, after taking into consideration all of the points,
27 yes, sir.

28 And Mr Tyler, I think you've told us yesterday you also
29 understood Mr Tyler to have a personal view that supported

1 the council officer's position?---Correct, sir.

2 And did you not have discussions with Mr Ablett - and I think
3 this emerges not just from this phone call but some that
4 were played yesterday. Did you not have discussions with
5 Mr Ablett about having those council officers who were an
6 impediment to you achieving that objective removed?---Not
7 on 219, sir.

8 Did you have a discussion that they should be
9 removed?---I think I indicated to you yesterday, sir, that
10 there was one council officer in my opinion who was not
11 conducting himself in a fair and balanced way.

12 And what about Mr Tyler himself? Did you have any discussions
13 with Mr Ablett about removing him?---I had spoken to
14 Mr Ablett about Mr Tyler and, yes, on - yes, certainly,
15 sir.

16 "Yes" what?---Yes, I had discussions about what I felt was his
17 inappropriate attitude about giving every - well, in
18 particular C219, an opportunity for the community to have
19 a voice.

20 What were you asking or suggesting to Mr Ablett about Mr Tyler,
21 the CEO who had been there for 22 years? What were you
22 asking Mr Ablett to do?---Well, I was asking Mr Ablett to
23 give - well, I asked him what his view about Mr Tyler and
24 his performance was.

25 What were you asking Mr Ablett to do in relation to
26 Mr Tyler?---I think to give consideration as to whether or
27 not his time was up, sir.

28 MR TOVEY: Could we please go to tab 172.

29 COMMISSIONER: That last exhibit will be exhibit 45.

1 #EXHIBIT 45 - Excerpt of phone call between Mr Woodman and his
2 son on 28 November 2018.

3 MR TOVEY: This is a conversation on 14 December 2018 between
4 Mr Woodman and Tom Kenessey. Before that's played and
5 while it's being brought up, what made you think you had
6 the right to discuss with Mr Ablett who should and should
7 not be on the council staff?---On the council as a council
8 officer or - - -

9 Yes, CEO or anybody else. What gave you the right to discuss
10 with him who should be and not be employed?---Sir,
11 probably because I've developed land in the City of Casey,
12 Cranbourne, Berwick since 19 - well, the early 1990s.
13 I developed probably thousands and thousands of lots and
14 I had what I would consider to be a fairly intimate
15 understanding of what was right or wrong or how to produce
16 a good product and - yes, so I felt that I had the
17 experience and also I guess as a ratepayer I had the right
18 to express an opinion about the conduct of the council and
19 including their planning department, sir.

20 Yes, so you say you had a very good idea - you had an opinion
21 about members of the planning staff and the CEO and
22 whether they were good and effective from your
23 perspective?---Yes, sir.

24 And you shared that with Mr Ablett? You shared that with
25 Mr Ablett?---During conversations we spoke about a lot of
26 things and that would have been one of them, yes, sir.

27 And you told the Commissioner just a minute ago that as a
28 result of that communication process you suggested to him
29 that the CEO should be moved on; is that right?---It

1 certainly wouldn't have - it certainly was my opinion that
2 the CEO after 27 years, yes, it might be something that
3 the council should consider, yes, sir.

4 Could we play now tab 172, thanks.

5 (Audio recording played to the Commission.)

6 COMMISSIONER: Can you provide the context in which this
7 conversation - or what it relates to, Mr Tovey?

8 MR TOVEY: I'm not sure that's available. Again we had the
9 same problem.

10 COMMISSIONER: No, no, I mean what is the council meeting to
11 which it relates?

12 MR TOVEY: The meeting was - - -

13 WITNESS: Mr Chairman, could I - - -

14 COMMISSIONER: If Mr Woodman recalls what it's about, yes,
15 Mr Woodman?---Mr Commissioner, this particular meeting,
16 the conversation is about C219 and my recollection is it's
17 a response to the minister's letter to the council about
18 deferring a decision on 219 and the discussion is about
19 which party would prepare a response and how that the
20 council or the councillors who were in favour of 219 would
21 bring it to the attention of the council and then would
22 follow through with some written response to the minister.
23 That's my understanding of what that discussion was about.

24 MR TOVEY: So in that regard what did the minister's letter
25 say, just in general terms?---I think it said that he
26 wanted to defer a decision on 219 until after he had
27 completed research as to the availability of employment
28 land within the south-east corridor.

29 So that's the review as to whether or not it was necessary to

1 retain the industrial land in the Cranbourne West precinct
2 plan?---Yes, it was a review, not of Cranbourne West, sir,
3 it was a review of the total land available in the
4 south-east corridor for employment, and obviously as part
5 of that review they would consider the land which was the
6 subject of C219.

7 All right. So you indicated to Mr Kenessey that it's coming
8 from your lawyers. So had his lawyers - had Leighton's
9 lawyers prepared something?---Yes, correct, sir.

10 And I take it what was being suggested by Leightons would be an
11 appropriate response to the minister's letter?---That's
12 right. There was a discussion about who in fact was going
13 to write the letter, whether it was going to be Leighton's
14 lawyers, whether it was going to be the council, and
15 I think at one stage Ray Walker's name is mentioned. But
16 it was a general discussion about who was going to respond
17 to the minister's letter.

18 And you indicated that it was "too sophisticated for rocket
19 Ray", that's Mr Walker; is that right?---Yes, sir.

20 But it could come from Gary; is that right?---The motion could
21 come from Gary, yes, sir.

22 And you were looking at the proposal where Gary would move it
23 and Sam would - sorry, that Sam might move it?---Yes,
24 we're talking about a councillor motion as against a
25 recommendation from the council officers, sir, yes, sir.

26 At this stage you hadn't discussed this with any of the
27 councillors?---Not that I'm aware of, sir, no, sir.

28 So what you are doing then is just using the councillors,
29 aren't you, like pawns on a chess board. You are just

1 moving them around without even consulting them. They
2 don't even know what's coming up. You're just planning
3 what they're doing to do?---No, I would disagree, sir. As
4 someone who is in favour of a particular rezoning, I was
5 discussing with the project manager operating for Leighton
6 Properties as to the next step that should be taken in
7 response to the minister's letter, which was received
8 I think before the forthcoming State election.

9 In the course of that conversation, at line 9 on page 1 you're
10 talking about "Gazza's divulged to numerous people that
11 I was giving him a donation", and in the event that's an
12 indication that he has to disqualify himself, I suspect.
13 Then you go on and say, "which means he shouldn't even be
14 in the room for any of this stuff, but he's obviously
15 going to continue to do it. So, no, look, I think that it
16 would be great if he moves or if Sam moves. Megan will
17 produce it, she'll shoot it to Lorraine, and I'll leave it
18 to Lorraine to work out who she sends it to for Tuesday's
19 meeting." So what you're doing there, you've told us, is
20 that this hasn't been discussed with any of the
21 councillors. They don't know what you're discussing at
22 this stage and you're just working out how you're going to
23 use councillors who are in your pocket in order to produce
24 a notice of motion which is your agenda?---Sir, with the
25 greatest of respect, I object to the term "in your
26 pocket".

27 Well, they must be, must they not, if you're talking in advance
28 of speaking to them about what they're going to be
29 doing?---Sir, I'm talking about a councillor motion, which

1 is different to a council recommendation from an officer.
2 Normally if a council motion is to be put forward, Tom
3 Kenessey under these circumstances would talk to Gary
4 Rowe, for instance, and say - obviously there had been
5 some discussion about the minister's response to C219 and
6 the next step that would be undertaken, and this
7 discussion focuses on what will be the next step. But
8 I think - I don't agree that it hasn't been discussed
9 previously with - and you'd have to talk to Mr Kenessey.
10 I'm not familiar with exactly how much discussion he had
11 with Gary Rowe about it before this discussion occurred.
12 But what I want to point out to you is that you there are
13 discussing that Lorraine is going to choose who she sends
14 the motion to, in circumstances where you clearly
15 understand that whoever the motion is sent to by Lorraine,
16 whether it be Gazza or whether it be Sam, is going to move
17 the motion at the council meeting. That was your
18 understanding at this stage, was it not?---My
19 understanding is - - -
20 No, was it your understanding at that stage that you were
21 putting together a proposal where Sam Aziz or Geoff
22 Ablett - sorry, whereby Sam Aziz or Geoff Ablett were
23 going to move forward with your notice of motion?---No,
24 that's not correct, sir.
25 And when you said Lorraine will "work out who she sends it to"
26 after it's been produced by Megan, did that refer to the
27 way a notice of motion being prepared?---It does refer to
28 a notice of motion for the councillors and she, I would
29 anticipate where we're talking about Lorraine, it would be

1 to either Sam Aziz or Gary Rowe, who were both in favour
2 and supporters of C219.

3 So this was done in anticipation that whoever she gave it to
4 would move the motion, and it was your motion developed by
5 initially Leighton's lawyers?---That is the normal
6 circumstances, yes, sir.

7 So that's the case, that you just saw that was the way in which
8 things should normally work?---Under the circumstances we
9 had, Megan Schutz would produce a motion that would be
10 considered by Gary and I would imagine talked at length
11 and they would decide if it was an appropriate motion that
12 a councillor should put at a council meeting in relation
13 to a matter, sir.

14 Are you saying that when you gave Geoff - sorry, when you gave
15 Geoff Ablett direction as to the introduction of a motion,
16 that implicit in that was that he would first discuss it
17 with Mr Patterson? Are you saying that you thought that
18 each time you directed a councillor to put forward a
19 motion that he would first discuss that with Mr Patterson
20 as to whether it was appropriate?---Sir, I'm not even
21 familiar with what particular - - -

22 I thought that's what you said a minute ago and that was just a
23 bit of puffery, was it not, to try and add an air of
24 (indistinct) to what really is just a lot of waffle.

25 COMMISSIONER: Did you say what counsel is suggesting you
26 said?---No, sir.

27 MR TOVEY: Could we please go to tab 142.

28 COMMISSIONER: I'll mark the last conversation, 14 December '18
29 between Mr Woodman and Mr Kenessey, exhibit 46.

1 #EXHIBIT 46 - Excerpt of phone call between Mr Woodman and
2 Mr Kenessey on 14 December 2018.

3 (Audio recording played to the Commission.)

4 MR TOVEY: Can I just stop there momentarily, please. This,
5 Mr Commissioner, is a conversation between Ray Walker and
6 John Woodman dated 18 December of 2018 at 12.09 pm.

7 COMMISSIONER: Mr Walker being the chairman of SCWRAG.

8 MR TOVEY: Of SCWRAG.

9 COMMISSIONER: Yes.

10 MR TOVEY: Thank you.

11 (Audio recording played to the Commission.)

12 MR TOVEY: Is that a conversation between yourself and Ray
13 Walker from SCWRAG?---Yes, sir.

14 And is that you congratulating him heartily on what a great job
15 he's done in respect of his real estate research work for
16 you?---Yes, sir.

17 That's the work for which you are paying him \$60,000 a
18 year?---Yes, sir.

19 And Mr Walker wants to - is thanking you for your support and
20 indicating that he hoped he had repaid it to you; is that
21 right?---Yes, sir.

22 And insofar as he had repaid you for your support, that was by
23 supporting your position in respect of the C213
24 particularly, but also in respect of H3.

25 COMMISSIONER: 219?

26 MR TOVEY: Sorry, 219?---No, sir.

27 All right. I want you now to listen to a conversation at tab
28 75.

29 COMMISSIONER: I will mark the last excerpt exhibit 47.

1 #EXHIBIT 47 - Excerpt of phone call between Mr Woodman and
2 Mr Walker on 18 December 2018.

3 MR TOVEY: And this is a conversation between you and Ms Schutz
4 on 21 December of 2018.

5 (Audio recording played to the Commission.)

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

7 MR TOVEY: That's 21 December 2018, Mr Commissioner.

8 COMMISSIONER: Thank you.

9 WITNESS: Mr Commissioner, sir.

10 COMMISSIONER: Yes?---If I can correct something that is stated
11 in that conversation?

12 Yes?---I believe that at some point I made the statement that
13 we had something to do with the election of the CEO,
14 I believe, and that is totally incorrect, sir.

15 Mr Tovey, were you proposing in the time that remains to at any
16 stage take Mr Woodman to the steps he took to have
17 Mr Tyler removed?

18 MR TOVEY: Much of that has been covered to this point in
19 various conversations.

20 COMMISSIONER: Yes, I'm just conscious that we spent some time
21 in private examination with Mr Tyler over the allegations
22 that were made against him and who had prepared those
23 allegations.

24 MR TOVEY: Yes.

25 COMMISSIONER: Were you going to refer to that at all?

26 MR TOVEY: Not as a separate topic.

27 COMMISSIONER: Very good. I might just ask you then,
28 Mr Woodman: at the time that there was discussion about
29 whether Mr Tyler should be removed from or retire from the

1 job, Mr Ablett provided a detailed letter to Mr Tyler
2 setting out a whole lot of things that it was said
3 Mr Tyler had done that were inappropriate and the
4 suggestion is that the letter which Mr Ablett provided had
5 been prepared for him by Ms Schutz. Are you familiar with
6 the fact that Ms Schutz provided such a document to
7 Mr Ablett?---No, sir.

8 Did you have anything whatever to do with the formulation of
9 reasons why Mr Tyler should be removed from or retire from
10 the job?---Only the length of time, sir, and as
11 I mentioned before, 219 - - -

12 No, no, I'm not asking you what your reasons might have been.

13 I'm asking did you have anything to do with the
14 formulation of reasons to be given to Mr Tyler why he
15 should retire?---No, sir. Not my recollection, sir.

16 Well, is it possible that you might have and you have
17 forgotten?---I don't believe so, sir.

18 You don't believe that you had any - - -?---I don't believe
19 I've forgotten and I don't believe I did it.

20 Yes, thank you?---But it's - there was no question that there
21 were discussions, but the actual letter that you're
22 talking about, sir, I've never seen that letter and
23 I don't - had no input into that letter.

24 MR TOVEY: Can I just ask you first of all about the
25 conversation that appears on the first page of that
26 transcript, line 81, where Ms Schutz tells you that she's
27 "had a coffee with Glenn", that "Glenn has said, 'What do
28 you want me to do about it?' And he said he talked to
29 Glenn about Pavilion and stuff. Glenn said, 'I've been -

1 looked in detail at Pavilion and I know what Pavilion is
2 about. I've looked at it in detail.' He basically said
3 all the officers are, you know, they're just not able,
4 they don't like arguments, they can't argue anything, you
5 know, they just think their way or the highway. So he
6 basically - Andrew - said to Andrew 'They're a bunch of
7 fuckwits'." Who's Andrew?---Look, I'm not sure, sir.

8 "And he said, 'I'll have a look at the FIO matter. You send me
9 the FIO matter to my personal account and I will have a
10 look at it.'" What was the FIO matter? Were you trying
11 to FIO something relating to the minister's response to
12 C219?---No, sir. I believe that this is a matter of a
13 defamation claim between myself and the council officers
14 in relation to the release of what was seen to be
15 confidential information to The Age newspaper.

16 All right. Was Andrew Andrew Wyatt of Wolfdene?---It could be,
17 sir. I'm not that familiar with that conversation, sir.

18 You see there Ms Schutz says that Mr Patterson said he's going
19 to "have a look at the FIO matter. 'You send me the FIO
20 matter to my personal account and I'll have a look at
21 it.'" Do you know why it was that there was discussion
22 between Ms Schutz and Mr Patterson about a matter where
23 you were in contention with the council and that matter
24 being or matters relating to that being sent to his
25 personal account?---No, I don't know, sir.

26 So she says - she goes on to talk about that's what she's doing
27 today. Then over the page at line 103 you said, "Yep,
28 I don't know when this fuckwit is going to work out that,
29 like, um, he's only got the job" - it says there "chop"

1 but it's "job".

2 COMMISSIONER: Is it? Thank you.

3 MR TOVEY: "He's only got the job because of us. Fucking shape
4 up or fuck off." So what you're there saying to Megan
5 Schutz is you two are acknowledging, are you not, that
6 Mr Patterson only got the job because of you?---Sir,
7 I attempted to clarify that with the Commissioner. That
8 is a - that is a total incorrect statement.

9 But you said it. You say there to Ms Schutz, "He only got the
10 job because of us" - - -?---That is a - - -

11 COMMISSIONER: Just let counsel finishing the question.

12 MR TOVEY: "And he's got to shape up or fuck off." Now, that's
13 only capable of being read in one way, isn't it? That's
14 you saying that he got the job because of you and he has
15 to "shape up or fuck off"; true?---True, but as I have
16 said to the Commissioner, I apologise, that is an
17 incorrect statement. Mr Patterson did not get the job and
18 from my recollection we only - I only found out he had the
19 job after he had been given the job. So my
20 statement - - -

21 That may be - - -

22 COMMISSIONER: Let the witness finish. Yes?---Yes, sir. So
23 I apologise for those words that are used there, but they
24 are totally incorrect.

25 Why would you say that to Ms Schutz? Why would you say it to
26 her, particularly having regard to who she is; namely, you
27 tell her that, she's likely to act upon it in the future
28 in terms of her expectations about what Mr Patterson might
29 do?---Yes.

1 Why would you say that to her?---Sir, I can only think in very
2 crude words big-noting, but as I said I wasn't even aware
3 because my understanding was that the election of the CEO
4 of the City of Casey was a confidential matter conducted
5 by independent people. So, you know, for me to suggest
6 I had some sort of input into it quite frankly is an
7 incorrect statement and I apologise for making that
8 statement, sir.

9 But, Mr Woodman, you are a clever man. You would surely
10 realise that to exaggerate someone's allegiance when you
11 are talking to the consultant who's going to take in the
12 information you provide her and act upon it could be
13 disastrous?---Exactly, sir, and I apologise. I apologise,
14 sir. It was a flaw, certainly a flaw, and should never
15 have been said because factually it's impossible.

16 MR TOVEY: No, what you're saying - well, did you know
17 Mr Patterson or know of Mr Patterson before he got the
18 job?---No, sir.

19 Did anybody - did you discuss the possibility of Mr Patterson
20 being appointed with Megan Schutz or anybody else?---Not
21 before he was elected, sir, no, sir.

22 Not before he was appointed?---That's correct, sir.

23 He wasn't elected, I take it?---Appointed, sir.

24 So when you said to Ms Schutz, "I don't know whether this
25 fuckwit is going to work out that, like, um, he's only got
26 the job because of us," what you're saying to her is,
27 "He's only got the job because we got rid of the fuckwit
28 Tyler." That's the next line?---I don't agree, sir.

29 Well, how do you say that - are you saying that you are just

1 lying to Ms Schutz who knows as much about this as you
2 do?---I'd say it's an exaggeration. I don't - I tend not
3 to use the word "lie" sir. It's certainly an
4 exaggeration. I'm now reflecting on those words and
5 I cannot understand why I would have made such a comment.
6 Anyone who knows the mechanism of election of a CEO of a
7 major city understands it's a confidential - confidential
8 undertaking, as my understanding is, sir.

9 But you have already told us in cross-examination - sorry, in
10 examination yesterday that the getting rid of Tyler was
11 one of the matters that you had worked on in discussions
12 with Mr Ablett. Now, is that correct or not
13 correct?---No, there's no question I had spoken to
14 Mr Tyler - I had spoken to Mr Tyler many times. I had
15 spoken to Mr Ablett about - - -

16 COMMISSIONER: No, no, just try and answer the question,
17 Mr Woodman?---Yes. Yes, sir.

18 MR TOVEY: I understood you to say - - -

19 COMMISSIONER: I think he acknowledged it again this morning,
20 Mr Tovey.

21 MR TOVEY: That was what your evidence is. So you spoke to
22 Mr Ablett about getting rid of Mr Tyler. Here you are
23 saying words which make it clear that it was because of
24 you that he got the sack, and so far as the office of CEO
25 is concerned, it seems to be within your remit, looking at
26 that, to say "shape up or fuck off". Did you see yourself
27 as having that sort of power through Mr Ablett?---No, sir,
28 and I don't - I stand to be corrected. I don't think that
29 it was my instigation that Mr Tyler was moved on, sir.

1 COMMISSIONER: Mr Woodman, time is not going to permit
2 exploration of all of the issues that we are looking at,
3 but there was an allegation, was there not, in 2018 about
4 the suggestion that you had bullied some staff?---Yes,
5 sir.

6 And that was an allegation which Mr Tyler had to address?---No,
7 at that stage Mr Tyler had left the council.

8 And who then looked after that issue?---I believe Mr Dalton,
9 the acting CEO.

10 Yes. Just for completeness, was there also an issue that arose
11 about an order which Mr Tyler had made that would prevent
12 councillors from having access to council staff in their
13 work locations?---Yes, sir.

14 And was that something that you were concerned about?---Not
15 that I was concerned about, sir, but certainly something
16 that Mr Ablett had drawn to my attention and asked if it
17 was normal in the other council chambers, council offices
18 that I had visited over many years, sir.

19 Yes?---He sought my recollection of whether that was a standard
20 procedure or not, sir.

21 Yes, and Mr Tyler had introduced a regime designed to prevent
22 councillors from going to council officers in their
23 workplaces to talk to them about council issues?---Yes,
24 I'm not familiar with the reason for it, sir.

25 No, no, and Mr Ablett was concerned about that?---Mr Ablett's
26 only concern was that there was - it appeared - and I'm
27 only going on reflection of what he had said to me, that
28 the councillors were prohibited from entering certain
29 parts of the new building.

1 Yes?---Which was different to the previous building where they
2 had the ability to enter any part of the building which
3 they chose.

4 And did Mr Ablett discuss with you why it was important in his
5 view for councillors to be able to have access to the
6 council officers?---His main comment was to have more of a
7 friendly working relationship with those council officers.

8 And did he indicate to you that that had anything at all to do
9 with the reasons for Mr Tyler being removed?---He
10 indicated to me at a later stage that the fact that they
11 weren't given free access to the building was one of the
12 reasons, I thought, that he had explained to me why
13 Mr Tyler - and some discussions about him moving on had
14 occurred, yes, sir.

15 I see the time. Were you about to move on to something else,
16 Mr Tovey?

17 MR TOVEY: I would just like to finish this document, if
18 I could, Mr Commissioner.

19 COMMISSIONER: Yes.

20 MR TOVEY: You went on in that conversation to talk about a
21 punch-up between Megan Schutz and council officers over
22 Pavilion and H3; do you recall that?---Yes, sir.

23 And you then went on to say that's cost - were you indicating
24 that that cost you many millions of dollars?---Correct,
25 sir.

26 And that Cranbourne West was a project worth
27 \$200 million?---Yes, sir.

28 And then did you go on to joke about suing the council for
29 missing out on your \$2 million success fee?---Yes, sir. A

1 defamation case, sir, yes, sir, which is still on foot,
2 sir.

3 COMMISSIONER: Is that a convenient time, Mr Tovey?

4 MR TOVEY: Yes, it is, thank you.

5 COMMISSIONER: I'll mark that last excerpt phone call between
6 Mr Woodman and Ms Schutz exhibit 48.

7 #EXHIBIT 48 - Excerpt of phone call between Mr Woodman and
8 Ms Schutz on 21 December 2018.

9 MR TOVEY: Can we have 15 minutes, sir? We just need to set
10 some things up.

11 COMMISSIONER: Very good. 10 to 12?

12 MR TOVEY: Thank you.

13 COMMISSIONER: Very good.

14 (Short adjournment.)

15 COMMISSIONER: Yes, Mr Tovey.

16 MR TOVEY: Thank you, Mr Commissioner. Just so we can work out
17 what's going on at this point in time, I think you'll
18 recall that we were on 21 December. Could we bring up,
19 please, page 3307. Go over the page, please. Just going
20 back to the beginning, this is a memorandum to Michael
21 McConnell and Tom Kenessey and can you remind us what
22 their roles were?---Yes, they're employees of Leighton
23 Properties.

24 And obviously this is a memorandum from you and Megan Schutz on
25 21 December 2018. The aim of this document, have a look
26 at it if you need to, but was just to explain where things
27 were at that stage in respect of the C219; is that
28 right?---I believe so, sir.

29 And so in that document you indicated where you were at the

1 moment, if we just go up. So you observe that it's five
2 years and "lots of dollars" and so forth. Was this being
3 prepared in circumstances where Leightons were beginning
4 to express some concern about whether or not they were
5 getting value for money from your consultancy in respect
6 of C219?---I'm not sure of the answer to that, sir.

7 Ultimately you had discussions, didn't you, with Kenessey about
8 the fact that there were people who were unhappy about
9 progress?---The mere fact that C219 had not been approved,
10 as you can imagine, was not something that Leighton
11 Properties were overjoyed about.

12 Okay. So, in any event, if we just scroll down slowly you are
13 talking about the position after "five years and lots of
14 dollars", the fact that there has been a deferment, in the
15 second paragraph, "the bureaucrats are negative and The
16 Age newspaper has frightened the minister"; is that
17 right?---Yes, sir.

18 And then going back again, you then go into your ongoing
19 strategy and you indicate that you've been advised by the
20 minister's office that, "Unless we can refute the contents
21 of The Age articles, the minister is going to have no
22 alternative but to adopt the recommendation of the
23 bureaucrats"; is that right?---That's what the memo says,
24 yes, sir.

25 Are you able to tell us, without naming an individual, but tell
26 us who the person was in the minister's office who had
27 given you that information?---I believe it was a chief
28 adviser, sir.

29 So, what, the minister's chief of staff?---Yes, sir.

1 And how had this information come to you? Had it come directly
2 to you or through Mr Staindl?---Through Mr Staindl, sir.
3 My recollection is it was through Mr Staindl. It
4 certainly didn't come direct to me, sir.

5 And you there indicated, "We believe that the outcome of the
6 industrial land review will provide a basis for DELWP
7 bureaucrats to recommend that the Minister for Planning
8 refuse approval of amendment C219." Is that right?---Yes,
9 sir.

10 And was that because you had some information about how that
11 review was going or was it just using your own
12 intelligence to - when I say your own intelligence, your
13 own analytical skills to come to that conclusion?---Yes,
14 sir, my own - - -

15 The second, was it?---Yes, sir.

16 All right. This gets back to what I was putting to you the
17 other day, that you'd worked out for yourself that an
18 unbiased review as to whether or not industrial land
19 should be reduced would come out in favour of retaining
20 the industrial land?---Sir, I wouldn't say it was an
21 unbiased view.

22 Sorry, I'll take out the word "unbiased". But you expected
23 that any review as to whether or not industrial land
24 should be reduced would come out in favour of the
25 suggestion that industrial land shouldn't be
26 reduced?---Correct, sir.

27 And you believed that because you thought that's the correct,
28 rational view of the situation?---No, sir.

29 Then you went on to indicate, "The minister is concerned that

1 if he overturns the bureaucrats' recommendation it will be
2 perceived that his decision is made based on donations
3 received by the Labor Party rather than the merits of
4 amendment C219 that were thoroughly scrutinised at
5 Panels," and that's panels PPV; is that right?---Yes, sir.
6 Planning Panels Victoria?---That's right. Independent three
7 people reviewing an amendment, as is the case with all
8 planning scheme amendments in Victoria, yes, sir.
9 And who had conveyed to you the nature of the minister's
10 concern about overturning bureaucrats' decisions?
11 COMMISSIONER: Who conveyed that information in the bottom
12 paragraph, Mr Woodman?---Sir, I think that it is me
13 reading into more my knowledge of the minister and the way
14 in which the political scheme works than a direct comment,
15 sir.
16 I'm sorry, do you mean it may not have been that you were told
17 that the minister's concerned; you are assuming that the
18 reason the minister is not going to approve it is because
19 of that concern?---Yes, sir.
20 MR TOVEY: If we continue on. And so your strategy moving
21 forward over the next six months would be, firstly, to
22 pursue council officers to ensure they inputted into the
23 land review?---Yes, sir.
24 To require the input of councillors to ensure that in their
25 private briefings the information being conveyed to Schutz
26 and Kenessey is in fact correct?---Yes, sir.
27 And, what, that is when you're talking about information being
28 conveyed to Schutz and Kenessey, that's information being
29 conveyed to them by councillors, is it?---Yes, sir.

1 So you expected councillors to give you feedback as to what the
2 council officers were up to?---Yes, sir. Not so much what
3 they were up to, sir. It's that there are a number of
4 briefing sessions going on between Leightons, their
5 consultant and council officers, and there are also
6 sessions going on between council officers and
7 councillors, and the question was, I believe, was the same
8 information being conveyed to both.

9 All right. And then armed with this information from
10 councillors you were proposing to attempt to influence the
11 outcome of the review and other reviews referred to in the
12 attached Schutz Consulting memo; is that right?---Yes,
13 I believe it's a review of the industrial land supply,
14 yes, sir.

15 And what was being proposed as to how you were going to
16 influence that?---By making submissions, sir.

17 And by using SCWRAG?---No, I don't believe so. It's employing
18 specialist consultants who are familiar with the amount of
19 industrial land that is available appropriately located
20 and the amount of land and the take-up rate, sir.

21 And then Watsons Woodmans will pursue The Age newspaper seeking
22 a retraction of what you say was incorrect information
23 included in The Age article; is that right?---Yes, sir.

24 Thank you. Could I tender that, Mr Commissioner.

25 COMMISSIONER: Exhibit 49, memorandum 21 December 2018 between
26 Mr Woodman and Mr McConnell and Mr Kenessey.

27 #EXHIBIT 49 - Memorandum 21 December 2018 between Mr Woodman
28 and Mr McConnell and Mr Kenessey.

29 MR TOVEY: Could we please go to tab 145. This,

1 Mr Commissioner, is a conversation between John Woodman
2 and Amanda Stapledon on 23 January of this year at
3 9.54 am.

4 (Audio recording played to the Commission.)

5 MR TOVEY: All right. Is that an arrangement by you to meet
6 with Amanda Stapledon?---Yes, sir.

7 And was there any - - -?---Can I just - I think it was Amanda
8 ringing me.

9 Yes, it was an arrangement between you to meet. Was there any
10 degree of guilt or discomfort that you felt about meeting
11 with her?---No, sir.

12 When you discussed with her going somewhere "out of the way
13 where nobody knows us" and she says "exactly right", why
14 was that?---No particular reason, sir, that I can recall.

15 The only possible logical reason is that you didn't want to be
16 seen together. Let's not beat around the bush?---Yes.

17 The only reason that you would arrange to meet somewhere where
18 you aren't going to be recognised is because you don't
19 want to be recognised; true?---Yes, sir.

20 Thank you.

21 COMMISSIONER: And why wouldn't you want to be recognised,
22 Mr Woodman?---No particular reason, sir, that comes to
23 mind.

24 Mr Woodman, just think about that last answer. I should
25 indicate to you, Mr Woodman, that I'm troubled by the
26 frequency with which you give answers which seem to be
27 quite implausible given the context. Now, is it right for
28 you to say that you, as you sit there, can't think of any
29 reason why you wouldn't want to be recognised having a

1 meeting with Ms Stapledon? Is that the truth, that you
2 can't think of any reason why?---Mr Commissioner, the only
3 reason that I can think of is that The Age newspaper had
4 painted myself as a position - as a person who had contact
5 with councillors and meeting in - yes, was the only other
6 reason, and the fact that she wasn't at the council office
7 at the time. I mean, I have met many mayors at the
8 council office on many occasions and Amanda and I had a
9 relationship where frequently she wished to meet outside
10 of - not for any scurrilous reason, it was just a - yes,
11 just the way that she conducted our relationship. It
12 was - I don't think there was any underhanded - and
13 certainly from the discussion that was indicated and from
14 my recollection of the discussion that occurred, there was
15 nothing that was - that couldn't be conducted in any
16 public place, sir.

17 Did you anticipate that at this meeting you would discuss
18 council business?---There's no question council business
19 would have been discussed at some stage, I would suggest,
20 sir, yes.

21 And given what you have previously said about meeting privately
22 with councillors to discuss council business, would that
23 be appropriate?---I said that it had happened - that it
24 had happened and that amongst other things, yes, I believe
25 it was appropriate. She's an elected representative. We
26 have council business going on. I didn't see that there
27 was anything untoward about it, other than the weather and
28 it was Christmas time and what she was doing, yes.

29 Can I just remind you of the evidence that you gave on the

1 first day. Your evidence on the first day here was that
2 it would not be appropriate for you to be meeting and
3 discussing a council issue with a councillor without the
4 presence of a council officer?---I apologise, sir. My
5 recollection was that you asked me that question in
6 relation to Councillor Aziz who had made that statement
7 and I said that at the time that that was totally
8 incorrect, that he had met with other people without the
9 council officers and I cannot recall because, sir, quite
10 frankly it happens, not frequently, but from time to time
11 there are times when you meet at social events. As I've
12 said, I've driven Amanda Stapledon to the Cardinia
13 Foundation and at some stage or other during that 20 or 30
14 minute drive she would raise a matter that would involve
15 council business, sir. So, if I made that statement, sir,
16 I apologise. It's not one that, whether it be
17 socially - if you were meeting a particular councillor
18 about a particular council issue, I think that there
19 should be a council officer aware and at the present. But
20 in general conversation about life and about what's
21 happening in the City of Casey, I don't think that's out
22 of line to be talking to a councillor about that.

23 Yes, Mr Tovey.

24 MR TOVEY: Again, just so we can work out where we are, in
25 early 2019 that's the time at which you started making the
26 \$23,000 payments to Mr Aziz with a \$2,000 cash top-up,
27 isn't it?---I believe so, sir, yes, sir.

28 And that was pursuant to the - sorry, ultimately that
29 arrangement was reflected, I'd suggest to you, in

1 mid-March by the preparation of two contracts, one in
2 respect - sorry, by the preparation of a contract which
3 was backdated?---Correct, sir.

4 And that arrangement started off in December of 2019. Sorry,
5 when I say it started off, the first payments made under
6 that arrangement were in December of 2019?---I'm not sure
7 of the exact - - -

8 And I suggest to you that the first payment was 23,000
9 cash - - -

10 COMMISSIONER: 2019, Mr Tovey?

11 MR TOVEY: Sorry, 2018. I'd better get my book now that you've
12 raised the precise date.

13 COMMISSIONER: We're not quite to December 2019, but we will be
14 soon.

15 MR TOVEY: I'm already there, I think. Sorry, I was right, it
16 was on 3 December of 2018 Mr Aziz made a \$25,000 cash
17 deposit, plus on that date he also got a \$23,000 transfer
18 into his account?---Yes.

19 And so initially he got - so this started off with basically a
20 back payment in cash and then a transfer of funds directly
21 to his account; is that right?---Yes, sir.

22 And I think - and tell me if I'm wrong - that you've already
23 agreed that the cash in respect of this arrangement and in
24 respect of what you've referred to as interest on the
25 600,000 was delivered each month by Ms Wreford?---Yes,
26 sir.

27 And you've also indicated that on a number of occasions that
28 cash payment was referred to as either "the suitcase" or
29 "the package" in discussions between you?---Yes, sir.

1 Just by way of example, could you look, please, at 31 January
2 of 2019 and surveillance photos 25 to 28.

3 COMMISSIONER: Are you finished with the phone call excerpt?

4 MR TOVEY: Thank you.

5 COMMISSIONER: That's exhibit 50, phone call excerpt 21 January
6 2019 between Mr Woodman and Ms Stapledon.

7 #EXHIBIT 50 - Excerpt of phone call between Mr Woodman and
8 Ms Stapledon on 23 January 2019.

9 MR TOVEY: Now, if you just look at that. I suggest that
10 whilst you were being surveilled on that day you had a
11 meeting at the Serano Patisserie in St Kilda Road during
12 which you had your assistant, Jolene Rome, withdraw cash
13 from an ATM and then after that you counted it out and
14 gave it to Ms Wreford; is that right?---Correct, sir.

15 So that's you and Ms Wreford meeting in the photograph on the
16 right-hand side; is that right?---Yes, sir.

17 On the left-hand side you see Ms Rome going to the ATM?---Yes.

18 And then if we go to the - there should be a third photo there,
19 is there? There should be another two photos, actually.

20 25, 26, 27. Thank you. Are there any more? So, all of
21 those are photographs relating to that series of
22 transactions?---Yes, sir.

23 And that was typical, was it, of the way in which you would
24 meet with Ms Wreford in order to hand the cash to her to
25 hand to Mr Aziz?---Yes, sir.

26 COMMISSIONER: What is the date of those images?

27 MR TOVEY: Those photographs are dated 31 January 2019. So
28 I'd seek to tender images 25 to 28.

29 COMMISSIONER: Exhibit 51, images of Mr Woodman meeting with

1 Ms Wreford and withdrawal of moneys from ATM.
2 #EXHIBIT 51 - Images of Mr Woodman meeting with Ms Wreford and
3 withdrawal of moneys from ATM, 31 January 2019.

4 MR TOVEY: I now go to 12 February of 2019 and seek to have
5 tabs 97 and 98 played. Excuse me, please, Mr Chairman.
6 I'm instructed that we only need tab 97. Tab 98 is the
7 full conversation. Tab 98, thank you. This is a
8 conversation between Mr Woodman and Megan Schutz on
9 12 February of 2019 at 8.15 pm.

10 (Audio recording played to the Commission.)

11 MR TOVEY: Now, you remember I've asked you a number of
12 questions over days about who was going to profit from the
13 way in which the intersection was ultimately built?
14 Having read that, do you now agree that you and
15 David - who's David?---David, the CEO of Watsons.

16 "Worked out Wolf" - now, that was going to be Wolfdene, wasn't
17 it - "Alara has made about \$1.7 million out of not having
18 to build the intersection. So it's nearly 2 million."
19 That was the whole point of opposing the deferment and
20 seeking to have Dacland pay for a share which was greater
21 than that originally agreed?---No, I disagree, sir. The
22 intersection was built by Dacland at the time they were
23 supposed to build it - - -

24 COMMISSIONER: No, let's not go there again, Mr Woodman.

25 I understand your evidence. You have said it about three
26 times. Just answer counsel's question, please. Would you
27 repeat it?

28 MR TOVEY: There's been a saving of \$1.75 million to
29 Wolfdene/Alara; that's what you're talking about there.

1 So do you remember Alara - - -

2 COMMISSIONER: Just let Mr Woodman answer the question,
3 Mr Tovey.

4 MR TOVEY: Yes?---No, I don't believe so, sir.

5 You say, "David and I worked out Wolfdene/Alara has made about
6 1.7 million out of not having to build that intersection.

7 So it's nearly 2 million." How did they make

8 1.75 million?---Well, they haven't made 1.75 million, sir.

9 That's what you said, "Alara has made 1.75 million"?---Yes,
10 it's an incorrect statement, sir.

11 COMMISSIONER: What's incorrect?---The fact that they've made
12 1.75 million.

13 Did they make anything? Is it the amount or the proposition

14 that they made anything that's incorrect?---It's incorrect

15 that they've made 1.75 million.

16 MR TOVEY: Was it incorrect that you had worked out that they
17 had made 1.75 million?---I know, but that statement, sir,

18 that I've made there is incorrect. It's indicating that

19 they have made 1.75 million.

20 How many times today have I taken you to statements you've made
21 in telephone calls where you just say, bare-faced, that

22 "That statement is incorrect and I was wrong when I said

23 that to somebody who's an insider"? How many times have

24 you said that today? It must be, what, three or four

25 times I've taken you to specific statements where you have
26 made an assertion of fact to an insider which you now say

27 is untrue. Are you conscious of that?---Yes, sir.

28 Well, one might be a slip, even though that's extraordinarily

29 hard to imagine, but isn't the fact of the matter that you

1 are simply dissembling and untruthful about these
2 answers?---Sir, my answer is that in Dacland building the
3 intersection which they were required to build meant that
4 Alara would not be required to build the intersection, and
5 the fact is that Dacland - - -

6 I'm not asking you, sir, about the fact. I'm just asking you
7 to address the question. Had you and David worked out
8 that Wolfdene/Alara had made 1.75 million as you
9 stated?---If they did not need to build the
10 intersection - - -

11 I'm not asking you about what they did. I'm asking you what
12 you worked out?

13 MR JUEBNER: He should be permitted to answer that question
14 because - - -

15 COMMISSIONER: With respect, Mr Juebner, he's not answering the
16 question.

17 MR TOVEY: The question is a simple one. You have denied
18 that - you there assert that you and David have worked out
19 that they made 1.75 million. Now, did you work that out
20 or not?---I've worked out that if they didn't have to
21 build - if they had to build the intersection, it would
22 cost extra money, yes, sir, if that's the question you are
23 asking me.

24 What you said is, "David and I worked out that Wolfdene/Alara
25 has made about 1.75 million out of not having to build
26 that intersection. So it's nearly 2 million." You are
27 talking about profits that they've made. Had you worked
28 that out or is this just another assertion by you to an
29 insider which was untrue for some unknown reason?---Surely

1 we must - surely we can't take this one conversation
2 without going back to December 18th when Dacland, as a
3 consequence of a council report that recommended that they
4 build the H3 intersection because that's what their permit
5 required, in turn meant that at some stage if Alara went
6 ahead they would not be required to build the
7 intersection. But I'm suggesting, sir, that you are
8 making an assertion which is not correct.

9 COMMISSIONER: No, but, Mr Woodman, what you've said is "David
10 and I worked out Wolf/Alara has made that amount out of
11 not having to build the intersection"?---Yes, as a
12 consequence of the December the 18th council meeting, yes,
13 correct, sir. If it's put in the context of that, yes.
14 That's what counsel is putting to you?---Yes.

15 MR TOVEY: I just want to ask you about Mr Ablett.

16 COMMISSIONER: Are you moving on from that excerpt?

17 MR TOVEY: I am. I tender that.

18 COMMISSIONER: That will be exhibit 52, 12 February '19 excerpt
19 of phone call between Mr Woodman and Ms Schutz.

20 #EXHIBIT 52 - Excerpt of phone call between Mr Woodman and
21 Ms Schutz on 12 February 2019.

22 MR TOVEY: We have heard that you were making regularly monthly
23 payments to Mr Ablett of \$5,000; is that right?---Yes,
24 sir.

25 Or thereabouts?---Yes, sir.

26 That you had made cash payments in false names to accounts of
27 Mr Ablett's?---Yes, sir. On one occasion, sir, yes, sir.

28 That you bought his farm - sorry, you bought his property, his
29 farm, and had paid him \$150,000 in respect of that and

1 received no benefit at this stage?---Correct, sir.
2 Did you do any other favours for him?---The only other favour
3 that - if it's a favour, he requested that his parapet be
4 painted at his house, and we have a number of maintenance
5 people that are continuing to complete maintenance work.
6 My understanding is with Mr Ablett that at some stage
7 there would be a payment to be made to complete the
8 purchase that you are referring to and that a number of
9 these issues, including legal costs that have been paid,
10 would be offset against the purchase price.

11 But none of that has happened; true?---No.

12 Did you discuss with him the provision of any other favours for
13 him or for his family?---Not that I can recall, sir.

14 Could the witness, please, have played tab 152.

15 (Audio recording played to the Commission.)

16 MR TOVEY: If we could just stop it there. Sir, this is a
17 conversation involving John Woodman and Mr Ablett at 9.30
18 on 22 January 2019.

19 COMMISSIONER: Do you want that played, Mr Tovey?

20 MR TOVEY: Yes, thank you, sir.

21 MR JUEBNER: Sir, before it's played, it just seems that on the
22 top of the recording on the screen it suggests that it's
23 16 February '19. I'm just querying the date.

24 MR TOVEY: The transcript I have indicates - we'll sort that
25 out, but clearly the transcript relates to 22 January '19,
26 your Honour. I don't know what the writing on the top is.

27 COMMISSIONER: We'll see if anything turns on that, Mr Tovey.

28 MR TOVEY: I think my friend is right, actually. I have the
29 wrong number. 152. I apologise, I just turned up the

1 wrong tab.

2 COMMISSIONER: So what's the correct - - -

3 MR TOVEY: It's 16 February 2019 at 7.43 pm. I apologise.

4 (Audio recording played to the Commission.)

5 MR TOVEY: That conversation is self-explanatory, is it
6 not?---Yes, sir.

7 You were there asked whether you could assist in respect of
8 the provision of a house and land package for Mr Ablett's
9 daughter?---Yes, sir.

10 COMMISSIONER: I don't think at this stage, Mr Tovey, you
11 should make any assumptions about what is
12 self-explanatory.

13 MR TOVEY: Thank you. I won't. (To witness.) But in any
14 event you agree that that's the thrust of that
15 conversation?---Yes, sir.

16 In the end did you end up providing a house and land
17 package?---No, sir. It was not my position to provide it.
18 What I was going to do, I think, was to speak to the
19 people, and when I say "our people" I'm talking about
20 people who work for some of our clients to see if there
21 were corner blocks or blocks that were available that they
22 would be prepared to discount, sir.

23 Did you in the end make any arrangement that there would be
24 land or house and land available if required and at what
25 sort of discount?---No, sir.

26 Did you suggest that you could provide a package at \$50,000 to
27 \$70,000 discount?---Sir, I'm not aware of that, sir.

28 You are not aware of it? Is that just a way of saying,
29 "I don't know whether you've got me on tape or not"? Did

1 you or did you not?---Sir, I'm not aware of making those
2 comments.

3 COMMISSIONER: What does that mean, "I'm not aware"? Does that
4 mean, "I didn't make them" or "I might have made them but
5 I can't remember"? What does that mean?---I could have
6 made those comments, but I can't remember making those
7 comments, sir.

8 MR TOVEY: Could the witness, please, be played tab 152 and tab
9 153.

10 COMMISSIONER: I'll mark the last excerpt exhibit 53 of
11 26 February.

12 #EXHIBIT 53 - Excerpt of phone call between Mr Woodman and
13 Mr Ablett on 16 February 2019.

14 MR TOVEY: Mr Commissioner, could I just hold for a second.

15 COMMISSIONER: Yes.

16 MR TOVEY: I'm sorry, again I pointed to the wrong one. Could
17 I please have played tab 103. Tab 103 is - can I just
18 have that held for a moment, please. So tab 103 is a
19 conversation between you, Mr Woodman, and Geoff Ablett on
20 9 March 2019 at 1.01 pm. Thank you.

21 (Audio recording played to the Commission.)

22 MR TOVEY: So what was the discount that you had given
23 him?---Sir, I'm not familiar with - I don't know.

24 You say that didn't go ahead?---No, sir.

25 So when you were talking about the discount you have given him
26 that's the discount you have told him you would give
27 him?---Sir, I can't remember that conversation, sir.

28 Why would you be having that conversation with a councillor who
29 is behind the scenes directing other councillors as to how

1 to vote in issues concerning you?---I think we have
2 discussed the fact that our friendship goes back many,
3 many years, so - and my understanding was that he wasn't
4 actually voting on anything.

5 I'm going to go on to a whole new topic, sir. Would now be an
6 appropriate time?

7 COMMISSIONER: Just before we adjourn, could I just ask you
8 something, Mr Woodman, about the Ombudsman's inquiry. You
9 have some familiarity with the allegations that the
10 Ombudsman was investigating in 2014/15?---Yes, sir.

11 And whether or not all of the allegations concerned you and
12 developments you were involved in, some of them did; is
13 that correct?---To be truthful with you, sir, I never
14 read - I never actually read the Ombudsman's report, but
15 I'm aware of the fact that it was to do with the donations
16 and applications by Watsons Pty Ltd; yes, sir.

17 Botanic Ridge, was that one of the developments involving
18 you?---We were the consultants for Botanic Ridge, yes.

19 And prior to the Ombudsman delivering her report in which she
20 found that she could not substantiate any of
21 the allegations that were made had you entered into any
22 legal agreements with either Mr Aziz or Mr Ablett?---Could
23 you just remind me of the date of the report, sir?

24 November '15 is when the Ombudsman published her
25 report?---I don't believe so, sir.

26 But after that date you entered into varying legal agreements
27 with both Mr Aziz and Mr Ablett; is that correct?---Yes,
28 sir.

29 And is that in part because by that time then you were

1 conscious of the fact that there was likely to be more
2 scrutiny attached to their role in council where you had
3 an interest in a motion which council was dealing
4 with?---Yes, sir.

5 This might be a convenient time, Mr Tovey. You might just give
6 some indication. How much longer do you think you'll be,
7 Mr Tovey?

8 MR TOVEY: Mr Commissioner, I suspect we will probably go all
9 or most of the afternoon.

10 COMMISSIONER: Very good. So then will someone let the next
11 witness know that she won't be reached today?

12 MR TOVEY: I'll make sure that occurs.

13 COMMISSIONER: Adjourn until 2 o'clock.

14 <(THE WITNESS WITHDREW)

15 LUNCHEON ADJOURNMENT

16

17

18

19

20

21

22

23

24

25

26

27

28

29