
TRANSCRIPT OF PROCEEDINGS: Opening address

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

MONDAY, 18 NOVEMBER 2019

(1st day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH QC

Counsel Assisting: Mr Michael Tovey QC

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.*

8 MR TOVEY: Thank you, Mr Commissioner. On 7 August 2018 the
9 Independent Broad-Based Anti-Corruption Commission, IBAC,
10 commenced of its own motion an investigation into
11 suspected corrupt conduct within the City of Casey
12 council. The investigation to date has focused on whether
13 councillors within the City of Casey have accepted
14 undeclared payments, gifts or other benefits, including
15 political donations, in exchange for favourable council
16 outcomes.

17 Local councils play an important role in our
18 community. Councillors hold a high position of trust.
19 There is an expectation that they carry out their public
20 duty with integrity and act in the best interests of the
21 community they represent and they do so not for personal
22 gain and they do so in a way which gives no appearance
23 that what they are doing might be for personal gain. They
24 are in fact duty bound under the provisions of the Local
25 Government Act to act in the best interests of the
26 community and not for personal gain.

27 The Local Government Act sets out the objectives,
28 role and functions of a council. The primary objective of
29 a council is to achieve the best outcomes for the local

1 community, having regard to the long-term and cumulative
2 effects of decisions. In seeking to achieve this outcome,
3 the Act says a council must have regard to facilitating
4 objectives, which objectives include to promote the
5 social, economic and environmental viability and
6 sustainability of the municipal district, to ensure that
7 resources are used efficiently and effectively and
8 services are provided with the best value principles to
9 best meet the needs of the local community, to improve the
10 overall life of the people in the local community and to
11 ensure transparency and accountability in council decision
12 making.

13 So, in short, we expect our councils to
14 contribute to us living in a comfortable and secure
15 environment, to efficiently provide services and to make
16 decisions, the integrity of which is beyond question.

17 The investigation so far suggests a distinct lack
18 of transparency, accountability and in some cases
19 integrity around certain decisions of the City of Casey
20 Council and raises a disturbing level of suspicion around
21 the relationship between certain councillors and
22 individuals involved in property development. This
23 investigation, which has been named Operation Sandon, has
24 uncovered what appears to be very significant financial
25 relationships between property developers and/or planning
26 consultants and councillors where no conflict of interest
27 has been declared and where those same councillors have
28 either voted on planning or property development matters
29 or attempted to influence how other councillors should

1 vote, the outcome of which votes would impact
2 significantly on the planning decisions being made by not
3 only Casey City Council, but also by the state government,
4 where the decisions of council have been referred onwards
5 for consideration by either tribunals or by the minister.

6 Justice Gageler in a recent High Court decision
7 defined corruption in a way which was notably succinct.
8 Justice Gageler defined corruption in this way: "One
9 universally recognised form of corruption is for a public
10 official to receive money in a private capacity in
11 circumstances calculated to influence the performance of
12 the official's public duties." And the matters which have
13 been uncovered by the Commission's investigators would
14 suggest that that principle has from time to time been
15 overlooked and indeed it may be gravely overlooked.

16 There have been votes on matters relating to
17 developments where councillors who have been receiving
18 money or other benefits from a developer have not declared
19 the receipt of such benefits . Sometimes there has been a
20 declaration of conflict of interest which has not revealed
21 the extent or the nature of the conflict. Councillors in
22 the thrall of developers have attempted to influence the
23 vote of other councillors even on votes where they have
24 declared a conflict. The decisions which have been
25 affected by these defective processes affect planning in
26 respect of developments worth hundreds of millions of
27 dollars.

28 While the investigation has looked into the
29 planning decisions by the City of Casey Council, more

1 broadly these public examinations will endeavour to focus
2 on three planning matters which occurred throughout the
3 period of the analysis that will be conducted as part of
4 this hearing. The decisions of the council which will
5 come into particular focus will be, firstly, the decision
6 relating to the Cranbourne West precinct structure plan,
7 which was a rezoning application which came to be known as
8 amendment C219 to the Casey planning scheme; secondly, the
9 construction of an intersection in Hall Road in Cranbourne
10 West which was referred to as the H3 intersection and
11 which was in a development which was part of
12 the Cranbourne West precinct structure plan; and, thirdly,
13 focus will be turned towards the development known as
14 Pavilion Estate.

15 In respect of amendment C219, that is the
16 amendment which involved a proposal to amend the
17 Cranbourne West precinct structure plan to rezone land
18 which was initially designated as employment or industrial
19 land to residential land, an urgent matter of business was
20 raised by one of the councillors who was one of the
21 persons of interest to this investigation, Councillor
22 Aziz, that's Sameh S-A-M-E-H Aziz A-Z-I-Z, during the
23 4 February 2014 council meeting. That was a proposal to
24 rezone the land in question. The parcels of land were
25 owned by Leightons and by people, the Kelly family. The
26 rezoning of the land would have increased its value by
27 well over \$100 million.

28 The motion was supported and it was decided that
29 council should liaise with the owners of the industrial

1 zoned land within the Cranbourne West precinct structure
2 plan - and I'll refer to precinct structure plan as PSP
3 hereafter - to validate their request for council to
4 consider the possibility of preparing an amendment to the
5 PSP from industrial to residential and a report on the
6 matter to be provided to council by the first meeting in
7 April 2014. So that resolution effectively put in play
8 the rezoning of the land which became the subject of C219.

9 On 11 February of 2014 Leighton Properties and
10 Watsons, which is a company which is controlled by
11 Mr Woodman, on behalf of the Kelly family wrote to the
12 council requesting council's in principle support to
13 rezone their respective parcels of land within the
14 Cranbourne West precinct structure to allow for
15 residential development. The application after that came
16 to be amendment C219 to the PSP, and Mr Woodman and one of
17 his advisers, Megan Schutz, were engaged as consultants
18 for the purpose of the application.

19 In April of 2014 the council considered a council
20 officer's report in relation to the rezoning request and
21 decided not to provide in principle support for the
22 rezoning, but to carry out a review of the Cranbourne West
23 PSP to identify, in consultation with the proponents,
24 opportunities for alternative forms of development.

25 In October of that year council considered a
26 report following a review of the Cranbourne West PSP.
27 That of course is the report just referred to. The
28 substantive recommendations in that report were that the
29 proposed revisions of the Cranbourne West PSP were to be

1 endorsed by the council and the proposed revisions to be
2 subject to four weeks of public consultations.

3 The proposed revisions to the PSP included that
4 industrial and business park areas be combined and
5 designated as employment land. Employment land is land,
6 as distinct from residential land, which is going to be
7 used for employment purposes and which will include
8 industrial land. And, thirdly, that expanded provision be
9 introduced for alternative forms of development such as
10 mixed use, including residential, in appropriate
11 locations.

12 A community organisation known as Save Cranbourne
13 West Residents Action Group, given the acronym SCWRAG
14 pronounced "scrag" and I will henceforth refer to it as
15 SCWRAG, was established in 2015. The SCWRAG website
16 states that their purpose is to protect their community
17 and provide organised voice to lobby against industry in
18 Cranbourne West, and a significant part of the
19 investigation has been to determine the extent to which
20 Cranbourne West was an independent residents group or
21 whether it was in fact the creature of developers.

22 COMMISSIONER: That's SCWRAG?

23 MR TOVEY: That's SCWRAG, yes. Throughout 2015 the rezoning or
24 amendment C219 remained a live issue and indeed, so far as
25 we can determine, it still is. There was consultation
26 with the community about the rezoning, a community
27 information day attended by the proponents, Schutz
28 Consulting, and some councillors, a preparation to council
29 on the outcome of the public consultation and

1 consideration by council of reports relating to the
2 consultation process.

3 There were numerous council meetings dealing over
4 a long period of time with various aspects of C219. In
5 May of 2015, following the receipt of a petition signed by
6 730 signatories, a motion was carried to accept the
7 petition and to advise that council has sought a meeting
8 with the Honourable Richard Wynne, who was minister for
9 planning, to seek his advice on amendment to the PSP. So
10 by that time the matter had been referred to State
11 Government level.

12 In June of 2015 the minister for planning met
13 with the council and in December of that year he wrote to
14 the mayor authorising amendment C219, subject to certain
15 conditions. What followed was a consultation between the
16 council and landowners and various stakeholders, including
17 the Department of Environment, Land, Water and Planning,
18 VicRoads, Metropolitan Planning Authority and the
19 Department of Economic Development, Jobs, Transport and
20 Resources.

21 In June of 2016 council resolved to include
22 approximately 66 per cent of the 200 hectares of
23 industrial land in the PSP to residential land use. The
24 land removed from the amendment land was that owned by the
25 Kelly family represented by Mr Woodman and the major
26 involvement in promoting that proposal at council level
27 was Councillor Aziz.

28 In July 2015, Councillor Aziz proposed to revise
29 the land use plan adopted in the June meeting and the

1 motion was carried. That motion was later determined to
2 be invalid by reason of its not complying with local law.
3 Amendment C219 to the Casey Planning Scheme was ultimately
4 exhibited between 29 June and 31 July 2017. Submissions
5 relating to the amendment were also considered by Planning
6 Panels Victoria. In May of 2018 the council submitted the
7 amendment to the minister for planning, but on 16 October
8 2018 the minister wrote to the council and advised that he
9 had decided to defer making a decision about an amendment
10 to C219 pending the preparation of an industrial and
11 commercial land supply study for the southern region which
12 he expected to be completed in early 2019.

13 The deferral by the minister happened to coincide
14 with matters relating to the conduct of Casey City Council
15 and the relationship between developers and councillors
16 being ventilated in articles in The Age newspaper. At
17 present the publicly available information accessible to
18 IBAC suggests that still no final decision has been made
19 in respect of amendment C219 to the Casey Planning Scheme.

20 Evidence available to IBAC is that during the
21 period between February 2014 and October 2018 when the
22 City of Casey Council were considering the amendment
23 issue, some councillors received donations, gifts and
24 benefits. They were received from planning consultants
25 and property developers or entities associated with them
26 who were directly or indirectly involved in the
27 application. That's a matter to which I shall be
28 returning fairly shortly.

29 Going now to the H3 intersection, the

1 construction of the H3 intersection or Road is something
2 that was subject of much debate within the council from
3 September of 2018 to a period well into the following
4 year. It also attracted some significant media
5 commentary. Building this intersection was a requirement
6 under the planning permits issued by the council in
7 relation to three estates in the Cranbourne West area, the
8 Alara, Elysian and Lochaven estates, which as we
9 understand it were in the area which surrounded the
10 proposed intersection.

11 Two developers are involved with the development
12 of these estates. One, Dacland, that's D-A-C-L-A-N-D, is
13 developing Lochaven, and Alara and Elysian estates are
14 being developed by a company called Wolfdene, which is
15 closely associated with Mr Woodman.

16 Of particular interest in respect of the H3
17 intersection is the conduct of Councillor Aziz who moved
18 motions in an attempt to ensure the prompt construction of
19 the H3 intersection and not in accordance with
20 the recommendations of the council officer's report.
21 Whilst the recommendations contained in the council
22 officer's report in September 2018 were the council to
23 write to VicRoads to confirm the need to prioritise the
24 Hall Road intersection, Aziz moved a motion well outside
25 the recommendations of the report, the result of which was
26 to impose adverse cost obligations on Dacland and limit
27 their ability to develop in a timely fashion the Lochaven
28 Estate until the H3 intersection was delivered. The
29 decision seemed to considerably favour Wolfdene and

1 removed a considerable financial burden from them.

2 In support of the motion, Aziz relied amongst
3 other things on legal advice he did not provide to his
4 fellow councillors and the source of which he refused to
5 disclose. The solicitor of that advice, it is now apparent,
6 was from those associated with Wolfdene and Mr Woodman's
7 companies in promoting the fast development of the Hall
8 Road intersection in the way which has just been
9 described.

10 The basis of Mr Aziz's submissions was that the
11 safety concerns relating to Hall Road meant that it was in
12 the community interest to build the intersection
13 immediately. Councillor Aziz also moved a motion
14 requiring council officers to report back to the council
15 in October 2018 as to the timing and delivery of the H3
16 intersection and the as soon as practicable timing of the
17 completion of the duplication of Hall Road in its entirety
18 as part of the H3 T-intersection works.

19 The motion as it related to Dacland was rescinded
20 at the next council meeting following the council
21 receiving independent legal advice that what had been
22 proposed was illegal. Debate was raised about the
23 fairness of the obligations suddenly imposed on Dacland
24 and the apparent favouring of Wolfdene. In the face of
25 that, Councillor Aziz moved a new motion to deliver the
26 construction of the H3 intersection as soon as possible
27 and "that council officers advise the council what further
28 steps might be taken by council to achieve the
29 construction of the H3 intersection at the earliest

1 opportunity to resolve community safety issues." This
2 motion was carried on the deciding vote of a councillor,
3 Councillor Smith, who had been nominated to chair the
4 meeting by Councillor Aziz after the mayor had declared a
5 conflict of interest.

6 Just to explain, the way in which meetings worked
7 was that the chairman of the meeting, if necessary, had a
8 casting vote, so that person effectively had two votes.
9 So, if he was one of the councillors who was in the inner
10 circle supporting Mr Woodman's developments, he would have
11 two votes. If that person excused themselves or could not
12 attend, it would seem that they would arrange for somebody
13 else to chair a meeting in their stead.

14 It is important also I think to note that
15 councillors who disqualified themselves on the basis of an
16 assertion of conflict from the consideration of these
17 issues nevertheless took part in deciding who it was who
18 would chair the meeting.

19 In October of 2018 council considered a request
20 from Dacland for council to support an out of sequence
21 release of stages 10 and 11 of the Lochaven Estate prior
22 to the construction of H3. A report was submitted to
23 council recommending that the request be supported and
24 indicating support from VicRoads and council's subdivision
25 and development engineering team. The report stated that
26 the "traffics group do not identify the construction of
27 the H3 intersection as a standalone piece of work that
28 will improve safety and that no safety or traffic
29 implications would justify refusing the application."

1 Notwithstanding the recommendations, Councillors
2 Aziz and Crestani moved a motion against supporting the
3 request and to commence the construction of the H3
4 intersection immediately. Our investigations have
5 discovered that the early development of the H3
6 intersection would have provided windfall profits for
7 Wolfdene enabling it to develop land well ahead of the
8 time where it otherwise would have been able to. This
9 motion was carried once again on the casting vote of
10 Councillor Smith who had been nominated by Aziz to chair
11 the meeting.

12 The developer lodged an appeal against the
13 decision of the council with VCAT. Evidence available to
14 IBAC suggests that the timing of the delivery of the H3
15 intersection was of great importance, as I just indicated.
16 Whilst the rush was couched under the auspices of
17 community safety, it would appear that the motivation was
18 in fact financial and IBAC has identified financial links
19 between the relevant parties involved in both considering
20 and advocating for the H3 intersection.

21 Might we indicate that in respect of both the
22 C219 issues and the H3 intersection issues, investigations
23 have disclosed that SCWRAG made submissions supporting
24 Mr Woodman's clients in respect of both of those.
25 Investigations have disclosed that there was a close
26 association between SCWRAG and Mr Woodman's companies and
27 those who worked for him in respect of the development of
28 these proposals.

29 Consultants representing Wolfdene in their

1 dealings with the City of Casey Council in relation to the
2 H3 intersection were Watsons and Schutz Consulting. John
3 Woodman, as I have already indicated, is a director of
4 Watsons. Megan Schutz is an associate of Mr Woodman with
5 links also to Wolfdene.

6 At the relevant time the council was consulting
7 and considering the H3 intersection, payments were made
8 into the bank accounts of two councillors, one of those
9 being Councillor Aziz and the other being Councillor Geoff
10 Ablett. IBAC accountants have traced those payments as
11 coming from Watsons, Mr Woodman's company. Further, the
12 Woodmans and their associated entity Wolfdene stood to
13 make very considerable financial gain as a result of the
14 H3 intersection going ahead and there was obviously
15 considerable financial gain to be achieved if their
16 obligations, that is their obligations under the original
17 permit in respect of building the intersection, were moved
18 to Dacland or to the council.

19 The local residents action group, SCWRAG, were
20 campaigning hard for the prompt construction of the
21 intersection, citing community safety as their motivation.
22 Investigations to date have revealed that payments were
23 made into an account associated with the SCWRAG president
24 and that Leightons and Woodman entities also made
25 donations to the SCWRAG organisation. IBAC accountants
26 have discovered that these payments were made by Watsons
27 and Ms Schutz of Schutz Consulting and that those payments
28 amounted in total to \$193,000.

29 It is expected that examination of this matter

1 will illustrate how Mr Woodman attempted to curry favour
2 with people he believed would assist in influencing
3 planning matters in which he had an interest. Part of the
4 motion passed by Councillor Aziz in September 2018 was for
5 council to write to and meet with VicRoads as well as the
6 elected member for Cranbourne, Mr Jude Perera MP, and
7 Labor's candidate for Cranbourne, Ms Pauline Richards, to
8 outline safety concerns relating to Hall Road's existing
9 conditions as expressed by local residents seeking
10 affirmation that an upgrade of the Hall Road/Evans Road
11 intersection and the Hall Road/Cranbourne-Frankston Road
12 intersection be a top election priority.

13 Public examinations will look at, amongst other
14 things, the motivation to move the initial motion as well
15 as that of councillors who voted in support of the motion
16 and any improper conduct on behalf of councillors in
17 receiving money, gifts or benefits and the conduct of
18 interested parties to the planning matter who may have
19 attempted to influence the outcome by offering or giving
20 payments or benefits to councillors.

21 I move now on to Pavilion Estate. In December
22 2017 Schutz Consulting, on behalf of the property
23 developer Wolfdene, made an application to council seeking
24 to delete and make amendments to a planning permit
25 relating to the Pavilion Estate development, which if
26 granted would result in additional land being developed
27 within the estate. The requested amendments included the
28 reduction in road reserve width and deleting a condition
29 requiring certain active open space area in the

1 development.

2 So, the nature of the amendment to the previously
3 provided planning permit was such to make provision for
4 less land for public use and more land to be sold. The
5 City of Casey planning officers prepared a report for the
6 council meeting recommending that the amendments to the
7 permit not be made. The report noted, "The loss of the
8 linear open space area will result in a poor outcome for
9 residents of the Pavilion Estate and the users of the
10 Casey Fields regional sports complex."

11 The report cited legal advice which supported the
12 fact that the relevant planning permit condition relating
13 to the linear open space area was legitimate and likely to
14 withstand any legal challenge at VCAT should the applicant
15 make one. Further, the legal advice was the road width
16 conditions in the PSP were clear and supported the
17 condition relating to road width. Council officers also
18 expressed the view that a reduction in the road width as
19 sought would have a negative impact on both the operation
20 and further development of the Casey Fields regional
21 sports complex.

22 On 3 April 2018 Councillor Aziz moved a motion
23 contrary to the report in favour of the deleting of the
24 conditions relating to road width and open space and
25 issuing an amended planning permit and the motion was
26 carried. Of significance is the fact that in early 2017
27 the developers, Wolfdene, and their planning consultants,
28 Watsons, and council officers involved in a consultation
29 process prior to the planning permit being issued.

1 As part of that consultation process, the matter
2 of reducing the road width as well as reducing the open
3 space areas appears to have been well ventilated between
4 the parties. The report of council officers indicates
5 that the requirement relating to the road width under the
6 Cranbourne East PSP was made clear to the developers well
7 before they lodged their original application for a
8 planning permit. Developers knew the council officers'
9 position on these matters when they advised council
10 officers that they were generally satisfied - and this is
11 a quote - they were "generally satisfied with
12 the conditions proposed to be included in the planning
13 permit and requesting that council issue the planning
14 permit without delay."

15 A planning permit was issued on 22 November 2017
16 and inside a month the application for amendment was made
17 on 20 December 2017. IBAC intends to investigate this
18 matter and any connection between the decision to move the
19 motion for the 3rd April with the commencement of regular
20 payments to Councillor Aziz by Watsons, payments which
21 seem to have commenced in February '18. Having said that,
22 it must be pointed out that it will become apparent that
23 there were payments being made to Councillor Aziz in
24 various forms well before that. However, the form changed
25 at about that time.

26 IBAC is also interested in what appears to be a
27 failure by Councillor Aziz to declare any conflict of
28 interest, perceived or otherwise, in respect of Watsons
29 and/or Woodman and indeed, so far as our enquiries have

1 been able to obtain access to council records and minutes,
2 it would appear that in respect of all these developments
3 Councillor Aziz voted time and time again in a manner
4 which favoured the developers without ever indicating that
5 he had what we would say was an obvious financial
6 relationship with Watsons and with Mr Woodman.

7 The investigators have identified that a common
8 connection with each of these projects is the property
9 developer John Woodman. Evidence suggests that Mr Woodman
10 and some of his associates have considerable access to
11 certain councillors and what might be seen as unusual
12 input and influence over decisions in which those
13 councillors are involved. Investigations to date also
14 strongly support the notion that certain councillors have
15 benefited in various ways, including financially, from
16 Mr Woodman or his companies or his associated entities or
17 representatives.

18 IBAC forensic accountants estimate that two
19 councillors have received payments personally or to
20 entities relating to them of a combined total in excess of
21 \$1.2 million. Mr Aziz, the analysis suggests, has
22 received close to \$900,000 and Mr Ablett over \$330,000.
23 But the payments are just some of the devices used to
24 provide benefits to councillors. Mr Woodman and those who
25 worked for him or represented him kept a very close and
26 controlling association with a core group of councillors
27 who were expected to and did line up votes in favour of
28 his interests. Benefits ranged from what appears to be
29 patently corrupt cash payments through structured

1 arrangements designed to disguise the flow of funds from
2 Mr Woodman or Woodman related entities to arrangements
3 which appeared to be the purchase of services from
4 consultancies but where those services or indeed the
5 existence of the consultancies is in doubt or of dubious
6 worth. These devices were calculated to have considerable
7 impact not only on the integrity of the decision-making
8 process, but also on the structure of the council itself
9 and to some extent on the ability of its employees to act
10 independently.

11 The evidence available to IBAC suggests that
12 Mr Woodman also donates to the election campaigns of
13 political candidates that may be able to have some
14 influence in respect of projects in which he has an
15 interest and that those persons knowingly or otherwise are
16 expected to involve themselves in pursuing his interests
17 in respect of planning decisions which have become part of
18 the process of political consideration. So, his reach it
19 is apparent is not limited to local council, but appears
20 to extend to State Government. Over the last three
21 elections he and organisations associated with him have
22 contributed over \$400,000 to state political campaigns.

23 Of interest to IBAC also is the use of such
24 donations and of lobbyists to obtain access to public
25 officials and to members of parliament and the influence
26 such access may have had on planning decisions in which
27 Mr Woodman had an interest. Also of interest is the way
28 in which political donations were structured and directed
29 towards specific candidates from areas where Mr Woodman

1 had interests as a developer.

2 At the local government level, the Local
3 Government Act of 1989 outlines the requirements for
4 candidates at a local government election to disclose any
5 donation or gift or services where the amount of value
6 exceeds \$500. The payments to which I have referred were
7 not disclosed in those returns.

8 COMMISSIONER: I'm sorry, are not?

9 MR TOVEY: Are not disclosed in those returns. The City of
10 Casey gifts and hospitality policy requires councillors to
11 decline gifts over \$50. Requirements relating to the
12 disclosure of donations for state elections have recently
13 been amended, but for the time period of interest to the
14 investigation were far less rigorous than those relating
15 to local government. Two councillors, Councillors Ablett
16 and Stapledon, were candidates in the 2014 state election.
17 A Victorian ombudsman investigation revealed that both
18 councillors received significant donations to their
19 campaign funds from the property developer Watsons Pty
20 Ltd.

21 IBAC is interested in any nexus between donations
22 to political election campaigns of councillors by property
23 developers and/or planning consultants and planning
24 decisions that favour those donors. It is intended to
25 explore whether sufficient transparency exists within the
26 donation requirements to be able to adequately identify
27 actual or perceived conflicts of interest and/or corrupt
28 conduct associated with political donations and planning
29 decisions.

1 These public examinations will also seek to
2 investigate whether Mr Woodman has influenced or attempted
3 to influence, either directly or indirectly, planning
4 decisions in favour of companies in which he has an
5 interest or which he represents by using political
6 donations as leverage.

7 As to conflict of interest, the Local Government
8 Act says that councillors must avoid conflicts between
9 their public duties and their personal interests. This
10 obligation is also reflected in the Casey Council's own
11 policy and procedures document and the councillors' code
12 of conduct. The failure by a councillor to disclose a
13 conflict of interest as required under the Local
14 Government Act may amount to a misuse of their position.
15 If it is found that a councillor misused his or her
16 position in circumstance in which he or she gained or
17 attempted to gain an advantage for himself or herself or
18 another, fines and penalties of imprisonment may be
19 imposed.

20 The legislation sets out how a conflict of
21 interest in a matter should be disclosed. The disclosure
22 can either be made to the council at the council meeting
23 before the matter is considered or to the chief executive
24 officer in writing before the meeting. Either method
25 requires councillors to disclose the type of interest as
26 either direct or indirect interest and to describe the
27 nature of the interest. Where councillors disclose a
28 conflict to the CEO, they need only inform council during
29 the meeting of a class of interest disclosed and only

1 immediately prior to a matter being considered by council.

2 The investigation to date has uncovered what
3 appear to be examples of councillors failing to disclose
4 conflicts of interest that ought to have been disclosed or
5 disclosing them in a manner which is not permitted under
6 the Act. IBAC is interested to uncover the circumstances
7 giving rise to the conflicts of interest and the reasons
8 for non-disclosure or non-compliance with the Act. It is
9 yet to be established whether the non-disclosures were
10 deliberate or due to a lack of understanding of what
11 constitutes a conflict and what should be and what should
12 not be disclosed.

13 Having said that, it is apparent on occasion that
14 where conflicts were disclosed that they gave the
15 impression of being inadequate, disingenuous and indeed
16 misleading. It may be that, Mr Commissioner, IBAC will
17 ultimately turn its mind as to the adequacy of the current
18 regulations relating to the identification of conflicts of
19 interest and the declaration of those conflicts. Except
20 in certain circumstances, failing to disclose a conflict
21 or comply with the method of doing so is an offence which
22 carries a substantial fine.

23 Over the next three weeks we intend to call 11
24 witnesses who we believe can assist in the further
25 investigation of this matter. In that regard one witness
26 who is of obvious interest will not be present with us,
27 and that is Mr Ablett.

28 COMMISSIONER: Sorry. Mr Ablett?

29 MR TOVEY: Sorry, did I say Mr Ablett? Mr Aziz. Shortly after

1 Mr Aziz was the subject of the execution of a warrant, the
2 following weekend he put his house on the market and sold
3 it. The proceeds of that sale have since been the subject
4 of a restraining order sought by the Commission.

5 Mr Ablett - - -

6 COMMISSIONER: Mr Aziz.

7 MR TOVEY: Sorry, Mr Aziz was subsequently examined in private
8 session and then in early November he - sorry, following
9 that, some four or five weeks ago he flew out to Egypt and
10 we are unaware as to if and when he might be returning.

11 The other witnesses who will be giving evidence,
12 as is already apparent, will include Mr Woodman. There
13 will be other councillors who will be called to give
14 evidence. There will be members of the council staff who
15 will be called to give evidence and persons who have acted
16 as lobbyists and consultants in the various areas of
17 planning that have been the subject of investigation.

18 We intend to examine the practices that existed
19 within the Casey City Council at the relevant times with
20 respect to planning and development decisions and the
21 management of conflicts of interest as well as the role of
22 lobbyists and the makers of political donations, and also
23 the effect of political donations.

24 The purposes of the examination are to further
25 investigate the decision making within the council around
26 planning and property development and to examine the
27 transparency and integrity of such decision making within
28 local government; to investigate whether any person has
29 improperly influenced or attempted to improperly influence

1 decisions of any public officers; to investigate whether
2 public officers involved in planning and property
3 development decision making have been improperly
4 influenced through donations, gifts, pro bono services or
5 other hospitality; to examine the circumstances
6 surrounding any direct or indirect financial benefits
7 obtained by any public officer, their families or their
8 associates resulting from or in connection with decision
9 making around planning and property development; to
10 examine the existence and adequacy of systems and controls
11 that are in place to ensure the integrity of the planning
12 processes within local government and compliance with
13 relevant legislation; to examine whether the use of
14 professional lobbyists or planning consultants to lobby
15 state and local government has resulted in undue influence
16 over planning and property development decision making
17 within Victoria; to examine whether there has been serious
18 corrupt conduct on the part of one or more current or
19 former public officers, the extent to which, if at all,
20 organisational culture and practices have fostered that
21 conduct or hindered opportunities or attempts to detect
22 and eliminate that conduct; to examine whether voting
23 blocks existed within the council and, if so, the extent
24 to which councillors actively set about creating such
25 blocks in order to influence voting outcomes; and,
26 finally, to examine the extent to which the provision of
27 donations and in kind assistance to candidates at state
28 and local government elections may give rise to actual or
29 perceived corruption.

1 So, in conclusion, it must be said a function of
2 council is to advocate and promote proposals which are in
3 the best interests of the community. Evidence available
4 to IBAC suggests that this from time to time certainly has
5 not been the driving force of decision making for some
6 councillors within the City of Casey, conduct which if
7 exposed is likely to demonstrate some public officers have
8 fallen considerably short of the behaviour expected of
9 them in their capacity as councillors.

10 It is perhaps apposite, Mr Commissioner, to
11 emphasise at this stage that we here are not concerned
12 with whether or not any particular council vote or
13 proposed development or amendment was objectively correct
14 or was otherwise justified. In respect of every planning
15 issue there will always be two sides. There will be good
16 reasons why either view might be said to benefit the
17 community.

18 The concern of this investigation is not in
19 respect of the result, but in respect of the process. The
20 concern is whether the process has actually or potentially
21 been corrupted or compromised by councillors being
22 influenced by close undisclosed relationships with
23 developers and their representatives, and on occasion the
24 receipt of financial or other benefits.

25 Understandably there is considerable public
26 interest in exposing such conduct and ensuring that
27 decisions that impact communities are transparent and are
28 made in the best interests of the community. It is also
29 important to identify and expose any aspect of the

1 processes and systems that may facilitate corruption or
2 allow it to go undetected. It is hoped that conducting
3 public examination will further assist the investigation
4 by encouraging any relevant public officers or members of
5 the public who may have information that would be of
6 assistance to come forward, whilst also providing an
7 important platform for IBAC in respect to its education
8 and prevention and function. Thanks, Mr Commissioner.