
TRANSCRIPT OF AFTERNOON PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

THURSDAY, 12 MARCH 2020

(21st day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH 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 UPON RESUMING AT 1.43 PM:

2 <SUSAN SEREY, recalled:

3 COMMISSIONER: Yes, Mr McLaughlin.

4 MR McLAUGHLIN: Thank you, Commissioner.

5 <EXAMINED BY MR McLAUGHLIN, continued:

6 Now if I could just take you back to one part of your evidence
7 earlier today. I note your evidence that it's a matter
8 for the Liberal Party to report donations and to keep a
9 record of those donations for your State election
10 campaigns?---Yes.

11 Did you advise the Liberal Party of the additional in kind
12 donations that Watsons had given to your campaign via the
13 postage?---No, because I wasn't aware of the amount.

14 Well, amount or otherwise, shouldn't you advise? There were
15 amounts on the tables we saw before which were well below
16 the threshold?---No.

17 Did your campaign staff think to advise the Liberal Party or
18 did you say to them - - -

19 MR CAMERON: I don't know how she could give any evidence as to
20 what the campaign staff may or may not have thought,
21 Mr Commissioner.

22 MR McLAUGHLIN: I withdraw that.

23 COMMISSIONER: Yes.

24 WITNESS: Sorry, did you want to repeat - - -

25 COMMISSIONER: What's the question, Mr McLaughlin?

26 MR McLAUGHLIN: So you didn't either yourself or you didn't
27 instruct your campaign staff to advise the Liberal Party
28 of what were essentially additional donations from John
29 Woodman?---I did not do that.

1 No. Was that an oversight or you didn't think you had
2 to?---I think it's an oversight. I started work the next
3 day. So, yes, it's just an oversight.

4 COMMISSIONER: Ms Serey, I'm just puzzled. You explained to us
5 that when The Age article came out you had a particular
6 interest in it to the point of being quite angry with the
7 way in which you had been dealt with in the
8 article?---Mm-hm.

9 Correct?---Yes.

10 The article's central focus was on Mr Woodman and his
11 relationship with particular councillors. I don't follow
12 how within a very short time after that Age article you
13 are in the process of specifically seeking a donation from
14 him. Did you not for a second hesitate about - thinking,
15 "I should not be going back to him for a donation in the
16 light of these serious allegations that are being
17 made"?---No.

18 Did you talk to Mr Kenessey about that before saying to
19 Mr Kenessey, "Can you go to John and get some more
20 money"?---I don't recall.

21 You don't recall?---No.

22 Yes.

23 MR McLAUGHLIN: Thank you, Commissioner. Now, you'll recall we
24 discussed the difficulty you say you had identifying who
25 might have an interest in reports or who might have an
26 interest in matters before council?---Yes.

27 If the witness could be shown page 1275?---Yes.

28 Now, this is a report to the 1 April 2014 City of Casey Council
29 meeting?---Yes.

1 As you can see from the top there, it relates to Cranbourne
2 West employment and land rezoning proposal?---Yes.

3 There's no reference there directly to the phrase "C219", but
4 you understand that that subject is the same as C219,
5 Cranbourne West employment land rezoning?---I think that
6 one was a proposal to - could you, sorry, scroll down.
7 I think it was about - - -

8 Well, sorry, just before we do, if we could start with the
9 first sentence of the executive summary, "Council has been
10 requested to consider a proposal to rezone a substantial
11 area of land in Cranbourne West from employment to
12 residential"?---Yes.

13 That's essentially the crux of C219, isn't it?---Yes, after
14 the - I guess the investigation. So this was sort of
15 basically launching into how - what the process is before.
16 So obviously going out for consultation, then going into
17 an independent panel. But this was early - I wasn't even
18 a preselected candidate at this point.

19 I'm not inferring that you should have declared a conflict at
20 this point. I'm merely drawing your attention to what the
21 subject matter of this officer's report is?---Yes.

22 COMMISSIONER: On the basis that it's a report that Ms Serey
23 would have been provided with as part of her duties as a
24 councillor.

25 MR McLAUGHLIN: That's correct?---It was a proposal. It was a
26 proposal.

27 And you were present on the 1 April 2014 council
28 meeting?---I was comfortable with going down that path of
29 looking at what could be done for that land.

1 My apologies, my question must have been unclear. You were in
2 attendance for that council meeting?---I was, yes.
3 You were. If we could scroll down now to page 1287, please.
4 If we could just scroll up a little to the previous page.
5 So this is attachment - item 2, attachment 2 to that
6 earlier report?---Yes.
7 If we scroll down to that 1287 page. Quite clearly Watsons Pty
8 Ltd is an entity related to that rezoning proposal?---Yes.
9 And this is in April 2014?---Yes.
10 In an officer's report at a council meeting you
11 attended?---Yes.
12 If we could scroll down to 1288. This is a further attachment
13 from Leighton Properties, again request to amend planning
14 scheme Cranbourne West PSP?---Yes.
15 So the evidence you gave earlier, Ms Serey, is that you were
16 unaware that Mr Woodman or Watsons or Leightons at that
17 stage had anything to do with the Cranbourne West
18 rezoning?---I was - - -
19 COMMISSIONER: You've used the words "at that stage",
20 Mr McLaughlin.
21 MR McLAUGHLIN: At the stage of this - - -
22 COMMISSIONER: I think Ms Serey's evidence was she was not
23 generally aware of it. What's being put to you is that
24 from the very outset of the council commencing to look at
25 this issue the identification of the primary party was
26 made clear to the council, and you were privy to that
27 information?---I was. But this is - - -
28 And what are you saying; somewhere in the mists of time you
29 forgot that Leightons or Watsons were involved?---Yes,

1 and - - -

2 And despite all of the meetings, the coffees, the friendly

3 meetings that you had with Mr Kenessey - - -?---Yes.

4 Nothing was discussed between you that reminded you that

5 Leightons had an interest in the rezoning proposal, the

6 only matter upon which Mr Kenessey was focused with the

7 council?---Yes. This report is before I was a candidate,

8 before any of what we are talking about in terms of

9 donations, so - - -

10 I'm not talking about donations now. We are looking at your

11 evidence that you did not know that Leightons or Watsons

12 were involved in the C219 process?---I don't think I would

13 have read those appendices. I would have read the report.

14 So that's your explanation, is it?---Yes, yes. But I wouldn't

15 have remembered - - -

16 And if we take you to later in the next three years of frequent

17 issues when this came before council - - -?---Yes.

18 If we take you to later occasions where Leightons or Watsons

19 are again referred to, you've forgotten that too, have

20 you?---No. I received a donation from Mr Woodman - - -

21 I'm not talking about donations now. We are talking about your

22 state of mind that you didn't know who two of the

23 principal interested parties were in this

24 development?---I knew that Leightons was an interested

25 party.

26 You did?---Well, that's - it's in the reports.

27 Yes?---Yes. So I won't be able to remember all the attachments

28 from previous agenda items to follow up later in another

29 report. Like, it's just - - -

1 Can I just come to this point about your conversations with
2 Mr Kenessey?---Yes.

3 Did Mr Kenessey ever say to you, "Look, Ms Serey, there's one
4 thing I can't talk to you about and that is my consultancy
5 arrangement with Leightons which involves the rezoning
6 application and your council, because that's my area of
7 interest but it's not something that we can discuss"? Did
8 he ever say anything like that to you?---I don't recall
9 anything like that, but - - -

10 You never discussed at all what his primary role at Leightons
11 was?---Primary role? No. I knew that he worked for
12 Leightons. That's all, yes.

13 And didn't know that he had any interest in any council
14 business, in all the time that you dealt with him?---I may
15 have known in passing, but it wasn't - - -

16 What did you know in passing?---That he worked for Leightons.

17 No, you have told us that. What did you know in passing about
18 his interest in any council issue?---Well, Leightons was
19 part of C219, and that's the connection that I made, but -
20 - -

21 And you talked to him about that?---I did not talk to him
22 specifically about that. That was not the purpose of our
23 coffees whenever we met up.

24 It may not have been. Did you talk about it at all with
25 him?---I don't remember.

26 All right. You understand why there would be a suspicion about
27 you saying that over, what, two, three, four years you're
28 meeting with him on a friendly basis and that there would
29 never have been any communication between him and you

1 about the fundamental issue that he's working on which
2 involves council business?---Well, I don't recall specific
3 conversations that I might have had with him about that,
4 if he did bring it up. But a majority of the conversation
5 was not about council business.

6 Yes, Mr McLaughlin.

7 MR McLAUGHLIN: Thank you, Commissioner. If I could seek to
8 tender that officer's report.

9 COMMISSIONER: It's not an exhibit?

10 MR McLAUGHLIN: It is not an exhibit, no. It's the council
11 officer's report of 1 April 2014.

12 COMMISSIONER: What's the date of it again?

13 MR McLAUGHLIN: 1 April 2014.

14 COMMISSIONER: Council officer's report and attachments - - -

15 MR McLAUGHLIN: Sorry, Commissioner, just before you do that.
16 I'm conscious that there's also the transcript and the
17 call that I played earlier which needs to be tendered.

18 COMMISSIONER: Just a moment. Council officer's report and
19 attachments of 1 April 2014 will be exhibit 168. What's
20 the previous document?

21 MR McLAUGHLIN: That is the telephone conversation between John
22 Woodman and Tom Kenessey on 17 January 2019.

23 COMMISSIONER: That's already an exhibit, isn't it?

24 MR McLAUGHLIN: A substantially longer version, Commissioner,
25 is exhibit 61.

26 COMMISSIONER: What was the exhibit number for that? You have
27 played a portion of it which is already in evidence. So
28 I don't think it needs a separate exhibit number.

29 MR McLAUGHLIN: It was 61, Commissioner.

1 COMMISSIONER: Thank you. Then I will make the council
2 officer's report 167.

3 #EXHIBIT 167 - Council officer's report and attachments of
4 1 April 2014.

5 MR McLAUGHLIN: Thank you, Commissioner. If the witness could
6 be shown page 1377, please. Now, this is not the
7 officer's report. These are the minutes of a council
8 meeting from 21 October later that year, in 2014?---Yes.
9 On your evidence that is after you have received the donation
10 from Mr Woodman; is that correct?---Yes.

11 And if we scroll down to the next page - keep scrolling down,
12 please; keep scrolling down - - -

13 COMMISSIONER: Can you not give the associate the page number,
14 Mr McLaughlin?

15 MR McLAUGHLIN: 1381. You'll see there that you were present
16 at that meeting?---Yes.

17 And then if I could go to 1385, please. Now, we have jumped to
18 a later portion of those minutes from the same meeting, as
19 we can see from the top of the page, 21 October 2014.

20 This is an item "Cranbourne West precinct structure plan
21 review"?---Yes.

22 The purpose of that report is to seek council's endorsement to
23 place the proposed amendments to the Cranbourne West PSP
24 out for public consultation?---Yes.

25 And you'll see that the motion is moved by Councillors Rowe and
26 Aziz?---Yes.

27 And at item 2 there the inclusion of Kelly and Leighton's land
28 is specifically mentioned as being part of the
29 inclusion?---Yes.

1 Did you declare a conflict of interest in relation to

2 that?---I did not.

3 Do you accept that, having received a donation from Watsons and

4 John Woodman, that that presented a conflict of interest

5 when you considered this matter?---It didn't - I did not

6 perceive a conflict of interest at that time.

7 COMMISSIONER: Because?---Because in the report there's

8 actually no mention of Woodman and Watsons. In fact, that

9 second dot point was also not part of the original

10 recommendation. If you look at the agenda it actually was

11 only 1 and 3, and then that second one was adopted into

12 that recommendation.

13 MR McLAUGHLIN: But was it adopted in council?---Yes. But it

14 wasn't in the agenda. So it wasn't given to us three days

15 before.

16 But you can make a conflict of interest at any time during a

17 council meeting?---Yes.

18 And you understand the process for that?---I do.

19 COMMISSIONER: But, I'm sorry, I don't follow. You knew as of

20 April of that year that Watsons was an interested party in

21 that application?---I don't remember. At the time I did

22 not remember that there was an attachment with his name on

23 it in the 1 April meeting. Later, subsequently in these

24 reports, Watsons is not mentioned in any of the reports.

25 Sorry, I think we need to be clear. Are you saying that you

26 can positively say that in October when sitting on this

27 particular motion - - -?---Yes.

28 Your state of mind was that you did not remember that Watsons

29 or that you knew that Watsons had any interest in that

1 development?---Correct.

2 Is that what you are saying?---Yes.

3 Yes.

4 MR McLAUGHLIN: And when Councillors Rowe and Aziz moved that
5 part, the additional 2 that you say was inserted, and
6 given that Mr Kenessey, who worked for Leightons, was
7 integral in your being involved and meeting Mr Woodman,
8 did that not then raise a prospect of a conflict for
9 you?---No, because Leightons didn't donate to my campaign.

10 But a person who had been employed by Leightons to manage that
11 rezoning did donate to your campaign?---Yes, but I wasn't
12 aware of, like, the business links between the two of
13 them.

14 Those business links were quite clear by the council report we
15 saw from April. Watsons' letter actually says, "We act on
16 behalf of Leightons Pty Ltd"?---Yes - - -

17 COMMISSIONER: Your evidence was you don't think you saw the
18 attachment?---I don't think - that's right. I don't think
19 I saw the attachment in the April meeting, and then
20 subsequently in these reports there was no mention of
21 Watsons.

22 So you can actually remember that you didn't see the attachment
23 of the meeting of 1 April?---Usually when I'm reading a
24 report, especially something that's not in my ward, I'm
25 just reading the actual report.

26 I'm just wanting to distinguish between a memory that you have
27 and what we would call a reconstruction where you don't
28 actually remember but you are simply telling us about what
29 your usual practice would be?---That would be - - -

1 Is it that you have a clear memory that you didn't see the
2 Watson report or that you are simply assuming, given what
3 you normally do, that you didn't look at the
4 attachment?---I did not look at the attachment.

5 That's your memory?---That's my memory. I did not look at the
6 attachment, yes.

7 And you say that thereafter no documentation came to you as a
8 councillor that showed that Watsons had an interest in
9 C219?---Correct.

10 And Mr Kenessey, in all the time that you dealt with him, never
11 told you that Mr Woodman and Watsons were working with him
12 in seeking to secure C219?---I don't recall any
13 conversation like that.

14 MR McLAUGHLIN: I seek to tender that.

15 COMMISSIONER: That's the minutes of 21 October 2014. Exhibit
16 168.

17 #EXHIBIT 168 - Minutes of 21 October 2014.

18 MR McLAUGHLIN: Thank you, Commissioner. In relation to C219
19 did you ever declare a conflict?---I don't believe I did.

20 So I can advise you that matters relating to C219 came before
21 council on approximately 16 occasions between 4 February
22 2014 and 8 November 2018?---Okay.

23 And you have no recollection of ever declaring a
24 conflict?---I don't remember declaring a conflict. But
25 going through the reports I did walk out on a couple of
26 occasions - - -

27 COMMISSIONER: Why did you do that?---Because in one of them,
28 which is 2015, I think it was, there was no mention of
29 Watsons. However, my fellow council colleagues, they

1 mentioned the nature of their conflicts of interest in the
2 chamber and I did the practice of when in doubt get out,
3 and that's what I did.

4 So who mentioned that they had a conflict?---Both Geoff Ablett
5 and Amanda Stapledon.

6 What did they say about Watsons?---From memory of reading the
7 reports Geoff said something about the horses, the
8 relationship between horse ownership, and then
9 Ms Stapledon said something about indirect financial
10 interest, I'm assuming for a donation.

11 MR McLAUGHLIN: If I could take the witness to page 1463.

12 I believe this is a record of that - your recollection
13 there. That's minutes - a portion of the minutes from
14 Tuesday, 17 March. If you could scroll down just a little
15 bit. So those are the - and stop there?---Yes.

16 Two declarations of interest?---Yes.

17 So is that the - were those the minutes which you refreshed
18 your memory with prior to coming here today?---I think so,
19 yes. Yes.

20 COMMISSIONER: I'm sorry, I'm now quite confused, Ms Serey.

21 Your evidence has been that, notwithstanding the
22 attachment to the first council occasion that C219 came
23 before the council which refers to the Watsons position,
24 your explanation then, "I don't think I saw that," we can
25 see here by the following year Watsons is specifically
26 referred to by two of your colleagues in such a way as to
27 indicate not only that they have an interest in C219 but
28 that they have - your colleagues had a conflict because of
29 it?---Yes.

1 I thought you were telling the Commission that at no time
2 during the period you were on the council did you realise
3 that Watsons had an interest in C219 and that's what led
4 Mr McLaughlin to take you to the very first council
5 documents which showed an attachment by Watsons. Did you
6 not say earlier that you never at any stage knew Watsons
7 had an interest?---Well, I'll correct myself in saying
8 that in seeing or hearing the declarations from my council
9 colleagues that I just got out of the chamber.

10 Well, let's deal with that for a moment. This practice of
11 absenting yourself from the chamber during a motion, is
12 that a substitute for not declaring a conflict of
13 interest?---Do you mean with the paperwork?

14 No, no. Did you understand that an alternative to declaring a
15 conflict of interest was to simply absent yourself from
16 the discussion of an interest if there might be a
17 conflict?---Yes.

18 And - - -?---To not vote.

19 Yes. Was that a practice that you engaged in on a regular
20 basis, absenting yourself rather than declaring a
21 conflict?---It did happen a couple of times in these
22 instances of these - - -

23 And do you know whether other councillors similarly would
24 absent themselves rather than declare a
25 conflict?---I don't recall if any other councillor did
26 that, no.

27 What did you do when you sat there on a motion - and I'm not
28 now speaking about C219 in particular but just generally.
29 If you sat there on a motion and one of your councillors

1 suddenly said, "Oh, we're about to move to this item on
2 the agenda. I need to absent myself for the purpose of
3 this discussion," what did you do about that? Did you
4 ever raise the question, "Well, why are you doing so? Do
5 you have a conflict? If you do, you need to tell us what
6 it is. Absenting yourself is not a statutory alternative
7 to declaring a conflict"; did you ever say anything like
8 that?---No.

9 Do you know why not? I'm not putting the onus on you. There
10 was a practice that prevailed, wasn't there, that
11 councillors could as an alternative to declaring a
12 conflict absent themselves? Why was that never an issue
13 amongst the councillors?---I can't answer the question.

14 MR CAMERON: Mr Commissioner, I'm not quite sure that the
15 witness - - -

16 COMMISSIONER: Yes, Mr Cameron?

17 MR CAMERON: Mr Commissioner, I'm not quite sure the witness
18 can give evidence as to the thoughts of other councillors.
19 I mean, she can obviously give evidence as to her own
20 understanding and her own practice.

21 COMMISSIONER: Please stand up, Mr Cameron.

22 MR CAMERON: Sorry, Commissioner.

23 COMMISSIONER: If we are going to engage in a submission - - -

24 MR CAMERON: Sorry, sir, I just wanted to make that point.

25 COMMISSIONER: By all means. I'm asking the witness now what
26 she understood other councillors also did and the fact
27 that it appears that at no time did they as a group ever
28 seek to address the practice of people absenting
29 themselves rather than declaring a conflict. I wasn't

1 asking what their state of mind was.

2 MR CAMERON: I accept that, sir.

3 COMMISSIONER: Do you want to add - - -?---It wasn't my
4 intention to - to be in the room if it had something to do
5 with Mr Woodman, was not my intention.

6 No. What I'm really suggesting to you is that it wasn't just
7 you but other councillors also who chose the option or
8 what they thought was an option of absenting themselves
9 rather than declaring a conflict. But can we safely infer
10 from the fact that you absented yourself on this occasion
11 that's now before you on the screen that you recognised
12 that you might be in a conflict of interest
13 situation?---Yes. But I can't recall every single meeting
14 that I go to as well. So it's - if it's happened
15 afterwards it would have just slipped my mind.

16 What I want to suggest, Ms Serey, is that this - and you have
17 looked - apparently from an answer you gave a short time
18 ago, you have looked at the minutes generally?---Yes.
19 To see what your practice was, when you did absent yourself and
20 so on?---Yes.

21 That the practice of absenting yourself - not just you but
22 other councillors - was viewed as something that was
23 acceptable by you and other councillors?---Yes.

24 Yes, Mr McLaughlin.

25 MR McLAUGHLIN: Thank you, Commissioner. At ordinary council
26 meetings ordinarily the governance officer would be there;
27 is that correct?---Yes.

28 And the CEO?---Yes.

29 So, had you heard the declarations of interest that Councillor

1 Stapledon and Councillor Ablett had made, would it have
2 been open to you to go and discuss with them what steps
3 you should take?---Yes, it would have been open for me to
4 do that, yes.

5 So if it occurred to you sufficiently to leave the council
6 chamber, if in doubt get out, then shouldn't you also have
7 spoken to the CEO or the governance officer?---That's not
8 quite the process in the council chamber. It would
9 normally be that you would walk out and that the
10 governance person would give you a form. I can't just
11 interrupt the meeting and ask the CEO for advice or the
12 director of governance for advice. That was not the
13 practice to interrupt a meeting like that.

14 COMMISSIONER: No, I think what counsel is adverting to here is
15 not necessarily that you should have done something
16 immediately - - -?---Yes.

17 But did you ever take any step thereafter to regularise your
18 position by telling the CEO that you had a conflict?---No,
19 I don't remember that, no.

20 MR McLAUGHLIN: And at any other stage after October 2014 did
21 you remove yourself from a council debate in relation to
22 C219?---Looking back, no.

23 And it's your evidence that you don't recall either formally or
24 informally advising the CEO of a conflict of interest in
25 relation to C219?---Correct. I don't remember doing that
26 at all, no.

27 COMMISSIONER: And I take it it follows from what you've told
28 me that the CEO never went to you or to other councillors
29 to your knowledge that absented themselves and asked, "Why

1 are you absenting yourself if you haven't declared a
2 conflict"?---That never happened.

3 The CEO never did that?---That never happened, no.

4 MR McLAUGHLIN: The new CEO, Mr Patterson, gave evidence when
5 he was here before the Commission about just-in-time
6 advice in that verbal advice could be provided to
7 councillors during the course of meetings, should the need
8 arise?---Mm-hm.

9 Are you aware of that?---I can if I message the governance
10 person. But if they already started debating I had to get
11 out of the chamber.

12 And the form you mentioned - - -?---Yes.

13 You filled out a form about conflict, that was a particular
14 form drafted by the - - -?---Governance team, sure, yes.

15 And they would just provide you a copy - - -?---Give it to me.

16 You would fill it out, and it would be kept on council
17 records?---Correct.

18 Was anyone else other than the governance officer or the CEO
19 ever made aware of the nature of the conflict? Sorry, if
20 I might clarify first. We can see from that, the minutes
21 that we saw earlier, that Councillor Stapledon and
22 Councillor Ablett were quite clear about the entity which
23 gave rise to the conflict?---Yes.

24 But if you filed a form at a later stage or in advance of the
25 meeting were other councillors and the public more
26 generally aware of the nature of the conflict?---The
27 conflict of interest forms are public. But it wouldn't be
28 presented to the chamber or anything like that.

29 But would they specify the level of detail that Councillors

1 Ablett and Stapledon went into there?---Who would specify?
2 The forms?---Sorry, could you ask the question again?
3 My apologies. So they have named Watsons - - -?---Yes.
4 As the source of their conflict?---Yes.
5 Would any form that you filled out, or any other councillor for
6 that matter, be that specific in the level of identifying
7 the entity that gave rise to the conflict?---They can, but
8 they don't have to.
9 If the witness could be shown the video from 3 April.
10 Ms Serey, firstly, if I might tender - - -
11 COMMISSIONER: Yes, it's 169, minutes of council meeting of
12 21 October '14.
13 #EXHIBIT 169 - Minutes of council meeting of 21 October 2014.
14 MR McLAUGHLIN: This is a short video excerpt from the council
15 meeting of 3 April 2018. Just before we tee it up I might
16 ask some further questions. I asked you earlier about
17 Pavilion Estate?---Yes.
18 And your understanding of whether Mr Woodman or Watsons had any
19 involvement in that?---Mm-hm.
20 And you said "no "- not to your knowledge, rather?---Not to my
21 knowledge, no.
22 Were you aware of any other reasons that would give rise to a
23 conflict of interest for Pavilion Estate for yourself?
24 COMMISSIONER: Mr McLaughlin, could you keep your voice up just
25 a little, please?
26 MR McLAUGHLIN: Certainly?---Other reasons?
27 Other than the donations that Mr Woodman and Watsons had made
28 to your campaign, would there have been any other reason
29 why you were conflicted out of considering matters to do

1 with Pavilion Estate?---Not to my knowledge, no.

2 Play that video, please, now.

3 (Video recording played to the Commission.)

4 COMMISSIONER: I don't know whether the volume can be turned
5 up. Mr McLaughlin, can you just pause for a moment?

6 MR McLAUGHLIN: Yes.

7 COMMISSIONER: It just occurs to me, given that it's difficult
8 to hear what's being said, can you direct the witness's
9 attention to what it is you want her to be looking for in
10 this?

11 MR McLAUGHLIN: Certainly, Commissioner. The person standing
12 in the left of the screen there is Councillor Aziz?---Yes.

13 Is that correct?---Yes.

14 And he is moving the motion?---Yes.

15 And yourself is in the far right of the screen?---Yes.

16 Is that correct?---Yes.

17 In a striped top?---Yes.

18 And in the brief clip we saw just then we saw Councillors

19 Ablett and Stapledon leave the chamber?---Yes.

20 That's correct?---Yes.

21 Okay.

22 COMMISSIONER: And what's the motion that Mr Aziz is talking
23 to, Mr McLaughlin?

24 MR McLAUGHLIN: I will take the witness to the minutes of the
25 particular motion.

26 COMMISSIONER: Yes.

27 MR McLAUGHLIN: If we could show the video now, and then I can
28 take her to - - -

29 COMMISSIONER: But what is it you want her to be conscious of

1 as she's watching this, please?

2 MR McLAUGHLIN: Well, it's another instance of Ms Serey
3 removing herself from the council chamber without
4 declaring a conflict of interest.

5 COMMISSIONER: Yes.

6 MR McLAUGHLIN: But the minutes will be more - - -

7 COMMISSIONER: Expansive.

8 MR McLAUGHLIN: Exactly.

9 COMMISSIONER: Yes.

10 (Video recording played to the Commission.)

11 MR McLAUGHLIN: Stop there. If I could then have the witness
12 shown page 1263 of the court book, please. If we could
13 scroll down, please. Actually, if we could go down a bit
14 more so we get the subject in there. So this is a
15 consideration of a council report?---Yes.

16 "Amend planning permit for staged multi-lot subdivision at 14
17 Ballarto Road, Clyde, Pavilion Estate". So this is an
18 amendment to a planning permit in relation to Pavilion
19 Estate. We can see there, as is consistent with the
20 video, there's a declaration of conflict of interest from
21 Councillors Ablett and Stapledon?---Yes.

22 And the nature of the interest is described as a direct
23 financial interest. It notes that they left the chamber
24 at 7.15, which we saw on the video. Then you leave the
25 chamber shortly afterwards?---Yes.

26 Can you give an explanation as to why you left the
27 chamber?---I can't, but it looks like that I grabbed my
28 phone and my bag. So there was obviously something. But
29 I think this is the report - if you go further down it

1 actually - I'm not clear about when I come back to
2 council.

3 That's not in the material we have here?---Okay.

4 But I can advise you that you came back to council at the end
5 of the consideration of that matter?---Okay. Honest,
6 I couldn't tell you exactly why, but, yes, I - I don't
7 know.

8 COMMISSIONER: Do you see the way the minutes are recorded,
9 Ms Serey?---Yes.

10 Maybe one could say it asks a lot of whoever is drawing up the
11 minutes to try and work out what's to be made of the fact
12 that you suddenly swivel around in your chair and rush out
13 to the side?---Yes.

14 But whoever has written the minutes assumed you were doing so,
15 you were leaving because you had a class of
16 interest?---That's right.

17 What was that interest?---It doesn't look like I declared.

18 Do you know whether you had a conflict of interest on Pavilion?

19 Perhaps, Mr McLaughlin, can you remind Ms Serey who the
20 primary parties were in Pavilion Estate?

21 MR McLAUGHLIN: I can. If I can perhaps tender the video and
22 the minutes of that.

23 COMMISSIONER: Yes, what's the date of the video and the
24 minutes?

25 MR McLAUGHLIN: 4 April.

26 COMMISSIONER: 4 April - - -

27 MR McLAUGHLIN: 3 April, rather, 2018.

28 COMMISSIONER: '18. Yes.

29 #EXHIBIT 170 - Video and minutes dated 3 April 2018.

1 MR McLAUGHLIN: If I could have the witness shown page 1235 of
2 the court book. This is an earlier report from 20 March
3 2018?---Mm-hm.

4 In relation to Pavilion Estate. The second line of that report
5 notes, "Schutz Consulting on behalf of Wolfdene Pty
6 Ltd"?---Yes.

7 Would that have alerted you to a possible conflict in relation
8 to Watsons and Mr Woodman?---No.

9 So in March 2018 you were unaware of Mr Woodman having any
10 relationship with Wolfdene Pty Ltd?---And Schutz
11 Consulting, yes. I didn't know the relationship between
12 them, no.

13 COMMISSIONER: I would have thought, Ms Serey, in light of
14 what's happened over the last few years you would have
15 been more cautious about asserting so emphatically, so
16 positively that you didn't know of any association between
17 Wolfdene and Watsons. Do you think possibly - you are
18 very confident, are you, about this?---I don't recall.
19 I don't - - -

20 Please don't misunderstand me. All I'm pointing out to you is
21 you were very confident in the first place that you didn't
22 know Leightons or Watsons or Woodman was involved in C219,
23 and, as we have shown, that was incorrect. I'm just
24 asking you whether or not as a matter of caution do you
25 want to be quite as sure as you are about whether you had
26 no knowledge that Wolfdene and Watsons were
27 connected?---I'm very sure.

28 All right?---I didn't know the connection. Until I read the
29 article.

1 Okay. Yes, Mr McLaughlin.

2 MR McLAUGHLIN: Would there be any other - this is why I asked
3 you earlier whether there were any other reasons that you
4 might have a conflict of interest when considering
5 Pavilion Estate?---At the time I obviously didn't think
6 I had one. But, as you can imagine, I was very busy at
7 the time and I don't think I read the full reports in this
8 instance, I don't think, yes.

9 That goes to the question I asked you earlier - - -?---Yes.
10 Whether as part of your responsibilities as a councillor at the
11 City of Casey Council it is incumbent upon you to do that
12 due diligence yourself?---It is incumbent on me, but
13 I find that a lot of these reports are anywhere between
14 three and 600 pages. So I can't be across the detail of
15 every single report that comes in front of me. It's just
16 not reasonable.

17 But on the evidence you have given us the main source of
18 conflict for you is Mr Woodman and Watsons?---Yes.

19 And that in discharging your public duties you need to be able
20 to identify with certainty what matters coming before
21 council might give rise to a conflict?---Yes, that's my
22 role, yes.

23 But you have just told us that you haven't read the reports and
24 you haven't taken any other personal steps outside of
25 those reports to try and identify such a
26 conflict?---I would have read the executive summary at the
27 very least just to see that I don't have a conflict.

28 If I could seek to have that officer's report of 20 March
29 tendered?

1 COMMISSIONER: Can I just ask you, Ms Serey, in relation to the
2 legislative regime that operated in relation to conflicts
3 of interest it's a very complex set of provisions, isn't
4 it?---And it is ambiguous as well.

5 Did you feel at all times that you fully understood all of
6 those provisions?---I feel that I had a very good
7 knowledge of that. But it seems that sometimes the
8 legislation is up for interpretation.

9 Were other councillors ever expressing to you concern that they
10 had difficulty with those provisions?---I can't remember
11 anything like that, no.

12 Thank you.

13 MR McLAUGHLIN: Would you accept that you have failed to inform
14 yourself properly in advance of council meetings?---In
15 which regard?

16 In regard to these reports that you have said you didn't read
17 the attachments. You said you didn't read the detail
18 other than the executive summary in relation to Pavilion
19 Estate?---Well, as I said before, the reports can be very
20 long. I have three days to read them. I rely heavily on
21 the executive summary, which is the officer's report, the
22 ward councillors and the community if they have contacted
23 me. But 600 pages or even 300 pages is a lot to get
24 through, and I can't just be across every detail. I just
25 can't.

26 Would this have been an instance again where you have left the
27 chamber because Councillors Ablett and Stapledon have left
28 the chamber?---Possibly.

29 COMMISSIONER: What do you mean by that, Mr McLaughlin?

1 MR McLAUGHLIN: Well, the evidence that Ms Serey gave in
2 relation to the 21 October or, rather, the 17 March
3 meeting was that you saw the declaration made - -
4 -?---Yes.
5 By Councillors Ablett and Stapledon?---Yes.
6 And then you formed the opinion that you also had a conflict
7 and so you left the chamber?---Because of - because they
8 said in the nature of their conflict, yes.
9 Watsons?---Yes.
10 So I'm saying in the absence of your knowledge about the
11 3 April meeting of the conflict - - -?---In 2018?
12 In April 2018, the meeting we just showed you then?---Yes.
13 Councillor Ablett and Councillor Stapledon both left that
14 chamber?---Yes.
15 And then you leave the chamber a minute or so afterwards. Is
16 that another example of you cottoning on to the existence
17 of a conflict because of their conduct?---When I watch
18 that video that's not how I see it. But they are one year
19 apart from what - the two examples that you have given me.
20 If the implication is that I remember what happened
21 before, I just can't remember, you know, every meeting
22 that I go to. But I know what you are saying is the
23 implication that I knew, but I didn't know and it looked
24 like I was in a hurry. So I don't know.
25 But both Councillor Ablett and Councillor Stapledon have
26 absented themselves from many motions in many
27 meetings?---Yes.
28 On the basis of their conflict because of Mr Woodman; is that
29 correct?---I don't think they have said the nature of

1 their conflict every time. So it could be something else.

2 I don't know.

3 COMMISSIONER: That's an interesting point?---Yes.

4 When Ablett and Stapledon left the meeting was there any
5 pronouncement by them before they left as to the nature of
6 the conflict?---No.

7 No. So it's only the minutes that actually reflect the fact
8 that they are absenting themselves because of
9 Watsons?---No, not even - if you look at the minutes, it
10 doesn't - I don't think it says that. It just says a
11 conflict of interest.

12 But, in any event, it's not something that was said at the
13 meeting?---No, it wasn't.

14 Which would have alerted you?---Correct.

15 So what does that tell you about why you absented yourself?

16 You must have known something about the nature of the
17 issue that in your mind created a conflict or a
18 possibility of a conflict?---I didn't perceive to have a
19 conflict. I mean, just by watching that, that's not
20 something I would normally do, is just to rush out with my
21 phone and my handbag.

22 Yes. So you think you were leaving for some other
23 reason?---Very much it could have been. I mean, it was in
24 the middle of a campaign. But I couldn't be certain.
25 I couldn't be certain.

26 MR McLAUGHLIN: What would you ordinarily do when you left the
27 council chamber? Is there an anteroom or a waiting
28 room?---Yes. So in that building there's like another
29 room sort of attached. So you wait in there. Or if

1 I needed to go to the bathroom you have to sort of walk a
2 couple of metres away. So just waiting time. And there's
3 a councillors' room there. But that's about it.
4 So that room is for councillors' use?---Yes.
5 And would Councillors Ablett and Stapledon have been in that
6 room, given that they had absented themselves just shortly
7 before?---Possibly, or the room that was attached to the
8 council chamber, yes.
9 Did you discuss with them why they absented themselves from the
10 meeting?---Like I said before, earlier today, I didn't
11 really have a friendship. It was just pleasantries with
12 them. So I don't recall having a conversation with them.
13 You have told us earlier that you did declare and you did
14 understand the conflict you had in relation to Hall Road
15 and H3?---Yes.
16 Can you explain the nature of that conflict?---I actually
17 couldn't tell you exactly which report, but it was quite
18 clear in the report that - - -
19 From your memory, what was the cause of the conflict of
20 interest in relation to H3?---The donation I received from
21 Mr Watsons - Mr Woodman, which was Watsons. So it was
22 quite clear in that report.
23 And so who was Watsons or Mr Woodman representing in relation
24 to H3?---I couldn't remember exactly the link. But he was
25 mentioned or Watsons was mentioned quite significantly in
26 the report. But I can't remember what the report said.
27 If the witness could be taken to page 4705, please. Now, that
28 is the final email, but if we could scroll down to perhaps
29 the next page, just about there. That's an email from you

1 on Tuesday, 4 September?---Yes.

2 To Steve, I assume someone who is a council officer?---He was
3 the Acting CEO at the time.

4 "Hi Steve, I'm just declaring an indirect conflict of interest
5 for item 6.6 for recent donation made to my campaign as a
6 State candidate in the upcoming election"?---Yes.

7 Was that a reference to the donation made by Watsons?---It was
8 just a donation. He attended a function. So that's the
9 donation that I'm referring to.

10 When you say "he attended a function", you mean
11 Mr Woodman?---Yes, in early August.

12 So there was no-one else who had made a recent donation to your
13 campaign as a State candidate that would give rise to a
14 conflict of interest?---No.

15 In any other matters before council?---Sorry, if you could
16 repeat the question, sorry?

17 It doesn't identify in this email. It just says item
18 6.6?---Yes.

19 So I'm asking your assumption is that it is for
20 Mr Woodman?---Yes.

21 But there were no other donations to your 2018 campaign that
22 would have given rise to a conflict that you can
23 recall?---No, that I recall, yes, that's right.

24 If we could scroll up to the bottom of the first page. It's an
25 email from Holly de Kretser?---Yes.

26 At the council. "You have indicated below the nature of your
27 conflict. However, to comply with the Local Government
28 Act you need to identify the type and class of
29 interest"?---Yes.

1 So when you made that first declaration do you recognise that
2 that was not a sufficient declaration?---Yes, but that was
3 one minute later and then I responded again - - -
4 Yes, if we can scroll up you did - - -?---Yes, responded again,
5 "Conflicting duties".
6 Yes?---Yes.
7 And so if we could scroll to the bottom again. Now, those
8 categories there - - -?---Yes.
9 Are the categories as identified in the Local Government
10 Act?---Correct.
11 And you have identified "conflicting duty"?---Mm-hm.
12 Was there any reason that you say "conflicting duty" as opposed
13 to any of the other categories?---Back in 2014 I actually
14 sought advice from Ms de Kretser asking, after receiving a
15 donation, where would that fall in this, direct or
16 indirect, and she said, "Well, if you choose to declare it
17 would be indirect because it's not directly to you, and
18 then it's up to you which one you decide to tick, little
19 box." So I decided at the time that it was a conflicting
20 duty because I received the donation as a candidate.
21 That's how I justified it and that's been - well, for me
22 I have consistently tried to use that as the
23 justification.
24 So you saw it as a conflicting duty between your duties as a
25 councillor - - -?---Yes.
26 And your private interests as a candidate for the State
27 election?---Yes, yes.
28 Had you ever declared any of the assistance you had received at
29 State elections as gifts for the purposes of the Local

1 Government Act?---No, I didn't. I was advised by Ms de
2 Kretser that a donation does not classify as a gift.
3 For the purposes of the Local Government Act?---Yes, yes. A
4 donation that I receive in a State election. That was my
5 thinking from that first piece of advice that I received
6 in 2014.
7 So you sought advice early on prior to - when you were running
8 in the 2014 election in relation to donations at the State
9 elections?---Yes, I sought the advice when I received the
10 donation, just to check, yes. And then I needed to ask
11 her again when there was an ordinary return in
12 January/February the following year. I had to ask the
13 question again.
14 Okay. So while you were seeking that advice did it occur to
15 you to ask her for further advice on whether those
16 donations might also give rise to conflicts of interest?
17 Because they are part and parcel of the same thing?---Yes.
18 You take money in a State election campaign - - -?---Yes.
19 From Mr Woodman?---Yes.
20 You then enquire with the council officer as to whether you
21 need to declare that as a gift?---Yes.
22 But another of your obligations is to declare conflicts of
23 interest?---Yes.
24 So did you enquire with the council officer about the conflict
25 of interest?---Yes, this is the conversation I'm referring
26 to. So when I had to fill out - actually, wasn't filling
27 out. It was just asking the question about where would
28 that actually fall if that ever happened. It was actually
29 just a general comment to her back in 2014 about where

1 would that fall and where would I need to declare that.

2 If I might tender that email chain.

3 COMMISSIONER: Yes. Before you leave it, I'm just interested.

4 If you could just go down, please, to the next page.

5 Could you go down to 4706, please. 4706. This is in

6 September and this is a conflict that you are identifying

7 in relation to a donation for the forthcoming election.

8 So you had already received a donation, had you, from

9 Mr Woodman?---No. So that was - because you

10 have - councillors have conflicts of interest I think up

11 to five years. So Mr Woodman had come to a fundraiser of

12 mine in early August. So it's still the same - - -

13 Of this year?---Of that year, yes.

14 And, I'm sorry, what happened then?---He would have maybe paid

15 for a ticket or he would have paid for a ticket on the day

16 or at the event, which is still considered as a donation,

17 in my opinion.

18 I see?---But because it was still consistent with the donation

19 from four years ago, four years prior to that.

20 But this declaration of conflict was in relation to a donation

21 which - I just can't pick it up here now. It was on the

22 screen before. It's in relation to a donation for the

23 forthcoming election. Would you scroll down a bit

24 further, please.

25 MR McLAUGHLIN: You had it just there at the bottom of that

26 page. See just there at the bottom, Commissioner, above

27 the signature block, "For a recent donation made to my

28 campaign as a State candidate in the upcoming election."

29 COMMISSIONER: Yes. So this is a donation for a coming

1 election?---It's the same. But yes. He attended the
2 function in August.

3 Yes. And he paid for the ticket?---He would have paid for a
4 ticket.

5 Was that all it was a reference to?---Yes. But it's still
6 referring - I mean, I was referring to the recent
7 function.

8 Yes?---But I would have still had to declare because of the
9 donation I received in 2014.

10 Yes. But Mr Woodman - quite aside from the two letter posts
11 that we looked at this morning, Mr Woodman also made a
12 very substantial further donation to your campaign, did he
13 not?---Yes.

14 How much was that?---10,000.

15 And when did you get that from him?---When?

16 Yes?---Well, when I received the outline that was on
17 the - I think it was the 7th. 7 September, yes.

18 And how did that donation come about?---That was the
19 conversation I had with the secretary of Mr Woodman.

20 So does that mean - we have receipts in relation to actually
21 how much was spent on the postal ?---Okay.

22 And that amounted to \$17,000, approximately?---Okay.

23 So in total Mr Woodman contributed about \$27,000 to
24 you?---Okay.

25 Does that sound right?---I was not aware of the exact number.
26 But that was in relation to him attending the function.

27 And when you went to his secretary - - -?---She came to me.

28 Or she came to you, what was said about getting \$10,000?---That
29 Mr Woodman would be donating \$10,000 to the campaign, and

1 then the invitation to the luncheon she was organising.

2 That was the conversation. And then it - that's it.

3 There was an email.

4 Yes?---Yes.

5 Yes, Mr McLaughlin.

6 MR McLAUGHLIN: If we could tender that email chain from - - -

7 COMMISSIONER: Email chain between Ms Serey and Ms de Kretser
8 of 4 September '18, exhibit 171.

9 #EXHIBIT 171 - Email chain between Ms Serey and Ms de Kretser
10 of 4 September 2018.

11 MR McLAUGHLIN: If the witness could be shown page 1185,
12 please. So this is a portion of the minutes from
13 18 December 2018, and it notes there that you have
14 declared a conflict in relation to item 6.33, which we
15 will see further down the page is to do with the Hall
16 intersection. If we just pause there. The class of
17 interest is indirect interest by applicable gift. This is
18 in relation to the same matter, Hall Road. If we could
19 scroll down now to the top of the next - in fact keep
20 going down to the top of 1187. So that is item
21 6.33?---Yes.

22 To do with sequencing changes within the Lochaven Estate and as
23 that relates to the H3 intersection. The main issue
24 I want to draw your attention to there was that you
25 declared it as an applicable gift?---Mm-hm.

26 Was there any reason in between the earlier declaration in
27 September 2018 and December 2018 that you
28 changed?---I believe a mistake. It was a tick-the-box
29 situation with the category "indirect conflict of

1 interest" on the form. It was just a mistake.
2 So it wasn't a matter of you seeking further advice?---No.
3 Clarifying the nature of the conflict?---No. It was just a
4 mistake.
5 Okay. I seek to tender those minutes from 18 December,
6 Commissioner.
7 COMMISSIONER: 18 December '18, City of Casey minutes, exhibit
8 172.
9 #EXHIBIT 172 - City of Casey minutes of 18 December 2018.
10 MR McLAUGHLIN: I think I may have covered this in relation to
11 a slightly different angle, but if we can just confirm
12 that you have not received donations or political
13 assistance or gifts of any kind from any other
14 developers?---From other developers, not that I know of,
15 no.
16 When you say not that you know of, do you mean because you are
17 unaware of what moneys might have been donated to the
18 Liberal Party?---Yes.
19 But nothing to your knowledge has been given to you by any
20 other developer?---Not from my knowledge, no.
21 Only Mr Woodman and Watsons?---Yes.
22 If I could take you now to another topic. Are you aware of
23 Mr Aziz commencing a defamation action against a number of
24 Casey Council residents?---There was one. I can't recall
25 exactly the date, but I recall it, yes. It's quite a
26 contentious issue.
27 If I was to say it was in early 2017, would that accord with
28 your memory?---That's probably about right, yes.
29 And do you remember what the subject matter of that was?---It

1 was about a roundabout that the council needed to move
2 because there was going to be an estate being built on the
3 other side of the road and the only way that we could pass
4 the road back to - not back, to pass the road on to the
5 State government for them to duplicate and be responsible
6 for it and be part of VicRoads was for us to move the
7 roundabout.

8 And how did that then give rise to Mr Aziz launching a
9 defamation action?---To the best of my knowledge, at the
10 time it seemed to be a very contentious issue in his ward,
11 something about the community not wanting to move the
12 entrance of the estate on the other side that was - that
13 was already there, which is Berwick Springs, and I think
14 there was a series of attacks on the council and
15 Councillor Aziz being accused of corruption and something
16 else, just about his behaviour, and that's basically what
17 happened. And that was all on social media.

18 So these were social media posts made by residents of that
19 estate?---Yes.

20 Which would be the Berwick Springs Estate?---Yes.

21 Defamatory of Mr Aziz?---Mm-hm.

22 Is it your experience as a public figure - is it often that you
23 get defamatory remarks made about you in public?---I stay
24 out of the public, like, in terms of journalists and that.
25 So not me specifically. But Mr Aziz can make some
26 comments on Facebook and Twitter, and he may attract that.
27 But, for me, I sort of stay out of that as best as I can.

28 Are you aware of any other councillors ever launching private
29 defamation action?---No, no.

1 You were also present at council meetings where the City of
2 Casey Council voted to use ratepayers' funds to fund
3 Mr Aziz's defamation action?---Yes, I was there, yes.
4 Was that the recommendation of the council officers?---No,
5 I don't think so, no.
6 Are you ever aware of any other personal legal actions or
7 personal defamation actions being funded by council?---No.
8 So did it strike you as unusual that council would be paying
9 for Mr Aziz's personal defamation action?---It was quite
10 intense, I guess you want to call it, community outrage or
11 the riling up of those community members. There was even
12 a Facebook page started who basically was just bagging the
13 council and bagging Councillor Aziz. The way that I saw
14 it is if something like that happened to me I'd hope that
15 the council would see that that was in my position as
16 councillor and, you know, I would want some assistance if
17 I wanted to go down that track. But defamation is - can
18 go on for months, and that's why I would never take that,
19 but ...
20 And Mr Aziz was mayor at the time, was he not?---Yes.
21 And you were deputy mayor?---I was, co-deputy mayor, yes.
22 And on those occasions when that matter came before council as
23 co-deputy mayor Mr Aziz would obviously have to absent
24 himself from the decision making?---Yes, but there was
25 discussion from his end of, you know, the distressing
26 nature for himself. You know, my heart went out to him at
27 the time. I wouldn't want that to happen to me. But in
28 terms of decision making he was not there.
29 And the amount that was provided for was up to a maximum of

1 57,500?---Approximately, yes.

2 For his personal defamation action?---Approximately, yes.

3 And that amount came back to council on a couple of occasions,

4 at which time it was unanimously supported?---Yes.

5 So it was felt your sympathy towards Mr Aziz - - -?---Yes.

6 And his situation was felt more broadly within the

7 council?---Yes, and the fact that it was voted unanimously

8 shows that. Maybe one councillor, which is his ward

9 partner, may have not voted in favour for that. But

10 I don't remember. But if you are saying it's unanimous,

11 then yes.

12 So this matter last came before council in August 2018?---Okay.

13 When essentially a top-up of the final outstanding amount of

14 \$11,198 was added to the litigation fund?---Yes.

15 Do you recall that?---Yes, I remember something like that, yes.

16 So in total we are nearing \$70,000 in personal litigation costs

17 for Mr Aziz; is that correct?---Yes, in his role as a

18 councillor.

19 And you didn't see that as an extraordinary amount of money to

20 be spending on personal defamation action for a

21 councillor?---I can't comment on legal fees and how much

22 they charge. I know it's expensive.

23 COMMISSIONER: I don't think counsel was asking whether you

24 thought the legal fees were exorbitant. The question is

25 really did you think it strange that council should be

26 contributing to private litigation of one

27 councillor?---I didn't feel that it was strange. I just

28 had sympathy for Mr Aziz about that.

29 You?---I had sympathy for Mr Aziz, who was going through that,

1 because he was the one who was being targeted by the
2 community. But it did span over a long period of time.
3 So I can't speculate, you know - I knew that legal costs
4 were always going to be, you know, high, especially for
5 such a long period of time, probably a span of six months
6 roughly.

7 Mr Patterson has said that he thought it was an inappropriate
8 thing for the council to do. But I'm not sure,
9 Mr McLaughlin, that that's going to assist us much here.

10 MR McLAUGHLIN: Just one final question. Other than assisting
11 with handing out flyers or anything of the like, did
12 Mr Kenessey personally donate to your campaign?---He may
13 have because he attended that function in early August.
14 But I don't have the exact details because I was - - -
15 The Liberal Party - - -?---Yes, I was just going around to
16 every single person and thanking them for coming along.
17 But there were 150 people there. But it's very likely
18 that he donated in an auction or - I'm not sure. I don't
19 remember exactly.

20 If you don't recall - - -?---Yes.

21 No further questions.

22 COMMISSIONER: Ms Serey, if I follow the figures correctly that
23 at least we can say that by March of 2015 you had
24 appreciated that you were in a conflict of interest
25 situation in relation to C219 as a result of Mr Woodman's
26 donation to your State campaign. But, as I see it, apart
27 from two occasions when you absented yourself, you
28 remained present for all other council motions and
29 supported the motions, and there were some eight or nine

1 thereafter, supported the council motions which ultimately
2 led to the resolution that there should be a rezoning. Is
3 that right?---I didn't perceive there to be a conflict of
4 interest.

5 Even though you had twice absented yourself and, as you have
6 indicated today in your testimony, recognised that there
7 was?---Because my fellow councillors mentioned him, that's
8 what triggered me to get out.

9 Because?---Because my fellow councillors mentioned him in the
10 nature of the interest, that was what triggered me. But
11 over a span of seven - let's say four years I just forgot,
12 and it was not my intention to not - it was not my
13 intention to be there. In hindsight, obviously I did, but
14 it was not my intention.

15 And in relation to Brompton Lodge - remember Brompton
16 Lodge?---No, I don't remember the details of Brompton
17 Lodge, no.

18 You as recently as 5 February 2019 - - -?---Okay.

19 Declared a conflict of interest by way of indirect interest in
20 relation to Brompton Lodge?---Okay.

21 Do you recall why you then saw that you had a conflict when you
22 had not between 2013 and 2018 declared a conflict on each
23 of the occasions that the council passed motions?---For
24 Brompton Lodge?

25 For Brompton?---It probably became clear to me that I did have
26 a conflict. But I can't recall the exact - - -

27 You can't remember now why, why you thought you had a
28 conflict?---If it was a conflict of that nature it would
29 have been because of donations, yes, always.

1 Mr McLaughlin, just assist me. Other than Mr Woodman/Watson's
2 interest in Brompton is there any other party that might
3 have given rise to a conflict by Ms Serey?

4 MR McLAUGHLIN: No. There was no Leightons involvement in that
5 land.

6 COMMISSIONER: Yes, thank you.

7 MR McLAUGHLIN: Thank you, Commissioner. I have no further
8 questions.

9 COMMISSIONER: Nothing else? Mr Cameron, have you got some
10 questions you would like to put?

11 MR CAMERON: Mr Commissioner, I was wondering whether I could
12 ask for your indulgence, perhaps for a break for
13 10 minutes to take some instructions.

14 COMMISSIONER: Of course.

15 MR CAMERON: I wouldn't expect if there are any questions that
16 they will be very long at all.

17 COMMISSIONER: Very good. Ten minutes.

18 (Short adjournment.)

19 COMMISSIONER: Yes, Mr Cameron.

20 MR CAMERON: Thank you, Mr Commissioner. Three very brief
21 questions, if I may.

22 COMMISSIONER: Yes.

23 <EXAMINED BY MR CAMERON:

24 The first, Ms Serey, is can you please tell the Commission what
25 was your standard practice with respect to disclosing
26 conflicts of interest?---Standard practice for me would be
27 to identify the conflict of interest, fill out the form,
28 declare the conflict of interest where I needed to, which
29 is at the start of the meeting and before the item was

1 discussed, and if I missed it I would just walk out.

2 COMMISSIONER: If you what?---If I missed - if I made a
3 mistake, then I would walk out.

4 You mean if you had overlooked something?---Yes.

5 And realised on the spur of the moment?---And then I would have
6 walked out.

7 Ms Serey, one of the matters that the monitor relied upon
8 heavily in reaching her conclusion that the council should
9 be dismissed was that there were concerns about the
10 governance of the council, particularly in the area of
11 conflict of interest. Do you not think on reflection, and
12 the matters we have explored with you you might think are
13 an example of it, that things were not as rigorous as they
14 should have been in terms of the whole conflict of
15 interest process?---Yes, but I think it's what we talked
16 about before of having a multi-pronged approach to deal
17 with that in the legislation with being more detailed in
18 the report. But it was never my intention to make a
19 mistake.

20 But might I suggest to you that the fact that you didn't ask
21 questions that some might say you should have, for example
22 finding out who the individual donors were that might then
23 give rise to a conflict of interest, is a reflection on a
24 general approach that was adopted to the level of
25 insistence or the absence of a level of insistence about
26 rigorous identification of conflicts of interest; do you
27 agree with that?---I agree with that.

28 Thank you, Mr Cameron.

29 MR CAMERON: Thank you, Mr Commissioner. My second question,

1 Ms Serey: was it ever your intention to ever vote on a
2 matter where you were in a potential or where you were in
3 a position of a potential conflict of interest?---It was
4 never my intention.

5 And my third question, Mr Commissioner, and final question is,
6 Ms Serey, as far as you can recall if the name Watsons or
7 Mr Woodman was mentioned in a council meeting did you seek
8 to disclose a conflict of interest and/or not vote on the
9 matter or the motion before council?---Yes, that was my
10 practice.

11 No further questions, Mr Commissioner.

12 COMMISSIONER: Yes, thank you, Mr Cameron. Now, Mr McLaughlin,
13 is there any reason why Ms Serey should not be discharged
14 from her summons?

15 MR McLAUGHLIN: If she can be released.

16 COMMISSIONER: Very good. So I will now release you from your
17 summons obligation. You are of course welcome at any
18 stage if you wish to see the transcript or a video of your
19 evidence, you need only let the IBAC representatives know
20 and that will be made available to you. Thank you for
21 your assistance?---Thanks, Mr Commissioner.

22 You are free to go now. Thank you.

23 <(THE WITNESS WITHDREW)

24 MR CAMERON: May we be excused, Mr Commissioner?

25 COMMISSIONER: And I will excuse you from the Bar table,
26 Mr Cameron.

27 MR CAMERON: Thank you.

28

29