
TRANSCRIPT OF AFTERNOON PROCEEDINGS

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.

WARNING - CONTAINS PROTECTED INFORMATION.

These documents contain 'protected information' within the meaning of s 30D of the Surveillance Devices Act 1999 (Vic) (SD Act). It is an offence to use, communicate or publish this information except as permitted by the SD Act. Recipients should be aware of the provisions of the SD Act.

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

FRIDAY, 13 MARCH 2020

(22nd 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 2.22 PM:

2 <GARY JAMES ROWE, recalled:

3 COMMISSIONER: Yes, Ms Harris.

4 <EXAMINED BY MS HARRIS, continued:

5 Mr Rowe, we were speaking about the H3 intersection matter.

6 Did you meet with any stakeholders or interested parties
7 in the H3 matter?---Yes.

8 Who did you meet with?---Jon Fetterplace.

9 Where was he - - -?---Jonathon.

10 So Jonathon?---Jonathon Fetterplace.

11 Where was he from?---Dacland.

12 And when did you meet with him?---Before or after. After,

13 maybe. No, it was before - no, it can't have been before,
14 so it must have been after.

15 When you say after?---After the Aziz thing.

16 So after the 4 September motion?---I think so, yes.

17 And what was the purpose of meeting with him?---Just to get

18 background for me in relation to what was going on. It
19 actually had to be before.

20 So before the alternate motion was moved by Mr Aziz?---Yes,

21 yes, it had to be before because it was coming up and

22 I just wanted to know what the situation was, confirmation
23 of the education department and the timing of that.

24 When you say it was coming up, the matter in relation to the H3

25 intersection was coming before council on 4 September

26 2018, wasn't it?---Yes, it was.

27 But were you aware prior to 4 September that Mr Aziz intended

28 to move an alternative motion?---No.

29 So when you say you met with Mr - is it Fetterplace?---Yes.

1 That was in relation to the matter that council was already
2 considering and - - -?---Yes.
3 And had on the agenda for 4 September?---Yes.
4 Who was present at that meeting?---It was just myself, and I'm
5 not sure whether John Dwyer, one of the other directors,
6 was there. I'm not - I don't recall.
7 Is he a director of Dacland?---Yes.
8 Anyone else from council?---No.
9 Any planning officers or council officers?---No.
10 All right. And, when you say you wanted some background, what
11 did that relate to?---Exactly what the education
12 department needed and what they were proposing and getting
13 that sorted in my head so that, you know, I could actually
14 use that and be accurate, and also what they were doing
15 about, you know, their obligations and what they planned
16 to do there so that I knew a full story.
17 When you say "their obligations", do you mean their financial
18 obligations?---No, their obligations under the permit.
19 The permit has physical construction obligations as well
20 as in failure to deliver that they have to deliver money.
21 So it was more, you know, if they move from this cell to
22 that cell, what effect does it have here, because this
23 cell has got less houses in it, and that's when - you
24 know, they had said that they offered the - put up to the
25 officers that they were going to put a cash or a deposit
26 on the project.
27 Did you discuss what arguments you might put forward on their
28 behalf?---No.
29 Did they offer any arguments as to what they would like be put

1 on their behalf?---No, no.

2 So it was simply an information-gathering exercise for

3 you?---On my part, yes.

4 What about with Wolfdene? Did you meet with them?---No.

5 Mr Walker in his evidence suggested that you were acting for

6 Dacland and that you were bringing the rescission motion

7 of 18 September on their behalf; is that an accurate

8 statement?---No.

9 Did you speak with anyone from Dacland about the rescission

10 motion?---No, I just did it.

11 Pardon me for a moment.

12 COMMISSIONER: Did you make clear to Mr Kenessey that you

13 thought SCWRAG was being misused for the purpose of

14 H3?---Yes.

15 And what was his reaction to that?---I don't think he was

16 surprised.

17 What did you understand was Mr Kenessey's linkage to

18 SCWRAG?---I didn't think that he had any direct

19 involvement with them. He attended a meeting, a general

20 meeting, of SCWRAG in the early days, and I was invited by

21 them as a councillor to attend, as was I think a Labor

22 Party member of parliament, and, yes, it was just like

23 attending any other community meeting.

24 And that was to your knowledge the only connection between

25 Mr Kenessey and SCWRAG?---The only one that I was directly

26 aware of, yes.

27 What about his employer and SCWRAG? Did you know of a

28 connection between Mr Kenessey's employer and

29 SCWRAG?---Leightons?

1 Mm-hm?---Not - no.

2 So does it come as a surprise to you to have learned what
3 emerged in the Commission, that Leightons paid all of the
4 expenses of SCWRAG that were incurred in relation to
5 C219?---Okay. You are actually giving me some information
6 now that I hadn't picked up because I thought it was Megan
7 Schutz that paid it all, in what I read.

8 You're not aware that Leightons paid those funds?---No,
9 I wasn't.

10 And Mr Kenessey never ever told you that?---No.

11 Or when you told him that you thought SCWRAG was being misused
12 he had nothing to say to the contrary?---No.

13 MS HARRIS: Did you speak with Mr Woodman about the H3
14 intersection matter?---No.

15 Did he invite you to a meeting with him and Dacland
16 representatives?---No.

17 Could we play the call at tab 174, please.

18 COMMISSIONER: This is an intercept, is it, Ms Harris?

19 MS HARRIS: It is, Commissioner. It's a call between Mr Rowe
20 and Mr Woodman on 5 December 2018.

21 COMMISSIONER: Yes, thank you.

22 (Audio recording played to the Commission.)

23 MS HARRIS: Is that you having a conversation with Mr Woodman
24 about the H3?---Yes, and I still don't recall it, but it's
25 obviously there. But it's quite possible he rang to have
26 a go at me, and I obviously had a go back.

27 He in fact prior to this phone call rang to invite you to a
28 meeting with representatives of Dacland, didn't
29 he?---Well, I didn't recall him ringing me at all and, you

1 know, as it says there, I've obviously spoken to the
2 officers about it, and I've forgotten all about it ever
3 since because I didn't go.

4 If we could just go back up to the top of that call, please.

5 And if we can just scroll down a little bit, thank you.

6 At line 11 you indicate that you had obviously consulted
7 with the officers and also Dacland, "so before I'd said or
8 did anything". In relation to the officers, is that
9 council officers?---Yes.

10 And Dacland, is that the meeting that you have referred us to
11 earlier?---That I asked for information.

12 All right. Mr Woodman indicates above that, commencing at line
13 7, that they had said that at no stage had they spoken to
14 you about representing them. Had anyone from Dacland
15 spoken to you about representing them?---No.

16 Or their interests in relation to the H3?---No, not direct -
17 just doing my job as a councillor.

18 When you say "not directly", was there any conversation about
19 that?---No.

20 Why was it that you felt you needed to speak with Dacland
21 before the council meeting?---As I've said, I wanted to
22 have full knowledge of what I was going to speak about on
23 H3.

24 If we continue in that conversation, Mr Woodman complains to
25 you about the process that was undertaken and you
26 indicate - and this is me paraphrasing - that you thought
27 that was pretty normal practice?---Mm-hm.

28 Is that right?---As I have said earlier today.

29 There was nothing that caused you any concern about how the

1 matter was unfolding before council?---No.

2 If I could take you to the bottom, page 3, line 63, you say to

3 Mr Woodman, "If all of this had been done on planning

4 grounds and there hadn't been lies told about Evans Road

5 and Hall Road," and then you go on - - -?---Mm-hm.

6 What do you mean "if it had have been done on planning

7 grounds"?---I'm not quite sure there, except that, as

8 I explained previously, that was the general rule. We did

9 these things for developers.

10 Had you considered that they had gone about it the wrong

11 way?---No, not at all, because the officer advised me that

12 it was appropriate for them to have done it that way.

13 And you indicated that there had been lies told about Evans

14 Road and Hall Road. What does that mean?---The lies in

15 relation to, as again I explained earlier, the - where the

16 accidents were, what caused the accidents, the fact that

17 it was all predominantly Hall Road and Evans Road. So

18 basically repeating - said to him what I've already said

19 to the Commission.

20 So then if we go back to where you have commented on "if it had

21 have been done on planning grounds", don't let me put

22 words in your mouth but are you suggesting that the

23 alternate motion was moved on grounds that weren't

24 planning grounds?---Can I take a moment just to - - -

25 Of course, yes?---Do you know, I'm not sure.

26 All right?---I'm sorry.

27 And you refer on the final line there to being bemused by what

28 Ray Walker was doing?---Yes.

29 What was he doing?---The lies and stuff that he was doing and,

1 as I'd said before, about SCWRAG being out of control.

2 But I didn't obviously elaborate that, but what he was
3 doing in relation to that, it was wrong.

4 I understood your evidence earlier, certainly in relation to
5 that letter, to be that you didn't think that letter was
6 drafted by Mr Walker?---No.

7 Is that right? So specifically what was it that Mr Walker was
8 doing that bemused you?---Well, put his signature to a
9 letter that was not written by him.

10 Anything else?---The representations he was making in relation
11 to accident records, just basically that.

12 I tender that transcript, Commissioner.

13 COMMISSIONER: The date of that is?

14 MS HARRIS: 5 December 2018.

15 COMMISSIONER: I'm told we haven't exhibited the council
16 briefing paper as to council conduct on planning matters.

17 MS HARRIS: Yes, I seek to tender that also.

18 COMMISSIONER: And what was the date of that, Ms Harris?

19 MS HARRIS: Of the councillor briefing guide?

20 COMMISSIONER: Yes.

21 MS HARRIS: I would need to check, Commissioner.

22 COMMISSIONER: It was at the foot of the document. November,
23 from recollection.

24 MS HARRIS: Yes, it was November 2016. I can't remember the
25 date. 8 November 2016, Commissioner.

26 COMMISSIONER: Thank you. That will be exhibit 177.

27 #EXHIBIT 177 - Council briefing paper on council conduct on
28 planning matters dated 8 November 2016.

29 COMMISSIONER: And the last document will be exhibit 178, phone

1 conversation between Mr Woodman and Mr Rowe of 13 December
2 '18. It's September, isn't it? September?
3 MS HARRIS: December. 5 December.
4 COMMISSIONER: Yes, thank you.
5 #EXHIBIT 178 - Phone conversation between Mr Woodman and
6 Mr Rowe of 5 December 2018.
7 MS HARRIS: Mr Rowe, were you aware that Mr Walker was paid to
8 lobby in relation to Hall Road?---Not until I saw the
9 evidence.
10 Did it come as a surprise to you when you saw that?---It did.
11 I didn't think that was Ray. You know, he was a lovely
12 guy. I still think he's a lovely guy. He barracks for
13 Essendon; he's gotta be.
14 If I could just take you briefly to the Pavilion Estate, the
15 matter of Pavilion?---Yes, yes.
16 It came before council on 20 March 2018 initially, and then it
17 was deferred until 3 April 2018. I only want to ask you
18 briefly the motion that was passed was against the council
19 officer's recommendation; do you recall that?---I do.
20 I think that's what I was referring to as the previous
21 one, because I couldn't remember the name - - -
22 Is that the one you have referred to as Morison Road?---I think
23 so, yes, yes.
24 And in the council officer's report they indicate that the
25 application was not in accordance with the PSP?---Yes.
26 And in their view it would result in detrimental - a detriment
27 to the sporting complex and future residents of the
28 estate?---Yes.
29 Did you have any discussion with any of the parties to Pavilion

1 about that application?---I don't believe so, but I can't
2 be 100 per cent sure.

3 That was Ms Schutz's application, wasn't it?---Well, she would
4 have been running it. I don't know - I don't recall
5 speaking to anybody. I do know that I had significant or
6 a large - not a large number, a number of discussions with
7 the officers and particularly the effect it was going to
8 have on the entrance into Casey Fields and the fact that -
9 the backgrounds behind why that - what was happening. And
10 I did get some information, but - yes, I can't recall.

11 Was there ultimately a cost to the community when council
12 passed that motion?---There was. Well, I don't know how
13 it ended up, but potentially it was something in excess of
14 a million dollars.

15 Did that cause you any concern?---Absolutely.

16 You voted in favour of the motion, did you not?---I don't think
17 I was there. In fact, I know - I absented myself because
18 I attempted to change the view of others to vote against
19 it, and I think the numbers were 11 to one, and I just
20 absented myself. I wasn't going to just - I was
21 disgusted.

22 What was it that concerned you?---The fact that it was - Aziz
23 was pushing the motion.

24 Yes?---It was Geoff Ablett's ward. We had a master plan for
25 Casey Fields, and I was on the Casey Fields steering
26 committee. That, you know, we don't do things by halves
27 in Casey. You know, we make an environment for the people
28 to come and live, and we had - you know, we had set about
29 doing that with the second entrance to Casey Fields, which

1 would come about with the development of Pavilion Estate
2 as it was developed.

3 When you say you were speaking to other councillors about it,
4 was it the case that you were trying to convince them to
5 vote against it?---Mm-hm.

6 Unsuccessfully, it would seem?---Unfortunately.

7 Is there a benefit in your view to the community in relation to
8 the motion that was passed, or are you unable to
9 say?---The passed motion?

10 Yes?---It's a disadvantage. Yes, it's a disadvantage. I don't
11 know if it ended up costing us a million dollars but that
12 was the figure, and I - you know, it's just not - it's not
13 good practice, and, you know, the reason that the land
14 that was being developed was effectively landlocked, and
15 it needed to come under the railway line or over the
16 railway line, and that's where Pattersons Road comes in
17 and the arrangements that council had with the people
18 I mentioned previously.

19 Mr Rowe, I have just been passed a note to ask you to speak
20 closer to the microphone, please?---Sorry.

21 Thank you?---I keep thinking I'm talking - - -

22 Were you of the view that the motion moved by Sam Aziz in
23 relation to Pavilion was provided to him?---I would have
24 thought so.

25 Did you express that view to anybody?---Him. To him.

26 Anybody else?---I'm not sure who was acting CEO at that stage,
27 but I know David Wilkinson - the one I couldn't think of
28 before. David Wilkinson was running that at the time,
29 that area, and David and I had a number of conversations.

1 Unfortunately, David spoke - I'm not sure if Geoff was
2 mayor at that stage. Perhaps. But, anyway, unfortunately
3 he conveyed my concerns to Ablett and Aziz - well, not
4 unfortunately. I stand up for myself, but - and it
5 became - they were obviously aware that I was attempting
6 to stop it happening.

7 Did they discuss that with you?---No.

8 And did you have some concerns about the legality of the
9 motion?---I did.

10 What did you do about that?---Asked David to get some legal
11 advice, and I'm not sure 100 per cent what happened after
12 that. I think perhaps Pavilion or - may have backed down
13 somewhat but not totally. I'm not sure. In the back of
14 my mind I've got that there was some negotiations with
15 officers and Wolfdene, but I may be wrong on that.

16 All right. And you indeed expressed to Mr Woodman your concern
17 that Sam Aziz had been provided with motions that were
18 legally wrong in relation to Casey Fields?---I may have.
19 I may have.

20 Casey Fields is Pavilion; is that right? Casey Fields is also
21 Pavilion; is that right?---No, no, Casey Fields is the
22 largest sporting complex in Victoria that we built, and
23 it's home of Melbourne Football Club and various soccer
24 clubs. It's an absolutely magnificent asset.

25 So that's separate to the Pavilion consideration?---Yes, the
26 Pavilion is just the name of the estate. Their land
27 abutted our land.

28 I see. We have heard evidence that Mr Woodman donated to
29 election campaigns to local election and State elections

1 of councillors?---Yes.

2 Did he ever make a donation to you in relation to either a
3 State or a local election campaign?---He - if you've got
4 all of his tapes, he rang me one day, and I'll tell you
5 that story in a minute. But the answer is he assisted
6 with the facilitation of a fundraising campaign - not a
7 campaign, function, which I attended and I organised
8 people to attend, and out of that there was an amount - a
9 number of people paid cash for it. Some people paid by
10 cheque. It was I think 450 or thereabouts a head. And
11 I received a net amount in - I think somewhere in the
12 vicinity of \$10,000.

13 When you say he facilitated the function, does that mean he
14 hosted it?---I actually hosted it but - well, when you say
15 "hosted it", who organised the venue? He organised the
16 venue. But I was the - - -

17 COMMISSIONER: Sorry, who was he?---Woodman.

18 Yes?---That was in 2016.

19 MS HARRIS: 2016. So that was for the 2016 local council
20 elections?---That's correct.

21 Yes. So what aspect of the function did Mr Woodman
22 organise?---The facility.

23 Just the venue?---The venue and helped, you know, obviously
24 with the numbers of people that were working. His PA
25 undertook the secretarial work.

26 Did he attend, that is Mr Woodman?---Yes, he did.

27 Did Mr Kenessey attend?---Yes, he did.

28 When a function like that occurs do you get some kind of
29 notification as to who attended?---There were various

1 numbers floating around and people's names that did get
2 sent to me.

3 So there wasn't a list, like a guest list, that you would be
4 provided?---Not that I had in my possession. There would
5 have been at various stages - it was a fairly, what's the
6 word - a fairly quickly organised fundraiser.

7 Did Mr Woodman pay for his own ticket, do you know?---I don't
8 recall.

9 COMMISSIONER: Sorry, you are dropping your voice, Ms Harris.

10 MS HARRIS: I'm sorry, I asked if Mr Woodman paid for his own
11 ticket. In a situation, and I'm speaking more generally
12 now, like a fundraiser such as the one you are describing,
13 how could you as the candidate be sure that tickets
14 weren't being purchased by one person, that is several
15 tickets weren't being purchased by one person?---I don't
16 suppose you can.

17 So it could be, for example, that one person purchases 10
18 tickets; that's the case?---I would imagine so, yes.

19 And that would trigger for you the need to declare that,
20 wouldn't it, because it would be above the threshold?---If
21 I was aware of it, yes.

22 Is the obligation not on you to inform yourself of
23 that?---Well, I believed that each individual had paid for
24 their own and I went to - as you would be aware, I lost
25 that election and even as a defeated candidate I'm
26 required to make a declaration as to donations. And
27 I actually rang the inspectorate to - Local Government
28 Inspectorate to run that past them so that I knew that
29 when I sign the declaration that I was signing it

1 correctly. And it's actually noted on the declaration.
2 But you had no way of knowing whether each individual that
3 attended your function only purchased one ticket, did
4 you?---No, only by the number - true. They all had
5 tickets.
6 And it could have been that tickets were purchased on behalf of
7 people?---Well, everything's possible, yes.
8 The point I'm trying to make is that you had no way of knowing,
9 did you?---No, I didn't. But, you know, I guess that
10 comes from being - allowing others to do the work that
11 perhaps I should have done myself, which I was fairly busy
12 doing.
13 When you say "allowing others to do that work," who was doing
14 that work?---As I said, Woodman's PA, and people were
15 being invited by myself but Woodman's PA kept the list.
16 Was that list ever provided to you?---You know, I can't say
17 categorically no because I don't recall and, you know,
18 I don't keep records of those things.
19 COMMISSIONER: How did you come to arrange with Mr Woodman in
20 the first place that he should assist you?---I suppose it
21 was a bit of - actually, I'm not sure if Kenessey didn't
22 have something to do with it. I'm not sure about that.
23 But my acceptance of it was perhaps - demonstrates a
24 perverse sense of humour.
25 Leaving aside the possible irony, how did that arrangement
26 initiate? Did you go to Woodman?---No.
27 Or did you ask Kenessey to go to Woodman?---No, I never
28 asked - it was actually offered. I'm not sure - - -
29 It was just an offer that came out of the blue?---Yes.

1 From Mr Woodman or via Kenessey? You are not sure?---I'm not
2 sure. I'm not sure. Probably the reason - one of the
3 major reasons I would have accepted it, did accept it, was
4 that Woodman was funding nearly every candidate against
5 me. So I thought it was ironical. But anyway.

6 MS HARRIS: So it wasn't the case that you approached
7 Mr Woodman for assistance?---No.

8 You refer to a handwritten note on the back of your
9 declaration. Perhaps if we can pull up that declaration
10 at page 4565, please?---Yes.

11 Is that the declaration you are referring to?---Yes.

12 And then if we scroll down, please?---That's on the back.

13 That's the handwritten note after you spoke with someone from
14 the Commission?---Yes.

15 And it didn't occur to you at that time to perhaps ask what the
16 situation would be if one individual had paid for more
17 than one ticket?---It never entered my mind, to be honest.

18 You would agree, though, that that would then in that case,
19 where there's more than one ticket being purchased, give
20 rise to your obligation to declare that?---It would have.

21 Given - perhaps go back a step. You have indicated that
22 Mr Woodman arranged the venue?---Yes.

23 It sounds like he provided some administrative support via his
24 PA; is that right?---Yes.

25 What other assistance did he give you in relation to that
26 fundraiser?---In?

27 At all?---Well, there was a range of memorabilia there, but
28 I don't know that terribly much of that sold. I never saw
29 what occurred with that.

1 So, just to stop you there, is that for the purposes of being
2 auctioned?---I think he might have run a silent auction or
3 something like that. But I only received the net proceeds
4 of the actual donations or payments by cash.

5 Did he, that is Mr Woodman, donate those items for the
6 auction?---Again, I do not know that. They were not
7 dissimilar to the sorts of things that would be provided
8 by a retailer or a memorabilia seller that you see all the
9 time where there's a - where they have got a preset price.
10 It's like the vendor's bid in an auction where they have a
11 floor. It's got to get to that ceiling.

12 COMMISSIONER: A reserve?---Reserve, thank you, thank you. A
13 reserve price. I don't know.

14 MS HARRIS: You are not sure who donated those or what - -
15 -?---If they were in fact donated and they were just on
16 consignment.

17 COMMISSIONER: And you don't know what happened to the proceeds
18 of the auction that was conducted?---I don't know
19 that - Commissioner, I don't know whether it was a silent
20 auction or - because there was no actual auction took
21 place whilst I was there.

22 And the amount that you were given, who did that come
23 from?---That was - well, it was handed to me by Woodman
24 and he said, "These are the net proceeds from ticket
25 sales."

26 The cost of the premises, how much was that?---That's what he
27 meant by "net proceeds", the cost of - - -

28 So he deducted his - - -?---He was inferring that I got the net
29 and the costs were paid.

1 MS HARRIS: Did that in your mind create a conflict of interest
2 situation between you and Mr Woodman?---No.
3 Why not?---Well, I lost the election for a start. So it was
4 pre-election. I lost the election. And I had no
5 agreement or anything other than he was hosting it to see
6 if he could probably ingratiate himself with me; I don't
7 know.
8 He absorbed some of the cost of it, did he?---No, he's saying
9 "net proceeds". So I'm assuming that all the costs were
10 covered by the moneys from the people that were there.
11 Did you ask him specifically - - -
12 COMMISSIONER: So the use of the word "net" - - -?---To me - -
13 -
14 In the course of a conversation which he passes you money was
15 in your view sufficient to thereafter discharge any
16 obligation that you might have had then or at some later
17 point of time as a councillor to make any
18 declaration?---Yes.
19 MS HARRIS: What about the fact that he bought a ticket
20 presumably to your function? Did that not create a
21 conflict of interest situation?---I don't believe so.
22 Why not?---Well, Woodman wasn't - Woodman was not part of
23 anything that I was doing or I was involved in. Woodman
24 was separate. He was an employee and he wasn't affecting
25 my ability to make my decisions.
26 He was involved with the C219 matter, wasn't he?---He was a
27 consultant.
28 You understood him to have an interest in the H3 matter; isn't
29 that right?---My knowledge of who Wolfdene was up until

1 the Morison Road, Pavilion, I didn't realise Woodman had a
2 relationship with or was part of Wolfdene.

3 But, leaving aside whether or not he had an association with
4 Wolfdene, did you understand him to have an interest in
5 H3?---At the time, yes.

6 And you didn't think that his donating to your campaign by
7 purchasing a ticket gave rise to a conflict of interest
8 situation?---Well, I guess it gave rise perhaps
9 to - I didn't believe I had a conflict.

10 Did you believe you should have declared one?---Who else would
11 have stopped him?

12 Regardless of who would have stopped him, you had a conflict of
13 interest situation, didn't you? He had donated by way of
14 purchasing a ticket to your campaign, didn't he?---Well,
15 assuming he paid for his ticket, yes.

16 And you did make that assumption, didn't you? You assumed that
17 Mr Woodman paid for his own ticket?---I actually didn't
18 make that assumption at all.

19 Who did you think paid for his ticket?---I didn't know. Look,
20 I didn't ask the questions and I was comfortable in
21 operating on H3 because it was wrong. Now, if I could
22 have or should have or would have, I believe I still ended
23 up getting the right result for the right reasons.

24 It's not really the point, though, is it?---No, it's not.

25 You have an obligation to declare a conflict of interest as a
26 councillor, don't you?---Well, depending on the
27 circumstances. But every one of them were under \$500,
28 so - - -

29 But there's no threshold amount for a declaration of conflict

1 of interest, is there?---You know, I'm not sure about
2 that. I know we've got a declaration requirement on
3 hospitality.

4 Good governance would suggest that if somebody has made a
5 donation, whether it be by purchasing a ticket or a
6 donation by cash, that you declare that for the interests
7 of transparency; that's right, isn't it?---You could. But
8 the regulations say you don't have to.

9 The regulations say you don't have to what?---Declare anything
10 under \$500.

11 That's in relation to your campaign return; that's right, isn't
12 it?---Yes. And it's the same with the State Government
13 or - - -

14 I'm not talking about the State Government. I'm talking about
15 your obligations in relation to conflicts of interest - -
16 -?---Separately.

17 And making declarations of conflicts of interest. This is
18 something you should have declared, isn't it?---Perhaps in
19 hindsight.

20 COMMISSIONER: So an interesting question, Mr Rowe, is what was
21 it about the governance environment in the Casey Council
22 at that time that didn't make you realise at that time
23 that if you were going to be transparent, not leave
24 yourself vulnerable to some later criticism, that these
25 are amounts you should have identified for the purpose of
26 conflict of interest?---It needs to be abundantly clear
27 either in the legislation or some guidelines that "A, B,
28 C, D, this is what you've got to do".

29 And you don't think it was sufficiently clear or that there

1 wasn't an environment in which the legislation which did
2 apply was being adequately or rigorously enforced?---Well,
3 it certainly wasn't - I don't know about enforced,
4 but - well, it's up to the councillor to give the
5 declarations. It needs to be clearer, and in my view you
6 need to take all donations away from council. The only
7 way you can do that whilst we have got a competitive
8 situation that we do where people are encouraged to run
9 for public office is the State's got to bite the bullet
10 and fund the elections, because until that occurs you are
11 going to have the haves and the have-nots, the people who
12 know how to do it, the people that don't. You know, I'm
13 sorry if I've done something wrong.

14 Why would we stop at councillors, Mr Rowe?---I beg your pardon?

15 Why would we stop at councillors? Are members of parliament
16 less vulnerable than councillors to the possibility of
17 influence through donations?---You know, I've given that a
18 fair bit of thought before, having been in both. There's
19 pressure from political parties on candidates and right
20 now they don't run endorsed candidates. I understand
21 that's going to change some time before the next election.
22 But the pressure is on them to put up the funds to run a
23 campaign and - are we on air or off air?

24 It's being streamed?---It is. Okay. There are certain people
25 that don't know that and don't understand doing it, that
26 they have to actually get their own funds to run their own
27 campaigns, and that puts them under extreme pressure,
28 especially if they're - and not just council but in State
29 and Federal government as well. And that opens them up to

1 big donations and puts them at risk of being in danger of
2 having a conflict. So we have to remove that. I don't
3 know what the situation in the UK - the United States it
4 seems to be the same. But that has to be addressed.

5 Yes.

6 MR BONGIORNO: Might I indicate - I apologise for interrupting
7 my friend - that in due course I will be making
8 submissions about certain premises that underlie
9 Ms Harris's questioning, especially so far as it involves
10 a \$450 gift.

11 COMMISSIONER: Very good. Thank you, Mr Bongiorno.

12 MS HARRIS: Mr Rowe, you indicated that - - -

13 COMMISSIONER: Just a moment. Mr Bongiorno, if you think
14 there's an error in the premise, then it's probably
15 helpful for you to object at the time rather than attempt
16 to recover lost ground at a later point of time.

17 MR BONGIORNO: I certainly accept what the Commissioner is
18 saying, thank you.

19 COMMISSIONER: Not that I'm inviting objection, but I think it
20 would be more helpful, if you think there's a flaw,
21 identify it at the time.

22 MR BONGIORNO: Very well.

23 COMMISSIONER: Yes, Ms Harris.

24 MS HARRIS: How did you know that Mr Woodman was funding the
25 campaign of other candidates?---Rumour.

26 From whom?---Others talking. You know, and subsequently some
27 things that came out of the Commission which caused other
28 things to come out generally in the community or within
29 the elected community.

1 Back in 2016 whose campaign did you believe Mr Woodman to be
2 funding in terms of councillors that were - -
3 -?---Councillors?

4 Yes?---Well, it was a group that was run by effectively Aziz.
5 Who was in that group?---It's probably I think identifiable by
6 a newspaper wrap that was undertaken, with the exception
7 of Councillor Serey, who was invited to go in it on the
8 basis that - and she paid for hers - - -

9 Invited to go in what?---In the wrap, to have a section - a
10 wrap is around the outside of a newspaper.

11 Yes?---Something I instigated back in 1994 with the campaign
12 back then where you take the outside paper - and most of
13 the majors do it, the Herald-Sun certainly has a wrap on
14 the outside in that it is a page that's paid for.

15 Yes?---And people get the opportunity to put their photo and
16 their piece of information on that particular document.
17 Subsequent to that obviously there's been other
18 information coming out, you know, like about - just about
19 everyone that stood against me.

20 When you say subsequently, do you mean - - -?---Subsequent to
21 IBAC and people talking and what IBAC had disclosed and
22 then, you know, this is - so.

23 COMMISSIONER: What initiated your response was the question "a
24 team". Who was the Aziz team?---They were - - -
25 Have you got some difficulty in answering that at the
26 moment?---Yes.

27 All right. We will defer that for the moment, Mr Rowe?---Thank
28 you.

29 MS HARRIS: When you were speaking of the newspaper wrap which

1 paper are you referring to?---That would have been
2 the - I think it was either Star News or the Leader.
3 Berwick Cranbourne Leader. Berwick Cranbourne Star News.
4 I'm not sure which one in particular.

5 If I can return to the conflict of interest situation for a
6 moment. If a councillor declares a conflict of interest
7 in a matter and removes themselves from voting what do you
8 understand to be their obligations in terms of their
9 involvement in that matter outside of council?---They are
10 not supposed to be involved.

11 You indicated earlier that you thought Mr Ablett had spoken to
12 other councillors about the H3 vote?---It appeared that
13 way.

14 In your view would that be unethical?---You shouldn't do it.
15 You compare that to other councillors who are fastidious
16 and do an absolutely wonderful job of staying out of
17 things.

18 When they have declared a conflict of interest?---Yes.
19 Would it be something that would be in breach of the code of
20 conduct in your view?---To continue to - - -

21 Be involved in influencing how councillors are voting in a
22 matter that they have conflicted themselves out of?---Is
23 that in the Act?

24 The Act goes as far as to say that they are not to be a part of
25 the voting, but not further in terms of the background
26 involvement?---Okay, because I was of the belief that it
27 further went on, but it may have been - it may have come
28 from somewhere else. Code of conduct, I'm not sure that
29 it's actually in the code of conduct.

1 Are you aware of that happening other than the example that you
2 gave us earlier with Mr Ablett trying to speak with
3 councillors about the H3 vote?---With people staying in or
4 people - - -

5 Staying involved in a matter that they have conflicted
6 themselves out of?---No.

7 COMMISSIONER: In any event you would have understood that
8 principles of integrity require that if you had a conflict
9 of interest that would mean not only you don't vote on a
10 motion but you don't seek to persuade people outside the
11 chamber?---Absolutely, because you might as well do the
12 same - "I'll just stay here."

13 And I think to be fair most of the witnesses, with some
14 significant exception, have taken the same view as you.
15 But it needs to be enshrined in the legislation so that
16 there can't be any doubt about it?---Absolutely.

17 MS HARRIS: Commissioner, is it your intention to have an
18 afternoon break?

19 COMMISSIONER: Yes.

20 MS HARRIS: Is now an appropriate time?

21 COMMISSIONER: Yes. All right. 10 minutes.

22 (Short adjournment.)

23 COMMISSIONER: Yes, Ms Harris.

24 MS HARRIS: Mr Rowe, have you read the monitor's report?---No,
25 not in total.

26 Have you read any of it?---Not really. Oh, sorry, the
27 monitor's report?

28 Yes?---Sorry, I was thinking of the ombudsman's report.

29 No, no, the monitor's report from about a month ago?---Yes.

1 One of the issues she picked up on or comments on related to
2 conflict of interest and in her view a lack of
3 understanding amongst the councillors as to what needed to
4 be declared and how to declare it. Was that your
5 experience as well, that there was a lack of understanding
6 amongst councillors around their obligations to do with
7 conflicts of interest?---I think that's fair to say.

8 Did anyone raise those or did you raise that issue at any time
9 with members of governance or the CEO?---No, I may have
10 mentioned it to the monitor, though. But, no, not with
11 the governance.

12 She comments on a lack of understanding about the
13 interaction - these are my words, not hers - between
14 declaring a conflict of interest and transparency. Do you
15 agree with that?---Yes, I guess transparency and conflict
16 I think are - can be different, but I understand why you
17 are saying it because there are times where you must have
18 that transparency as well, and I think it comes down
19 perhaps too much to people's moral compass; that, you
20 know, the end sometimes justifies the means, and it
21 probably shouldn't be like that.

22 Do I take it then from that answer that you think there's too
23 much autonomy left with the councillors as to when to
24 declare a conflict of interest?---I think it needs to be
25 quite specific, even to the point of, "If this happens,
26 you have this issue. If that happens, you have that
27 issue. And these are your responsibilities."

28 Where should that guidance in your view come from?---I think
29 again it probably needs to be prescribed so that there's

1 not a variance. There's a huge variance between what
2 happens at the City of Casey in the way we run and the
3 volume of work that we do compared to just about any other
4 council, and it needs to be set out at a level where
5 everybody understands, "You are a councillor. You are in
6 council. These are your responsibilities. It doesn't
7 matter whether you are from Murchison or you are from
8 Narre Warren or Berwick, these are your responsibilities
9 and this is what it means."

10 To ensure consistency across councils; is that what you are
11 saying?---Yes, yes.

12 The monitor also refers to a failure to call out bad behaviour
13 by other councillors. Did you see examples of
14 that?---Look, I don't agree with her totally on that.
15 I would think I've done a relatively good job of that, and
16 there were others that would as well.

17 She gives specifically the example of a councillor or
18 councillors being - sorry, the leave of absence example
19 where perhaps there weren't sufficient enquiries made as
20 to the reasons why those leave of absences were
21 required?---That's the fault of the legislation. In fact
22 councils and councillors are specifically prohibited
23 within the Act from doing anything that will affect a
24 councillor's salary or allowance; the equipment that they
25 have got, being telephones and laptops; and the only
26 person that can do anything about it is the minister. And
27 the minister, all he had to do was come to council, or
28 through someone - he didn't have to do it - and say,
29 "I need you to lodge a complaint," because the City of

1 Casey tried to lodge a complaint with the inspectorate
2 that would have actioned all of those things and we were
3 told, "No, IBAC's got this under control." Now, where's
4 that leave a council who - you know, all of a sudden we
5 find that there's hundreds of thousands of dollars flying
6 around that people are being accused of and we are being
7 hooked in with it and we have done nothing wrong. But we
8 want to stop this person getting their income in Egypt and
9 we want to stop, you know, the other person getting their
10 income. We were prohibited to. But we got pilloried in
11 the media, and particularly The Age newspaper, which one
12 would have to - anyway, don't worry about that - - -

13 Perhaps I can return to the monitor's report?---Yes.

14 She refers also to councillors reporting that they observed or
15 experienced bullying. Was that something you
16 observed?---I don't believe - look, I don't believe it
17 happened in this council to the extent that it did in a
18 previous council.

19 Do you mean a previous council at Casey?---Yes.

20 Yes?---And there were times there where - like, I gave evidence
21 in a councillor code of conduct because a councillor had
22 been called out. But the preferred option - like,
23 wherever anything like that happens, if you've got a group
24 that needs to be cohesive and if the CEO or governance or
25 other people at council can bring those parties together,
26 mediate in the disagreement and come to an acceptable
27 resolution, then surely that's better than going down, you
28 know, a three-month process of getting a code of conduct
29 hearing happening and the like and then someone being

1 disgraced or whatever. That is a better outcome for a
2 harmonious council, particularly when you can't go to the
3 ultimate and sack them if you wanted to.

4 But what the monitor is reporting is what councillors reported
5 to her, which was that several had stated that they had
6 observed or experienced bullying by other councillors. My
7 question to you is: did you observe bullying by other
8 councillors?---I read that and - possibly, possibly one
9 instance, but it was not as I said before like it had been
10 in the previous council. I wouldn't have thought it was
11 bullying. It was robust debate. You know, at the end of
12 the day bullying is about the perception of the victim
13 and, if the person feels bullied, they are bullied.

14 Did any councillor complain to you about being bullied by
15 another councillor?---No.

16 You mentioned The Age. There was an Age article - there were
17 two Age articles in 2018 that suggested that certain
18 councillors were too close to those involved in planning
19 applications, amongst other things. Did you become aware
20 of those articles?---Yes.

21 There was also, you mentioned it earlier, the ombudsman report
22 released in 2015. When these red flags were raised what
23 action did council or council staff take?---Council as a
24 council group didn't undertake any actions. They were
25 allegations, and allegations that at the time we didn't
26 believe or they didn't believe.

27 Did governance address the issues and offer any advice or
28 training or reminders about best practice, good
29 governance?---No, not after the ombudsman report.

1 What about after The Age articles?---No, not really. There
2 was - no.

3 I want to ask you about the defamation action that
4 was - Mr Aziz's defamation action funded by the council.

5 Do you know what I'm referring to?---I do.

6 You weren't there when it was first brought to council. That
7 was in March 2017. In June 2017 you ultimately moved the
8 motion that council would fund the action up to a certain
9 monetary value, \$57,500. Do you recall that?---Yes,
10 I think I amended it. I amended I think the original
11 motion to actually have ceilings.

12 Why was it thought that it was appropriate for council to fund
13 a private litigation of Mr Aziz?---It was during his - as
14 a result of his public duties that he was being attacked;
15 that the officers weren't against it; you know, it was a
16 motion that was discussed with officers; and basically the
17 impression was that it was part of his being a councillor.
18 He was mayor. He was a target of significant personal
19 abuse, not that he didn't give as much back, I suppose,
20 and I guess allegations of other things.

21 You had no concerns about the council funding that
22 action?---I questioned it, but in the end agreed. It was
23 a majority decision.

24 Ultimately the costs were above the threshold that the council
25 agreed to pay and there was a subsequent motion moved to
26 cover the additional cost?---Only on the basis that there
27 was a settlement occurring and that the settlement would
28 go back to council and council would be below the
29 threshold.

1 The settlement was in the vicinity of \$15,000; is that
2 right?---Yes. No, I can't say "yes" because I don't know.
3 And the total cost to council was approximately \$80,459. So
4 with the return of the settlement money we have about
5 65,000?---I think the limit was 65,000, I think.
6 Had you ever seen, in your time in local council, council fund
7 the private litigation of a councillor?---No, but I guess
8 that's where I and others had never been in that position
9 where anybody needed council support for something that
10 wasn't disagreed, was part of their duties.
11 So this was new?---This was new.
12 And ultimately that \$65,000, that was ratepayers' money, wasn't
13 it, that was used?---Absolutely.
14 Mr Commissioner, I'd seek to go into private session.
15 COMMISSIONER: Before we do that, I've got some further
16 questions I would like to ask Mr Rowe.
17 MS HARRIS: Yes.
18 COMMISSIONER: Mr Rowe, one of the things Mr Kenessey told us
19 was that at one stage he was sending you and Ms Stapledon
20 the minutes of meetings that he and Mr Williams were
21 having with staff officers; I think he called it a review
22 in 2014. Do you recall that?---Minutes of his meetings
23 with our staff?
24 With council officers. What he said was that he was emailing
25 you and Amanda copies of the updated minutes with officers
26 of the review that was being conducted post-April
27 '14?---April '14? Look, it's possible. But right now,
28 Commissioner, I don't recall.
29 You can't remember. He went on to say that prior to the

1 October meeting, '14, which Ms Harris has asked you about,
2 there was a discussion with you and you suggested that all
3 of the councillors should be briefed about what had been
4 taking place, and so there was a quite detailed plan set
5 in train for all of the councillors to be briefed, some by
6 him, some by others; do you recall that?---I do, and part
7 of that was on the basis that I wasn't going to talk to
8 them on his behalf. He had to run his own, you know,
9 justification because, you know, it was their land, not
10 mine.

11 I know hindsight is a wonderful thing, Mr Rowe, but it's
12 curious that you had been working closely - you and
13 Ms Stapledon had been working closely with him about that
14 and then it became necessary to bring all of the other
15 councillors into the fold?---Well, only on the basis of
16 information to allow them to understand why on behalf of
17 the proponent. Commissioner, it's not unusual.

18 Isn't it?---No, no. Many times people wanting to do various
19 things will either seek a meeting with the council as a
20 whole or take the time and go from councillor to
21 councillor. It's not unusual at all.

22 All right. Do you recall having a discussion with Mr Kenessey
23 about the contributions which Mr Woodman had made to
24 Pauline Richards' campaign for State parliament?---As far
25 as - what, Woodman had been to a fundraiser?

26 Mr Kenessey has told us that he was told by Mr Woodman that
27 Mr Woodman had made or was going to make a very
28 substantial donation to Ms Richards' campaign in exchange
29 for which Ms Richards had indicated that she would look

1 favourably upon the C219 development proposal?---Okay.

2 Did Mr Kenessey tell you anything like that?---I was aware, and

3 it probably would have been from Tom. I would say this

4 about Pauline Richards, and understand - - -

5 I'm really only interested in you commenting on - I will come

6 back to that if you would like, but I would like you to

7 try and answer my question. Did you have a discussion - -

8 -?---I was aware that that had occurred or that that's

9 what Woodman had suggested.

10 Yes. And what did you say to Mr Kenessey?---I would have found

11 it difficult to understand why anybody that's supported by

12 the Electrical Trade Union requires any money, and this

13 goes to the person - - -

14 What did you say to Mr Kenessey?---Sorry, sir, I don't know

15 that I - I don't know that I commented much. I doubted it

16 would have happened and I doubted the person involved

17 would have - and I think I would have said that, something

18 along those lines.

19 You think you would have expressed some doubt to Mr Kenessey

20 about that?---Yes.

21 Thank you?---A long way of getting there, sir.

22 It's been a long day, I understand that, Mr Rowe. We heard

23 from Mr Kenessey that you invited him to go to a function

24 at which the previous Minister for Planning, Mr Guy, was

25 present; do you recall that?---That function never

26 occurred.

27 It didn't?---Oh, well, there was potentially two. Are you able

28 to give me a - - -

29 Yes, certainly. I will just take you to his evidence. So what

1 he said was you had invited him - it was to a fundraiser
2 for Susan Serey in Berwick and Matthew Guy was the guest
3 of honour. Do you recall that?---Yes.
4 And he and you and Ms Serey attended?---Along with about 50 or
5 so other people.
6 Yes. And was it a fundraiser?---It was, but a fundraiser of a
7 difference. No-one was asked to pay any money. If they
8 wished to donate, they could.
9 At the function?---At the function.
10 I see. So no-one paid for anything to get access to the
11 function?---No, no.
12 And what was the purpose of inviting Mr Kenessey to
13 that?---Well, when obviously being a member of parliament
14 and an older statesman, you know, you know how to do
15 things. You have got a range of people that you can tap
16 on the shoulder and say, "Hey, how about coming to this?
17 How about, you know - we have got an up and coming
18 candidate. She's really good. Just come and meet her.
19 That's all I want you to do." And that's how it happened.
20 So that's why I was involved and that's how it came about.
21 I think we understand how these things work, but we actually
22 need specific evidence of it, Mr Rowe. So was it for the
23 purpose of giving Mr Kenessey the opportunity of
24 establishing some level of relationship with Mr Guy?---No,
25 not whatsoever.
26 It wasn't?---No, and I don't know whether - I don't know
27 whether Tom actually spoke to him at all. Wasn't Matthew
28 at that time Leader of the Opposition?
29 I'm not sure what his status then was. I'm just looking at -

1 Mr Kenessey's account to us was when asked why he was
2 going there on behalf of Leightons his answer was, "It was
3 a way to build relationships with people who were decision
4 makers"?--Okay. That would be a common cause. But,
5 okay, I thought he was coming - because I asked him to
6 come and help out, yes.

7 So that brings us back to the question of donations - -
8 -?---Yes.

9 Or campaign funds or campaign fundraisers and so on. You
10 I think indicated that there plainly enough needs to be
11 some reform in this area?---Yes.

12 Does there not also need to be transparency about who - having
13 gained access or the opportunity for access to decision
14 makers or people who can influence decision makers, there
15 needs to be some transparency of that access?---In general
16 terms, yes. Yes.

17 And how's that to be achieved? Without placing an obligation
18 on the representative of Leightons in this case and on the
19 person to whom he wishes to make representations, and
20 Mr Kenessey explained that as a consequence of that
21 particular introduction he was able to prepare a brief and
22 make detailed submissions to Mr Guy's adviser?---Okay.
23 I wasn't aware of that.

24 Be that as it may, it's important that there's transparency
25 with respect to something like that, isn't it?---There is,
26 but by the same token he could have gone to one of the
27 golf clubs down on the sandbelt and met with Daniel
28 Andrews whilst he was playing golf, and it could have been
29 less than a coincidence. I'm not saying it happened, but

1 it could happen anywhere and when does that mean the
2 person - it shouldn't be - I'm in agreement with you. It
3 shouldn't be, "Come along to this function and you'll get
4 access." I think that's wrong.

5 But because there will be all sorts of occasions when there is
6 a casual interaction and the difficulty therefore in
7 drawing the line as to when there should be transparency
8 doesn't mean that we need to draw a line?---I don't
9 disagree, but it's not an easy task. It would certainly
10 put a huge impediment upon what people did socially,
11 particularly the members of parliament, people in power.

12 Yes. You mentioned that you learned that Leightons had sold
13 their land to Dacland. When was it approximately that you
14 learned of that?---Last year. Because as I said in
15 previous evidence that I believed that Dacland was there
16 as a construction partner.

17 Have I understood you correctly your understanding from
18 Mr Kenessey was that until that land was sold to Dacland
19 that Mr Woodman's interests had an unexecuted contract to
20 purchase that land?---As I understand it from what
21 Mr Kenessey said to me.

22 And so until 2019, whenever that contract for the sale of the
23 land was executed, Mr Woodman not only had, as you have
24 heard from Ms Harris, the success fee which turned upon
25 successfully completing the rezoning but also the prospect
26 of purchasing the land?---Mm-hm.

27 Very considerable incentives to seeking to influence people to
28 make sure the rezoning occurred?---If he had have done it,
29 yes. But, you know, it was something that was kept secret

1 from everybody obviously.

2 Did you at no stage get information from Mr Kenessey as to how
3 close to the minister signing off on the rezoning it was?

4 Did Mr Kenessey not give you any information at any of
5 your regular meetings?---I was providing him, you know, my
6 thoughts on that to him, that I doubted that the minister
7 was close to signing anything off.

8 So Mr Kenessey never told you otherwise?---Look, over a
9 two-year period I think it might have been mentioned a
10 couple of times. But, you know, imminent signing - - -

11 In the period immediately before The Age article came out - -
12 -?---Oh, okay.

13 Had Mr Kenessey given you any indication in the period
14 immediately before that - - -?---No, after.

15 As to what the likelihood of the rezoning approval
16 was?---After.

17 After. And what did he tell you then?---That the article had
18 stopped the minister from doing it, and he had been told
19 that by Woodman.

20 Yes, thank you.

21 MS HARRIS: Before my friend rises, Commissioner, I have been
22 reminded just a housekeeping matter. I neglected to
23 tender the email from Mr Rowe to Mr Kenessey dated
24 13 September 2018.

25 COMMISSIONER: I'm sorry, you have dropped your voice again.

26 MS HARRIS: The email, Commissioner.

27 COMMISSIONER: Yes, is that the one of 13 April?

28 MS HARRIS: 13 September 2018, and it had attached to it the
29 letter from SCWRAG dated 13 September 2018.

1 COMMISSIONER: Yes.

2 MS HARRIS: Perhaps if they could be tendered together, sir,
3 because it's an attachment.

4 COMMISSIONER: I thought I had made that exhibit 178,
5 Ms Harris. If not, 178.

6 #EXHIBIT 178 - Email from Mr Rowe to Mr Kenessey dated
7 13 September 2018.

8 COMMISSIONER: Did you want to produce the councillor code of
9 conduct and show it, the earlier version?

10 MS HARRIS: That wasn't the code of conduct, sir. Sorry, that
11 was the protocol.

12 COMMISSIONER: I'm sorry, yes.

13 MS HARRIS: It's at page 4428.

14 COMMISSIONER: And what do we understand is the date of this?

15 MS HARRIS: I just know it's 2007. I don't know the date.
16 Could we bring it up, please, 4428? Approved by
17 councillors on 24 July 2007. Have you seen this document
18 before, Mr Rowe?---Never. No.

19 COMMISSIONER: You don't want to have a better look at it,
20 Mr Rowe?---Well, because it's a 2007 document and reading
21 what it is, it's a protocol from that time, and if it's
22 identical to the previous one that I was shown - - -
23 I think the one you saw earlier is a variation?---Right.
24 There are further refinements. But you were never shown
25 this?---No.

26 Does that suggest that if you didn't see it there's probably
27 been a lack of focus by those responsible for adequate
28 training and education of councillors in not bringing this
29 to the attention of councillors?---I think there is room

1 for improvement, room for putting these - obviously they
2 can be in electronic format and now people can access
3 anything. But sometimes that's not enough.

4 Because you've seen neither this one nor the refined version -
5 - -?---No.

6 During your period in council, and it goes to the heart of the
7 appropriateness of how you deal with developers, the need
8 for council officers to be present and so forth?---Okay.
9 Look, that's not a bad thing, but one thing that I was
10 made aware of in the lunch break was perhaps that protocol
11 does not include all forms of planning and you've got
12 strategic and - somebody help me with the other word;
13 strategic planning and - - -

14 Yes?---One is planning for the future. The other one is
15 implementing changes and giving permits. This only
16 applies to one of them. But again I've not seen this one.

17 Very good. That will be exhibit 179, protocol for councillors
18 administering planning applications, 2007.

19 #EXHIBIT 179 - Protocol for councillors administering planning
20 applications, 2007.

21 MS HARRIS: Thank you, Commissioner.

22 COMMISSIONER: Thank you, Ms Harris. Mr Bongiorno?

23 MR BONGIORNO: I don't have any questions in re-examination.

24 COMMISSIONER: Very good. So there are some matters to be
25 raised in private examination. So if you will just bear
26 with us a few minutes, Mr Rowe, and we'll adjourn the
27 public hearings until Monday morning at 10 am.

28 <(THE WITNESS WITHDREW)

29 ADJOURNED UNTIL MONDAY, 16 MARCH 2020 AT 10.00 AM