
TRANSCRIPT OF AFTERNOON PROCEEDINGS

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INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

MELBOURNE

THURSDAY, 3 DECEMBER 2020

(40th day of examinations)

BEFORE THE HONOURABLE ROBERT REDLICH AM, QC

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

OPERATION SANDON INVESTIGATION

PUBLIC EXAMINATIONS PURSUANT TO PART 6 OF THE INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION ACT 2011

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

1 UPON RESUMPTION AT 1.39 PM: 01:39:27PM
2 <GEOFFREY LEIGH, recalled: 01:39:27PM
3 <EXAMINED BY MR TOVEY, continued: 01:39:27PM
4 COMMISSIONER: If we're ready to proceed, Mr Leigh, you're on 01:39:27PM
5 mute at the moment. 01:39:27PM
6 WITNESS: Is that better? 01:39:40PM
7 COMMISSIONER: Thank you. 01:39:42PM
8 WITNESS: Pleasure. 01:39:43PM
9 MR TOVEY: Could the witness please be shown page 4874 and 01:39:50PM
10 4875. 01:40:16PM
11 COMMISSIONER: Is this an exhibit, Mr Tovey? 01:40:16PM
12 MR TOVEY: No, it's not, sir. 01:40:16PM
13 COMMISSIONER: Thank you. 01:40:16PM
14 MR TOVEY: If we start at 4875 at the top of the page. Thank 01:40:17PM
15 you. Thank you, stop there. So we see on 22 February of 01:40:31PM
16 2010 Woodman, that's Heath Woodman, emails you and Phil 01:40:39PM
17 Staindl about Brompton Lodge and in the last couple of 01:40:46PM
18 lines he tells you, 'I'd like to meet with you early next 01:40:50PM
19 week if possible to discuss strategy in terms of moving 01:40:54PM
20 forward without site specific planning scheme amendment 01:40:57PM
21 request for Brompton Lodge.' Then if we move up the page 01:41:03PM
22 two days later there is another communication under the 01:41:13PM
23 same heading, and it gives a link to a website and Heath 01:41:20PM
24 Woodman observes that, 'Madden is still saying the UGB is 01:41:30PM
25 integral to retaining housing affordability,' and he 01:41:40PM
26 raises whether that might have implications for Brompton 01:41:51PM
27 Lodge. Then you observe at the top of the page in an 01:41:56PM
28 email to Heath Woodman, 'I agree. The good news is that 01:42:00PM
29 Matt Guy had a meeting last week with Casey CEO and 01:42:09PM

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encouraged him to resubmit ours as a logical
inclusion'?---Yes, okay.
Who told you that?---I have no recall. But what I must say is
that, like I said, 3 December 2009 the minister said in
his attack - in his launch of 48,000 - - -
I'm not interested in history. You've told us - - - ?---The
history is part of it because it says that both parties
were looking to do it together.
All I'm asking you is who gave you the information that's in
that email?---To be honest, it's that long ago, sir,
I have no idea. Would you remember every conversation
yourself? I don't.
Look, you had knowledge that Matthew Guy and Mike Tyler had met
and that Mike Tyler - sorry, and that Matthew Guy
encouraged him to resubmit your proposal as the logical
inclusion. Now, that was a very encouraging piece of
information for somebody who has half a million dollars
hanging on it. Where did it come from?---It's 11 years -
or it's 10 years ago. It could have been a backbencher
who told me, because out of political parties they all
talk about all sorts of things all the time. It doesn't
necessarily mean that Mr Guy told me or anybody else told
me. It could have been someone from Casey. Well, at that
time I think there was one Liberal on the council at
Casey. I think the rest were all Labor. So it might have
been the Liberal. I don't know. Someone obviously said
something to me and I passed it on. But it still doesn't
take away from the fact that in the end the only thing
that ever happened there was in the process and that was

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01:43:35PM
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01:44:01PM
01:44:04PM
01:44:06PM

1 in an independent panel which is what it was always going 01:44:08PM
2 to be. 01:44:12PM
3 As of 24 February of 2010 were you of the belief that Matthew 01:44:12PM
4 Guy was strongly behind the Brompton Lodge 01:44:26PM
5 inclusion?---All he did was - well, I don't think that's a 01:44:36PM
6 bit fair because all it says is he encouraged them to 01:44:39PM
7 submit it. It doesn't mean they agreed to it. 01:44:43PM
8 I'm asking you what your state of mind was?---Look, in those 01:44:45PM
9 sort of things, these are jobs that take forever because 01:44:50PM
10 one line says that means nothing and you've got to get 01:44:54PM
11 through both - you've got to get through a process of some 01:44:56PM
12 description, the government of the day, the opposition has 01:45:01PM
13 to agree to it if that's going on; it's a long way from 01:45:03PM
14 ever happening. 01:45:06PM
15 I tender 4874 and 4875, Mr Commissioner. 01:45:07PM
16 COMMISSIONER: I think we'll mark them as different exhibits, 01:45:14PM
17 Mr Tovey. The email exchange of 22 February 2010, exhibit 01:45:16PM
18 335; 24 February 2010, exhibit 336. 01:45:21PM
19 #EXHIBIT 335 - Email exchange of 22/02/10. 01:45:27PM
20 #EXHIBIT 336 - Email exchange of 24/02/10. 01:45:29PM
21 COMMISSIONER: Mr Leigh, just for clarification, might you have 01:45:35PM
22 conveyed that piece of information to the client as a bit 01:45:40PM
23 of hyperbole?---Strong possibility. Well, I would have 01:45:44PM
24 said that if it went anywhere it goes back to John Woodman 01:45:50PM
25 or Heath - or it goes to Heath actually. It goes to 01:45:55PM
26 Heath. He encourages, because I do recall that 01:45:57PM
27 Carpenter - like all of these clients, they all demand 01:46:01PM
28 that it happened yesterday, and it doesn't and it's a long 01:46:03PM
29 process. So it's just as likely that it was exactly that 01:46:06PM

1 as well. It is an innocent passing of what was going on, 01:46:09PM
2 that's all. It's the outcome that happens then, and 01:46:12PM
3 nothing happened. 01:46:16PM
4 MR TOVEY: Did you have any communications with Councillor 01:46:22PM
5 Ablett in respect of Brompton Lodge?---I don't recall. 01:46:30PM
6 But 2008 and 2009 it was dominated by the other side of 01:46:34PM
7 politics. So I don't recall - no, I don't recall, to be 01:46:42PM
8 honest. 01:46:47PM
9 What about Councillor Stapledon?---Highly unlikely, I would 01:46:47PM
10 have thought. 01:46:52PM
11 And why was that?---Well, she wasn't a Lib at the time for a 01:46:53PM
12 start, which if I was going to talk to someone I would 01:46:58PM
13 have talked to someone on my side, and she certainly 01:47:01PM
14 wasn't a Liberal Party, I don't believe at the time. 01:47:04PM
15 Later on she became one, but I think at that - don't know. 01:47:08PM
16 But, look, it's a possibility, but I don't know. It's too 01:47:11PM
17 long ago to remember. 01:47:14PM
18 Could you go to 4876, 4877, 4878, 4879 and 4880?---Okay, 01:47:16PM
19 I obviously did. I obviously did speak to her. 01:47:38PM
20 Yes?---Like I said, as I made the point, I just don't recall, 01:47:40PM
21 it's that long ago; 20 years ago - 10 years ago. 01:47:44PM
22 See, what's happened is it would appear from this, and have a 01:47:49PM
23 look at it, over the page you have spoken to Amanda 01:47:52PM
24 Stapledon?---Okay. 01:48:01PM
25 Who has then gone to the CEO and sought for you a letter which 01:48:03PM
26 the CEO has previously written on 15 February to the 01:48:11PM
27 planning minister, who at that time was Justin 01:48:17PM
28 Madden?---Okay. Yes. Fair enough. 01:48:21PM
29 And in the course of that, if we could just go to the letter, 01:48:28PM

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at the third dot point or second dot point, so that letter
to the minister, that's a letter from Mike Tyler, the CEO,
indicates 'a logical inclusion Brompton Lodge and the
Cranbourne West can assist in replacing some land which
would be excised from within the UGB', that is if a
certain process takes place in respect of agricultural
land. Now, can you understand why it was that you sought
this document through Councillor Stapledon?---Well,
anybody can actually approach any councillor about
anything and ask them if they're prepared to follow up and
find out something for you. And if they can, they can.
If they can't, they can't. So obviously it was a
letter - it was not a letter that was a secret letter
obviously.
She was not on your side of politics?---Well, I dealt
with - can I tell you with great respect, sir, I dealt
with people on both sides of politics often.
Look, you're the one who told me only a minute ago that it was
very unlikely - - -?---(Indistinct).
You told me it was very unlikely that you would speak to her
because she wasn't on your side?---And then I said
I wasn't sure. Then I corrected it by saying I wasn't
totally sure about it, if you remember.
Was she somebody who was seen by you to have a special sympathy
for matters relating to the Woodman interests?---Obviously
clearly I had spoken to her at some point, obviously, by
phone or - it's more likely by phone, but I may have met
her at some point. So I don't know. But, you know, all
I asked her for what happened with the - and she got me

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01:49:59PM
01:50:01PM
01:50:13PM
01:50:20PM
01:50:24PM
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01:50:30PM

1 the letter. So what? 01:50:33PM

2 I tender that email and attachments. 01:50:37PM

3 WITNESS: I suspect it's a public letter anyhow in the council. 01:50:40PM

4 COMMISSIONER: Mr Tovey, that's 14 March 2010? 01:50:55PM

5 MR TOVEY: That's so. 01:51:01PM

6 COMMISSIONER: Thank you. That will be exhibit 337. 01:51:02PM

7 #EXHIBIT 337 - Email and attachments of 14/03/10. 01:51:05PM

8 COMMISSIONER: By this time, Mr Tovey, was not Ms Stapledon 01:51:21PM

9 part of the bloc that we have dealt with, the same voting 01:51:24PM

10 bloc? 01:51:34PM

11 MR TOVEY: Well, our position - so it would appear from the 01:51:37PM

12 evidence that is currently before the Commission that we 01:51:41PM

13 have very little information about Councillor Stapledon's 01:51:53PM

14 involvement in Woodman matters going back to this period 01:51:57PM

15 of time. However, certainly there is a very significant 01:52:01PM

16 amount of material which suggests that she, Councillor 01:52:09PM

17 Aziz and Councillor Ablett by later in the period that was 01:52:16PM

18 under investigation were closely aligned as the core 01:52:21PM

19 people looking after Mr Woodman. 01:52:25PM

20 COMMISSIONER: Yes. You're not able to say that at this point 01:52:28PM

21 of time? 01:52:31PM

22 MR TOVEY: No. 01:52:32PM

23 COMMISSIONER: Very good. 01:52:33PM

24 WITNESS: I might say it's no knowledge to me. 01:52:33PM

25 COMMISSIONER: Yes. 01:52:37PM

26 MR TOVEY: Now, could you look, please, at 4881 through to 01:52:48PM

27 4883, I think?---So I'm to say what? 01:53:10PM

28 Look, if we start at 4883, which is 15 March, Heath Woodman at 01:53:44PM

29 the bottom of the page, 4883 - if we could scroll down to 01:54:04PM

1 the second email on that page, please? Thank you. So 01:54:10PM
2 that's an email from Heath Woodman to Jeff Gilmore, who is 01:54:21PM
3 a bureaucrat involved in the Brompton Lodge issues or, 01:54:29PM
4 sorry, in consideration of the Brompton Lodge issues. So 01:54:39PM
5 Heath Woodman's written to him indicating that over the 01:54:48PM
6 recent weeks he has received a courtesy copy of the 01:54:53PM
7 attached letter, et cetera, et cetera. Now, the attached 01:54:57PM
8 letter is in fact the letter that you've got through 01:55:03PM
9 Amanda Stapledon?---Okay. 01:55:06PM
10 Okay?---(Indistinct words). 01:55:08PM
11 Then there is another email exchange which refers to a media 01:55:14PM
12 release by Minister Madden in respect of the GAIC 01:55:35PM
13 legislation, and Heath Woodman speaks then about 01:55:39PM
14 preparedness to offer assistance, providing a replacement 01:55:47PM
15 version of the VC55 amendment and the potential inclusion 01:55:57PM
16 of Brompton Lodge. All right. Then you go up and there 01:56:01PM
17 is reference to Jeff Gilmore and Heath Woodman - this is 01:56:11PM
18 on page 4882 - discussing that the government steps are 01:56:15PM
19 still unfolding. Then there is an email from Heath 01:56:21PM
20 Woodman to yourself on 23 March, which is at page 4881 at 01:56:30PM
21 the bottom of the page?---Okay. Fine. 01:56:38PM
22 So that's sending you that series of emails. Then in the 01:56:50PM
23 second paragraph, 'Geoff, as discussed this morning, 01:56:59PM
24 I think unquestionably we should be attempting to convince 01:57:03PM
25 MG' - who presumably is Matthew Guy - 'that in event the 01:57:08PM
26 Liberals have a change of heart in respect of negotiating 01:57:16PM
27 on the GAIC legislation,' and the proposal was that they 01:57:21PM
28 do a deal which involves some accommodation for the 01:57:31PM
29 'wishes of the growth councils in terms of the location of 01:57:38PM

1 the UGB'. That's what was being discussed, or, sorry, 01:57:41PM
2 that was what he was proposing to you, and he says, 01:57:46PM
3 'I know I'm making the above sound easy and it's clearly 01:57:51PM
4 anything but. However, knowing Carpenter well, I can 01:57:59PM
5 honestly say that an extension to the agreement is by no 01:58:02PM
6 means a fait accompli and if there is an easier process we 01:58:09PM
7 could possibly squeeze into I just want to make sure we 01:58:16PM
8 use all endeavours to do so.' Now, at that stage - this 01:58:21PM
9 is on 23 March 2010 - Heath Woodman was alive to the fact 01:58:29PM
10 that the agreement with Carpenter was about to expire, or, 01:58:36PM
11 sorry, it was going to expire at some finite time in the 01:58:45PM
12 future. Is that something of which you were 01:58:49PM
13 aware?---I don't think I probably thought of it in that 01:58:53PM
14 context. But, as you know with attempts to change the 01:58:56PM
15 opposition's mind, I don't think it happened. 01:58:59PM
16 I'm just asking you what you knew at the time?---I didn't 01:59:02PM
17 know - I didn't - it's not something that entered sort of 01:59:06PM
18 my mind. You should ask Heath Woodman that, not me. 01:59:09PM
19 At that stage were you conscious of the fact that your option 01:59:12PM
20 of the success fee would disintegrate if the agreement 01:59:21PM
21 between Carpenter and Woodman disappeared?---If it did, it 01:59:26PM
22 did. But I'm - certainly going to attempt to convince the 01:59:30PM
23 State opposition to change its point of view based on 01:59:36PM
24 self-interest was not something that would have been major 01:59:38PM
25 on my mind for the simple reason they wouldn't do it for a 01:59:41PM
26 start. 01:59:44PM
27 I tender that series of emails, Commissioner. 01:59:46PM
28 COMMISSIONER: Mr Tovey - - - 01:59:50PM
29 WITNESS: (Indistinct) raised it with them. But, you know, if 01:59:52PM

1 they raise it - if it's raised with them. But the answer 01:59:54PM
2 was no in the end. 01:59:58PM
3 COMMISSIONER: As I was saying, the email chain of 15 March 02:00:00PM
4 2010 will be exhibit 338. The email of 23 March 2010 02:00:04PM
5 between Mr Woodman and Mr Leigh will be 339. 02:00:14PM
6 #EXHIBIT 338 - Email chain dated 15/03/10. 02:00:18PM
7 #EXHIBIT 339 - Email dated 23/03/10 between Mr Woodman and 02:00:19PM
8 Mr Leigh. 02:00:15PM
9 MR TOVEY: Again in September 2010 you are copied into emails 02:00:47PM
10 indicating there have been meetings or at least one 02:00:52PM
11 meeting between Mr Staindl and Justin Madden. That's not 02:00:54PM
12 something of which you have any recollection, I take it in 02:00:57PM
13 view of your previous answers?---No. 02:01:00PM
14 All right. Then in November of - sorry, in October - in August 02:01:07PM
15 of 2011 an issue arose with Age articles peddling what had 02:01:15PM
16 been said by the Green Wedge Coalition and various 02:01:27PM
17 allegations or insinuations were made concerning you and 02:01:34PM
18 the planning process?---Who was the person that raised 02:01:39PM
19 that? 02:01:45PM
20 Sorry?---Who was the person - - - 02:01:46PM
21 Was that something which was raised at the time?---I have no 02:01:48PM
22 idea. 02:01:51PM
23 Look, I just want to get from you what issues - you don't need 02:01:54PM
24 to be defensive about it. I'm not making any allegation 02:02:02PM
25 that these are true or untrue. I just ask you - I'm just 02:02:04PM
26 asking you what your - I'm just creating a point in time, 02:02:09PM
27 okay? I'm laying out the issues that were raised and 02:02:14PM
28 simply asking you whether the various allegations were 02:02:19PM
29 true or not or what you knew of them. Do you understand 02:02:22PM

1 that?---Well, yes, but, hang on, should - they've just 02:02:26PM
2 made the allegations, but what were the allegations? 02:02:29PM
3 Well, I'm just about to tell you; okay?---Please tell me. 02:02:32PM
4 I'm just explaining the process, so you don't jump in ahead of 02:02:35PM
5 me; do you understand?---Eager to lead, eager to lead. 02:02:38PM
6 So there are two Age articles, I would suggest to you, by Royce 02:02:43PM
7 Millar?---Oh, yes. 02:02:48PM
8 In July 2011, and the other one's in August of 2011. 02:02:49PM
9 Mr Commissioner, these are at pages 3104 to 3107, is the 02:03:00PM
10 article of 30 July, and 2592 to 2594 is the article of 02:03:20PM
11 19 August. In the first article the following - - 02:03:35PM
12 -?---Excuse me, I can't see it currently. 02:03:40PM
13 No, that's okay. I'll just tell you what the allegations are. 02:03:42PM
14 The content is not particularly important. First of all, 02:03:46PM
15 there was an allegation that the Liberals had been 02:03:53PM
16 bankrolled by landowners and developers through Business 02:04:00PM
17 First. You clearly deny that?---The books actually show 02:04:06PM
18 it's not true. 02:04:10PM
19 Yes. So that's not true. All right?---Actually, what you can 02:04:11PM
20 do, ring up the Australian Electoral Commission - - - 02:04:14PM
21 No, it's okay?---Not true. 02:04:18PM
22 Sir, I'm not challenging you. I just want to know what your 02:04:20PM
23 position is on these things, okay?---Well, yes, but it's 02:04:23PM
24 not what you think, it's what everybody else watching this 02:04:26PM
25 thinks, and the fact of the matter is the Australian 02:04:29PM
26 Electoral Commission were fine with what we'd done. 02:04:31PM
27 Yes. Then there was an allegation that - sorry, it was 02:04:34PM
28 explained that Matthew Guy was seeking for those people 02:04:41PM
29 who were affected by the 2009 urban growth boundary 02:04:48PM

1 decision to resubmit if they thought their land was a 02:04:57PM
2 logical inclusion. That is in fact I assume what you 02:05:06PM
3 agree did happen?---Yes. 02:05:09PM
4 That the allegation was that Business First was found by 02:05:13PM
5 yourself - - -?---Yes. 02:05:20PM
6 Sorry, founded by yourself and Inga Peulich, and funded the 02:05:22PM
7 election campaigns of Wreford, Bauer and Peulich. So 02:05:30PM
8 that's correct?---No, it's actually not true. That's not 02:05:39PM
9 actually totally correct at all. What we did, we had some 02:05:43PM
10 money which we gave to - we split it up among the lower 02:05:45PM
11 house candidates if they'd come to the functions, and 02:05:50PM
12 Mordialloc was entitled to some, Carrum was entitled to 02:05:56PM
13 some, so was the upper house. But as did we fund it, we 02:06:00PM
14 didn't make enough money to fund it. 02:06:04PM
15 And that first article also described you shaping or assisting 02:06:06PM
16 in shaping the logical inclusions policy, and you've 02:06:12PM
17 already answered in respect of that, and I don't seek any 02:06:15PM
18 further answer. I'm simply identifying what is said. 02:06:18PM
19 Then the second article concluded - sorry, or - - -?---Is 02:06:23PM
20 this Royce Millar again? 02:06:32PM
21 Sorry?---Is this Royce Millar again? 02:06:33PM
22 This is Royce Millar again, yes, on 19 August, that it's 02:06:36PM
23 submitted that BL - sorry, the Brompton Lodge was pushed 02:06:43PM
24 by Mr Carpenter and yourself and Watsons, and that 02:06:48PM
25 Mr Carpenter was going to receive up to a \$450 million 02:06:56PM
26 windfall if it went through?---I think the figure is 02:07:01PM
27 probably wrong. I don't think he got that. He did well, 02:07:11PM
28 but I don't think he got that. 02:07:18PM
29 Other than that, that's not something you would disagree with, 02:07:19PM

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I take it?---Nothing to do with me.

And made the point that Mr Carpenter contributed to the Ablett and Wreford 2010 campaigns; did you have any knowledge of that?---No, because I was not involved in the Mordialloc electorate or the Carrum one at all. I was chairman of Business First. I was separate from all that stuff. I was on their electorate council but I didn't go to meetings.

Was that something that you ever discussed with Mr Carpenter or with - - -?---I've never met Mr Carpenter in my life.

All right. Well, then, you can't comment about the Carpenter donations and whether there was a quid pro quo. The allegation was that Carpenter himself had met with Matthew Guy. Do you know whether that was the case?---No idea, and can I say there is one way you can check that. When donations are made to political parties they are identified. So if they were identified they would have been identified. But I have no knowledge of it.

There was an allegation that Watsons had contributed to those political donations through Business First?---I don't - I'll stand to be corrected, but the only donations they would have ever made to Business First is if they turned up to one of our functions and they paid the fee, which is \$60 or something like that. I don't recall them, to the best of my knowledge, making large contributions to Business First. You would have been better off making it to the campaigns.

And there's an allegation that Councillor Ablett backed the inclusion of Brompton Lodge in the UGB. Were you

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02:08:43PM
02:08:49PM
02:08:52PM
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02:08:59PM
02:09:04PM

1 conscious of what his position was?---Who's making these 02:09:08PM
2 allegations, by the way? 02:09:11PM
3 Well, I'm just simply wanting to ask whether they are true or 02:09:13PM
4 not?---Well, I think when someone makes allegations 02:09:17PM
5 against you I think it's actually fair that the person who 02:09:20PM
6 is making the allegations - as I'm on the receiving end of 02:09:23PM
7 it, who was it? 02:09:27PM
8 The allegations are allegations which were published at the 02:09:29PM
9 time - - -?---Yes, but who was the person making the 02:09:32PM
10 comment? 02:09:35PM
11 Well, clearly the journalist?---So the journalist didn't 02:09:36PM
12 include his source? 02:09:40PM
13 Look, it's no use grilling me about it, sir?---You're asking 02:09:42PM
14 the question, sir. 02:09:47PM
15 All I'm asking you is whether or not these allegations were 02:09:47PM
16 made and what your response is?---Basically rubbish. 02:09:50PM
17 Rubbish is probably a good line for it. 02:09:55PM
18 Most of it you agreed one way or other things you did know 02:09:57PM
19 about it. I'm not suggesting that you've made any 02:10:03PM
20 significant admissions of fault or guilt. But don't get 02:10:06PM
21 upset. If you just listen - don't get upset, just listen, 02:10:11PM
22 answer the questions; all right?---Sure. 02:10:16PM
23 COMMISSIONER: Mr Tovey, what is the relevance then of these 02:10:19PM
24 allegations? 02:10:24PM
25 MR TOVEY: Well, it was simply an opportunity to work through 02:10:28PM
26 the way in which - what the environment was at the time, 02:10:30PM
27 what the political context of what comes is, and also to 02:10:44PM
28 give the witness the opportunity of indicating which of 02:10:51PM
29 these matters he agreed with, some of which impact on 02:10:56PM

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matters which we're still to look at?---Can I also say it
also goes to the credibility of the journalist concerned
who writes that stuff, because he wrote it. He's also had
other issues with the cops for invading other people's
space and information access through the E-police. He got
arrested - he didn't get arrested. The Age newspaper got
caught up in it. And frankly, you know, he used to see
developers coming out of his ears. In the Business First
case most of the stuff was small business people.

COMMISSIONER: Yes. Yes, Mr Tovey.

MR TOVEY: Thank you. I think it's appropriate,

Mr Commissioner, given what I've asked, to tender each of
those articles. The one at 2592 is already tendered.
That's exhibit 87. So that's the article of August 19.
However, the other article of July 30 requires to be
exhibited.

COMMISSIONER: That's 30 July 2011?

MR TOVEY: That's so.

COMMISSIONER: Yes. And it was an article in the Age, was it?

MR TOVEY: Yes.

COMMISSIONER: Yes, thank you. That will be exhibit 340.

#EXHIBIT 340 - The Age article of 30/07/11.

MR TOVEY: On 8 February 2012, and I won't take you to this
document, Mr Staindl advised Mr Heath Woodman about a
Matthew Guy function suggesting that you should
attend - he should attend with you to get to meet people
who might get him before the minister. Do you recall
going to a Matthew Guy function at that time?---What was
the date again, sorry?

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02:12:52PM
02:12:55PM
02:13:01PM
02:13:08PM
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02:13:17PM
02:13:24PM

1 This is February 2012?---And he clearly was the minister? 02:13:25PM
2 Yes?---Do you know where the function was? 02:13:29PM
3 I can tell you. 4892. The function was - this is an evening 02:13:31PM
4 briefing with 40 guests in attendance at the Level 15 RACV 02:13:43PM
5 Tower and it was an Enterprise 500 02:13:52PM
6 function?---Possibility, but I don't remember. And in any 02:13:57PM
7 case it's 40 people there all talking. So I don't know. 02:13:59PM
8 I don't know. I don't recall it. Over the years you go 02:14:03PM
9 to lots of functions. 02:14:06PM
10 All right. So in any event just keeping with the context and 02:14:07PM
11 the chronology it was on 17 April of 2012 that you made 02:14:12PM
12 your response to parliament that we've already spoken 02:14:18PM
13 about?---Yes. 02:14:21PM
14 Then it was on - and I think we've already covered this in the 02:14:24PM
15 introductory comments I made that it was on 13 September 02:14:32PM
16 of 2012 that the inclusion of Brompton Lodge within the 02:14:36PM
17 urban growth boundary was in fact gazetted. Does that 02:14:46PM
18 accord with your recollection?---Yes, through an 02:14:50PM
19 independent panel process. There were a number of them 02:14:55PM
20 that were. 02:14:57PM
21 And in the end you were paid in instalments your share of 02:14:59PM
22 the million dollar contract which was for you half a 02:15:08PM
23 million dollars?---Over five years and the Tax Office got 02:15:12PM
24 quite a bit of it. 02:15:15PM
25 Yes, all right. 02:15:16PM
26 COMMISSIONER: I'm sorry, Mr Leigh, you say 'over five years', 02:15:19PM
27 but you've been at pains to tell me that in relation to 02:15:22PM
28 almost everything that counsel's put to you really you 02:15:29PM
29 weren't concerned or involved in?---No, well, I think 02:15:32PM

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that's - - -

What were you actually doing over that five years?---Well, if you actually - what I had said previously is that one of the thing - the main thing I did is away from the MPs, is you'll recall I said I went to the UDIA functions, and the UDIA was the developers' lobby, if you like. I knew many of them there. I knew many of the planning companies over the years. Many of them had issues with the government over the boundaries. And I encouraged them to take their examples to both the minister and the shadow minister and to treat them equally because, as I said before, having oppositions knowing what ministers know is always a good way for governments to operate, and the parliament to operate in particular. So my focus generally was on the process, and I thought the process was more likely to occur with having all the planning companies and the others that were involved in this chasing the government and the opposition at the same time. And in my view I wasn't the only one doing it. There were many people doing it. They were angry about how this system was adopted and what it did to them, and that was my - my focus was not on chasing a minister or a shadow minister every five minutes over Brompton Lodge. It was about the whole of the process. Then Brompton Lodge, like any of the others, risked the panel saying no, and it didn't. Now, I'm sure you wouldn't be saying that the panel lacked integrity to do what it did, would you? Neither of you?

Mr Leigh, I'm not here to answer questions?---I understand you are not. But my point is it was the panel.

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02:16:51PM
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02:17:04PM
02:17:07PM

1 Yes, Mr Tovey. 02:17:11PM

2 MR TOVEY: Mr Leigh, I now want to take you away from Brompton 02:17:14PM

3 Lodge - - -?---Yes. 02:17:19PM

4 To another development in - sorry, another proposal in which 02:17:19PM

5 you had some input?---Sure. 02:17:26PM

6 And that's a proposal relating to land which was referred to as 02:17:30PM

7 Greenvale Hume area 2B?---Yes. 02:17:41PM

8 Do you recall that?---I do. 02:17:48PM

9 What was that?---A company called Brookfield, which is a 02:17:50PM

10 Canadian company, which is a giant development company, 02:17:56PM

11 was seeking to come into Victoria. And I don't know how 02:18:00PM

12 they came to us, but they had a parcel of land that they 02:18:03PM

13 were interested in which was that Greenvale land. And 02:18:07PM

14 they put it up to the planning process through the 02:18:09PM

15 independent panel and it got knocked back. The panel said 02:18:11PM

16 about it it needed more work on it because they didn't 02:18:18PM

17 know the airport overlays. And unfortunately the part of 02:18:20PM

18 the problem with all of this was once land was - the green 02:18:24PM

19 wedge was done, it was very hard for new entries to get 02:18:27PM

20 into Victoria. And that's why probably they chose it. So 02:18:30PM

21 the panel didn't recommend it at all. 02:18:34PM

22 And so at some point, I suggest to you, in 2014 you became 02:18:37PM

23 involved, did you?---Yes. 02:18:48PM

24 And who employed you?---That was Watsons. And what they did, 02:18:52PM

25 they took a small parcel of what was left out of the 02:18:58PM

26 Brookfield proposal and my main involvement at that point 02:19:03PM

27 is because I knew all the owners when dealing with 02:19:07PM

28 (indistinct) that I helped them with the owners, and after 02:19:10PM

29 that - I still was obviously involved in it, but only if 02:19:14PM

1 we got anywhere. But it just petered out in the end. But 02:19:18PM
2 I knew the owners well and the owners trusted me when 02:19:22PM
3 I said that they should be prepared to work with Watsons. 02:19:25PM
4 And was this a rezoning proposal?---It would have been - it 02:19:28PM
5 would have been a belated after the - well, there's no way 02:19:33PM
6 to correct it because the green wedge had been or the 02:19:38PM
7 independent panel had done its work. It would have been a 02:19:40PM
8 follow-on at some point in the future, which is very 02:19:43PM
9 difficult. And it wasn't the whole of the site. 02:19:45PM
10 So it was the Hume City Council, was it?---Indeed, and I should 02:19:48PM
11 add Hume City Council at the time when Greenvale and 02:19:56PM
12 Brookfield had it, I believe they were supportive of it. 02:20:01PM
13 That's my recollection. 02:20:04PM
14 And were you involved in any way in assessing the attitudes of 02:20:05PM
15 the council?---It wasn't so much - I spoke - as I often 02:20:10PM
16 do, sometimes I speak over the phone to people and 02:20:15PM
17 sometimes I actually go and see them. I knew one 02:20:19PM
18 councillor because of Sunbury reasonably well. I went and 02:20:23PM
19 had a chat to him about it. He suggested what was going 02:20:27PM
20 on and where council stood and all that sort of stuff. 02:20:29PM
21 Who was that? That was Councillor Ogilvie, was it?---Yes, yes. 02:20:32PM
22 Yes?---And he had some comments about what he thought about the 02:20:40PM
23 individual councillors and I recorded it and told the 02:20:47PM
24 clients. That's all. 02:20:50PM
25 And so in respect of Mr Ogilvie, what, you approached him, did 02:20:52PM
26 you, for intelligence as to how the council worked and 02:21:01PM
27 what the power structures were within the council?---It's 02:21:04PM
28 just general information about - I'm assuming you've 02:21:12PM
29 probably got the piece of paper. But I think what it was 02:21:15PM

1 really about is to find out who the councillors were. 02:21:18PM
2 I didn't know who they were, and I'm interested. If 02:21:21PM
3 people give you information about the councillors, I had a 02:21:24PM
4 chat to him about it and he supplied me details of - he 02:21:27PM
5 certainly didn't receive any benefits from me out of it. 02:21:32PM
6 Without going into the documents then, the situation was, 02:21:35PM
7 wasn't it, that you spoke to Councillor Ogilvie?---M-hmm. 02:21:40PM
8 You then did a report to Woodmans basically councillor by 02:21:46PM
9 councillor?---Yes. 02:21:53PM
10 Making an assessment of those people, and that was to try and 02:21:54PM
11 determine whether they would be friendly towards the type 02:22:00PM
12 of proposal that you had in mind?---Look, you can't 02:22:04PM
13 generalise by saying that person is going to be on your 02:22:13PM
14 side for that. It just told us about a bit of the 02:22:16PM
15 background of the individual councillors; that's all. 02:22:19PM
16 What they do when something is put up is a totally 02:22:21PM
17 different matter. 02:22:23PM
18 But your only interest in getting this list of councillors and 02:22:24PM
19 doing a brief summary in respect of the proclivities of 02:22:32PM
20 each was to try and determine whether or not these were 02:22:37PM
21 people who were likely to support what you wanted; that's 02:22:40PM
22 the reason the exercise was done, wasn't it?---Well, no, 02:22:44PM
23 the exercise is to actually find out who they are more 02:22:48PM
24 than anything. The comments that I would have made there 02:22:52PM
25 would have been a handful of lines, I suspect. It tells 02:22:54PM
26 you nothing about the - tells you a bit about their 02:22:57PM
27 background, what side of politics they might have been on. 02:23:00PM
28 It doesn't tell you what they are going to do over an 02:23:04PM
29 issue. When an issue comes up councillors often go 02:23:06PM

1 exactly the opposite way that someone has ever thought 02:23:10PM
2 about. So it's just a general piece of information. 02:23:12PM
3 I suggest, sir, you're making too much of it. It's done 02:23:15PM
4 all the time. 02:23:20PM
5 It's done all the time; yes. That's one of the questions I'm 02:23:20PM
6 going to ask you. I mean, were you involved time and 02:23:26PM
7 again in doing profiles of councillors for the purposes of 02:23:29PM
8 alerting those people who were dealing with councillors 02:23:36PM
9 how councillors are likely to vote?---I can't see how you 02:23:39PM
10 could say how they are likely to vote. You can never tell 02:23:44PM
11 how someone is likely to vote. You put up a motion to 02:23:47PM
12 council. They can go in exactly the opposite way. All it 02:23:50PM
13 was was general information that's publicly available 02:23:53PM
14 about the individuals concerned, and it was nothing more 02:23:56PM
15 than that - - - 02:24:00PM
16 I don't understand, sir, why you are so shy about admitting the 02:24:00PM
17 obvious. The reason you want this information is so you 02:24:08PM
18 could make some guess as to how they're likely to 02:24:11PM
19 respond?---No, I don't - look, when I said 'all' I think 02:24:16PM
20 everybody; I'm not the only person that does that sort of 02:24:19PM
21 stuff. You get information out of libraries or whatever. 02:24:23PM
22 But - - - 02:24:25PM
23 (Indistinct words). 02:24:28PM
24 COMMISSIONER: Mr Tovey, let me Mr Leigh - - -?---Mr Tovey, 02:24:29PM
25 you're trying to read something into this that is not 02:24:32PM
26 there. All I did was find out from a councillor, who was 02:24:35PM
27 a decent councillor and I never paid him to cent to do 02:24:37PM
28 anything about it, I had a chat to him one day. He said, 02:24:43PM
29 'This person's like this. Then one's this one and this 02:24:46PM

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one's that one.' Now, you cannot out of four lines come to a conclusion that someone is actually going to vote on something because you think - it's just a bit of information about the background so you know them. That's all. So I think you're reading too much into it, sir.

MR TOVEY: But you're also making enquiries about who on the council you might approach who might be able to influence other councillors?---Well, that's what - you know, that's what happens if you - clearly obviously some councillors have more influence on other councillors. All I was seeking to do is to find out who was what in the hub, so to speak. That's nothing more than that. And out of that sometimes you change what you might propose to put up because you think someone will agree to certain things. But that's not new in development.

And there did that process take place, that is the process of identifying somebody who might be influential with other councillors, did that process take place and was Adem Atmaca the mayor identified as the best person to approach who could influence other councillors in their thoughts or in their voting?---To be perfectly honest, I certainly don't recall it. You've got to remember this is after the logical inclusions process had taken place.

Yes?---And it was a lot harder to do anything because to start up another process, very difficult, and remember it was part of the block that Brookfield had which made it even a lot more difficult. But as to was he approached, I don't remember.

Can we look, please, at 5178?---Okay, yes.

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1 Just scroll down?---Okay, well, I'm saying the mayor is a 02:27:21PM
2 member of the ALP but makes up his own mind. So that's 02:27:40PM
3 fine. 02:27:43PM
4 Yes, go on. You've got a heading there, 'The people who Atmaca 02:27:44PM
5 can influence'; all right? So the whole document, as I've 02:28:03PM
6 put to you, is focused on how council can be influenced to 02:28:07PM
7 vote the way you hope they will vote; would you agree with 02:28:14PM
8 that, having seen that?---Sure. But that doesn't mean it 02:28:18PM
9 happens. Look, at the end of the day it's not - - - 02:28:21PM
10 I wasn't asking you about what happened. I was asking you 02:28:25PM
11 about the purpose of the list. You told me that it had 02:28:27PM
12 nothing to do with the way council votes might 02:28:32PM
13 occur?---The reality of the - - - 02:28:37PM
14 No, you are now admitting clearly that it was - - -?---No. 02:28:38PM
15 What's the problem? Was there some - was there some coyness or 02:28:41PM
16 were you uncomfortable about getting involved in this 02:28:46PM
17 process? Did you think it was inappropriate?---No, not at 02:28:50PM
18 all. Do you know what I should have done? I should have 02:28:53PM
19 put in there 'may' or something like that, because there 02:28:56PM
20 are times councillors work together over an issue and 02:28:59PM
21 there are times that they don't. And then the next time 02:29:01PM
22 they are working on the same issue which the previous one 02:29:04PM
23 they didn't. It's general information that - it says 02:29:06PM
24 nothing bad about any of them, I don't think. Some of 02:29:12PM
25 them didn't like the chief planner. But as to whether 02:29:16PM
26 they are going to change their mind because of something 02:29:20PM
27 that we put up or not, it can happen, it cannot happen. 02:29:22PM
28 But unless you've got the product actually put up that's 02:29:25PM
29 right - and remember there's no - as far as I'm concerned 02:29:28PM

1 I've never paid a councillor for election campaigns or 02:29:33PM
2 anything, a cent, in my life. So as far as I'm concerned 02:29:36PM
3 it's just general information that may or may not help the 02:29:40PM
4 client. That's all. 02:29:43PM
5 Do you think Mr Atmaca, from what you knew, was paid or anybody 02:29:44PM
6 else was paid?---I have no idea, sir. I certainly have 02:29:48PM
7 never offered or know of anybody who's ever offered 02:29:53PM
8 councillors money. 02:29:56PM
9 I'm not suggesting that was the case. But I only raise it 02:29:58PM
10 because you started talking about people being paid?---Can 02:30:03PM
11 I tell you every time you talk to a councillor they'll 02:30:07PM
12 always ask you, 'Can you help me fund my campaign,' and 02:30:10PM
13 I would always say no. It's just common what they would 02:30:13PM
14 say. 02:30:16PM
15 COMMISSIONER: Is that serious, Mr Leigh? Every time - - 02:30:17PM
16 -?---(Indistinct words). 02:30:21PM
17 No, just slow down, slow down?---I can tell you - - - 02:30:22PM
18 Every time you talk to a councillor - - -?---Well, 'every time' 02:30:24PM
19 is too much. 'Every time' is too much. That's unfair. 02:30:29PM
20 Right?---I would say on many occasions councillors, sometimes 02:30:32PM
21 innocently enough because they don't realise the 02:30:35PM
22 implications of it, I say, have said, 'Look, I would be 02:30:37PM
23 really grateful if you could actually put something into 02:30:45PM
24 my campaign.' I have never done that. I think some of 02:30:46PM
25 them say it out of innocence. I think some of them might 02:30:49PM
26 mean it. But to me that's an absolute no-no. 02:30:51PM
27 But do you not see then that there's a connection between what 02:30:56PM
28 you're doing, namely providing your client with insight as 02:31:02PM
29 to which of the councillors might be more amenable to 02:31:10PM

1 supporting their commercial interest and what your client 02:31:14PM
2 might thereafter do with that information?---Well, can 02:31:18PM
3 I say at the time that I dealt with Watsons and some of 02:31:23PM
4 the things that occurred out of your inquiry, sir, is 02:31:26PM
5 Watsons had a reputation as being a very quality planning 02:31:30PM
6 company that did a lot of planning stuff and had great 02:31:33PM
7 credibility, in my opinion. So it's not something that 02:31:37PM
8 I ever put in my mind that they would actually do that. 02:31:40PM
9 And I have to say I'm gobsmacked at some of the stuff that 02:31:43PM
10 you've come up with. 02:31:47PM
11 But when you say 'great credibility' I take it you mean that 02:31:49PM
12 they had a reputation for being successful?---No, I think 02:31:53PM
13 being successful and being a quality company. Being 02:31:58PM
14 successful doesn't mean you're trying to do things behind 02:32:04PM
15 the scenes. 02:32:06PM
16 No. But when you say 'a quality company' do you mean that 02:32:07PM
17 there was discussion within your industry about which 02:32:13PM
18 companies involved in development had integrity?---No, not 02:32:19PM
19 at all. 02:32:24PM
20 Is that what you mean?---No, I just thought they were one of 02:32:25PM
21 them. I thought they were a company of integrity. 02:32:29PM
22 Yes. That email of 18 November 14 will be exhibit 341. 02:32:31PM
23 #EXHIBIT 341 - Email of 18/11/14. 02:32:40PM
24 MR TOVEY: And in fact after this I'd suggest to you that the 02:32:41PM
25 plan was so far as the proposal lasted that contact was 02:32:44PM
26 made through Mr Atmaca; is that your recollection of 02:32:54PM
27 him?---I don't know that, to be honest. And it's not 02:33:01PM
28 something - I mean, it then went, if it went anywhere - 02:33:06PM
29 I certainly don't recall that, to be honest; not something 02:33:13PM

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I was involved in, I think.

There was another project with which you were involved - sorry, we've tendered that. There's another project with which you were involved relating to a proposed development at Stotts Lane, which is an area of land in Baxter on the edge of Frankston?---Yes.

What was that about?---Okay. If you know Baxter, Baxter from the Frankston line to Baxter it's diesel. The department - - -

Sorry, I just missed that last bit you said?---Sorry, too much knowledge sometimes for someone else's when you know it.

Okay. In Baxter there was some - a parcel of land that was once again another accident of the UGB changes where it was an old farm on one side, extensive housing above it, extensive housing, shops down below, quality school, supermarket, all the rest of it, and if you know the Frankston-Baxter line it's diesel. The Department of Transport under both governments, for a start, and I think the Federal Government is now funding it, are actually upgrading the rail system to Baxter because they needed space for trains and stuff like that. And what we were seeking to do was to get that land rezoned. A couple of things I did. I doorknocked every resident personally to find out what their views were along Stotts Lane. They told me two things. One is the blocks opposite them had to be bigger and, two, somebody should actually be helping the CFA, because the CFA had dedicated - the land that they wanted was the bottom of the land where we were.

Yes, okay?---At the same time Melbourne Water were also seeking

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their own change out of the green wedge across the road on
the other side. So Melbourne Water were doing it as well.
And it went to council where there was an economic
statement put up, a few other things. Went to council.
The council were prepared to exhibit it and not make a
decision but let people make a judgment of it, which
I thought was not unreasonable if that's what you're going
to do, and it didn't get anywhere. That was the end of
it. And it took some years.

COMMISSIONER: Was there a success fee hanging on that, Mr - -
-?---It would have, yes. I also should say there were two
police officers who were on the council, one who didn't
support it and one that did. And I think if there was
anything funny going on there then in my opinion the
retired police officer, who was against us, I think he
would have known about it. And to my - I certainly don't
believe there was. So that's my best knowledge. And sad
because Baxter is going to expand because of the rail
system. You're going to put trains in there and you've
got half a town.

MR TOVEY: So as I understand it in July of 2013 a Wolfdene
company, which was Wolfdene Project 4 Pty Ltd, engaged or
offered yourself and Mr Staindl a success fee - -
- ?---Yes.

If the rezoning of Stotts Lane could be achieved within a
certain timeframe; is that right?---Yes, that would be
right.

Now, at that stage did you seek to - just one extra piece of
information perhaps. On 20 January of 2014 the city

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council resolved by a majority to request the minister's
authorisation for the amendment which would have - sorry,
which would have concluded in the rezoning of the
42 hectares?---I thought it was to put it on exhibition.
I thought they voted to put it on exhibition.

In any event, we can work out from the council minutes at that
stage precisely what it was. But in any event the matter
was in January 2014 moved forward significantly by the
council?---That doesn't necessarily mean anybody did
anything wrong.

Sir, you're looking for motives. I'm just asking - -

-?---You're a lawyer, sir. You're a lawyer. I dealt with
them most of my life in politics.

Look, all I want to know is what happened. We could have
finished some time ago now?---Okay.

If you just answer the question rather than try and reflect on
why I might be asking a question we'll get there very
quickly?---Sure.

So was it the fact that the council on 20 January 2014 made a
decision which moved the matter forward either by way of
referring - seeking authorisation of an amendment or
seeking exhibition?---I thought it was exhibition; but,
yes, I believe that would be so.

All right. Now, the State member for Frankston at that stage
was whom?---It could have been Geoff Shaw.

Yes?---And there's a Federal member - - -

Do you know Paul Edbrooke?---Sorry?

Paul Edbrooke?---Not that I recall. But, you know, there are
lots of names. So why would I know it?

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1 Did Inga Peulich have anything - input into this - into this 02:39:33PM
2 attempt to have that land rezoned?---No, because 02:39:41PM
3 firstly - two things - three things (indistinct) done. 02:39:45PM
4 One, I informed the local member on the other side of the 02:39:49PM
5 boundary of what I was doing, which was the member for 02:39:52PM
6 Hastings, I think, which he wasn't involved in it; and at 02:39:55PM
7 the same time I went and saw the Federal member, who was a 02:39:58PM
8 Liberal, and he was out and out opposed to it. But my 02:40:01PM
9 point is I went and spoke to him and his office about it. 02:40:06PM
10 Who was the Federal member?---Bruce Billson. 02:40:09PM
11 Billson, yes?---And his idea. He was totally - - - 02:40:14PM
12 It's okay. I understand and there's documentation which makes 02:40:17PM
13 it clear that he wasn't on side?---And also the member for 02:40:21PM
14 Flinders. 02:40:25PM
15 What about Inga Peulich? Did she have any - I mean, was 02:40:26PM
16 Frankston her area?---I don't think she had - to my best 02:40:35PM
17 recollection, no, I don't think she did. I mean, I would 02:40:40PM
18 have - I would have told her I was doing it if she covered 02:40:43PM
19 the territory, which she covered Frankston. But other 02:40:46PM
20 than that, no, I don't think so, from my memory. 02:40:58PM
21 Was she responsible for that area?---In the upper house 02:41:00PM
22 I think - I think - and I stand to be corrected, I think 02:41:04PM
23 it took in Frankston. Yes, it did take in Frankston from 02:41:07PM
24 memory. But she had enough other things going on. 02:41:10PM
25 I dealt with the - the two people who were most likely to 02:41:12PM
26 be affected by it, one of them was next door, the member 02:41:13PM
27 for Hastings, because people don't see the electoral 02:41:15PM
28 boundaries necessarily as being it, and also obviously 02:41:20PM
29 Bruce Billson who, as is his right, didn't agree with it, 02:41:21PM

1 which is fair enough. 02:41:25PM

2 Did you use Inga Peulich as a source of information about the 02:41:26PM

3 way council - sorry, Frankston Council might react?---No, 02:41:33PM

4 I don't - to be honest, I don't recall. 02:41:39PM

5 COMMISSIONER: Do you have any memory, Mr Leigh, of Ms Peulich 02:41:44PM

6 assisting you at all in moving the matter through the 02:41:50PM

7 council?---Look, no, I don't - look, I must say I think - 02:41:53PM

8 generally speaking I think the council were and the 02:41:58PM

9 officers in particular, most of them were pretty good, and 02:42:01PM

10 there were a couple there that were obviously angry about 02:42:05PM

11 it and all the rest of it, which is their entitlement. 02:42:08PM

12 But I thought - I thought the officers were really good. 02:42:10PM

13 We actually prepared a really good economic document as to 02:42:15PM

14 the value of what it would mean to both - to Frankston and 02:42:17PM

15 its community in terms of employment and all the other 02:42:20PM

16 things that go on. (Indistinct). So I don't recall she 02:42:24PM

17 had anything to do with it. 02:42:29PM

18 My recollection, Mr Tovey, is we had some material that 02:42:30PM

19 suggests that Heath Woodman provided Mr Leigh with a 02:42:35PM

20 briefing note which he in turn passed on to Ms Peulich for 02:42:39PM

21 the purpose of Ms Peulich engaging in discussions with 02:42:43PM

22 relevant Frankston councillors; is that not correct? 02:42:48PM

23 MR TOVEY: That is correct. 02:42:52PM

24 WITNESS: If you say so. 02:42:54PM

25 COMMISSIONER: So you don't remember that?---Look, we've been 02:42:58PM

26 going through lots of things today, sir, and I remember 02:43:00PM

27 some and I would like to think I try to answer 02:43:03PM

28 forthrightly. When I remember them, I'll tell you. When 02:43:06PM

29 I don't, I don't. 02:43:10PM

1 Well, would that be an appropriate thing to do, Mr Leigh, to 02:43:11PM
2 have your client prepare a briefing note to give to a 02:43:16PM
3 member of parliament, for the member in parliament in turn 02:43:20PM
4 to provide that briefing note to such councillors as they 02:43:26PM
5 thought might further the commercial objective?---Well, 02:43:28PM
6 look, once again, it's what the person that receives it 02:43:33PM
7 does with it after that. I mean, politicians (indistinct) 02:43:36PM
8 all the time. 02:43:40PM
9 I'm sorry, I thought you abandoned that as an ultimate 02:43:40PM
10 answer?---Okay. 02:43:44PM
11 I thought you accepted that it can never be right that it 02:43:45PM
12 doesn't matter what the process - - -?---It does matter, 02:43:50PM
13 I agree. I'm sorry, I apologise, sir. I agree, it does 02:43:52PM
14 matter. But it doesn't take away from the fact that, you 02:43:58PM
15 know, people write to MPs and they often respond, come 02:44:00PM
16 back. Sometimes they do. Sometimes they say, as Bruce 02:44:04PM
17 Billson said, 'Forget it, I'm not interested,' and 02:44:08PM
18 I accept his honesty of what he did. And the same goes 02:44:10PM
19 for Inga Peulich to what you do or not. Sometimes MPs do 02:44:13PM
20 it because they think it's in the economic interest of 02:44:17PM
21 their community. 02:44:20PM
22 No doubt?---It's their decision why they make the decision; not 02:44:21PM
23 mine. 02:44:24PM
24 But if the improper process is followed - if it's recognised 02:44:25PM
25 that there might be an improper way of doing that, then 02:44:39PM
26 surely a lobbyist - I'm not now speaking about you in 02:44:42PM
27 particular - - -?---Okay. 02:44:46PM
28 But surely a lobbyist has to recognise that they don't want to 02:44:47PM
29 be doing anything which will facilitate it being done by 02:44:53PM

1 improper means?---True. I'd agree with that. I mean, and 02:44:57PM
2 I must say in Frankston's case the officers in particular 02:45:02PM
3 were really terrific. They were prepared to say yes and 02:45:06PM
4 no about what they thought. You know, we would not have 02:45:09PM
5 got where we got without the officers. The officers were 02:45:12PM
6 just as significant as the councillors, in my opinion, in 02:45:15PM
7 that instance. But, by the way, Melbourne Water were 02:45:18PM
8 doing the same thing, but the minister told them they 02:45:22PM
9 weren't taking it out of the green wedge. 02:45:25PM
10 Yes. 02:45:28PM
11 MR TOVEY: Look, I'd suggest to you that on numerous occasions 02:45:32PM
12 - when I say 'numerous', on a number of occasions - you 02:45:36PM
13 referred to having discussed the council or discussing 02:45:41PM
14 this matter with Inga Peulich. Do you disagree with 02:45:45PM
15 that?---No, she's an upper house member of parliament who 02:45:51PM
16 knows all the councillors. But you're not getting secret 02:45:54PM
17 information from somebody. 02:46:02PM
18 No, but you briefed her in respect of it; do you agree with 02:46:03PM
19 that?---Well, as I said, I briefed Bruce Billson, the 02:46:07PM
20 member for Hastings, and clearly obviously I briefed her 02:46:10PM
21 as well. And remember Billson said no; the member for 02:46:13PM
22 Hastings said, 'Thanks for the information,' and I never 02:46:20PM
23 heard from him again because he was on the other side of 02:46:23PM
24 the road. 02:46:25PM
25 Did you accept the offer of the success fee in respect of this 02:46:26PM
26 matter?---If it came off we would have got it, yes. But 02:46:31PM
27 it didn't. And I thought it was a very hard job to pull 02:46:37PM
28 off because it hadn't been in the last process, because 02:46:39PM
29 there was no process. 02:46:42PM

1 That was on 31 July of 2013 that the document relating to the 02:46:44PM
2 success fee was sent. Moving on from that, could you 02:46:52PM
3 look, please, at 5065?---Sure. 02:46:57PM
4 And 5066. If we start at 5066 just to get the context for this 02:47:11PM
5 and then just scroll up?---Okay. 02:47:42PM
6 So in the middle of the page you see that you've been done over 02:47:44PM
7 by Bruce Billson?---Yes, fair enough. 02:47:50PM
8 And then you write an extensive memorandum to Heath Woodman, 02:47:55PM
9 and that's - we start at the top of the next 02:48:07PM
10 page?---M-hmm. 02:48:10PM
11 5065. This is how you're now going to respond to the 02:48:11PM
12 situation - - -?---Yes. 02:48:22PM
13 You're in?---M-hmm. 02:48:24PM
14 So, 'As per our phone discussion letters should come from 02:48:25PM
15 Michael, not you.' Who was Michael, by the 02:48:33PM
16 way?---Michael? 02:48:38PM
17 COMMISSIONER: I think he was referred to in the later email 02:48:41PM
18 you looked at - or the earlier email, Mr Tovey. 02:48:43PM
19 MR TOVEY: Yes. It doesn't matter. I think he was somebody 02:48:47PM
20 who was involved on Mr Billson's side?---Well, they said 02:48:53PM
21 no. So that was the end of it. 02:49:00PM
22 You say, 'I have set out the approach below after discussion 02:49:02PM
23 with Inga and Phil.' And then you include further down a 02:49:05PM
24 quite detailed analysis of how to proceed from there. 02:49:13PM
25 COMMISSIONER: Mr Tovey, it's Michael Goldthorp. 02:49:21PM
26 MR TOVEY: Thank you?---He was Wolfdene. And I must say 02:49:24PM
27 I didn't know the connections until Wolfdene and Watsons, 02:49:28PM
28 because they are interrelated, and I must say I didn't 02:49:32PM
29 know that at all. 02:49:35PM

1 COMMISSIONER: Yes. 02:49:37PM

2 MR TOVEY: In any event, you say there, 'I've set out the 02:49:38PM

3 approach below after discussion with Inga and Phil. Will 02:49:44PM

4 discuss with Inga a bit more tomorrow night.' So what's 02:49:51PM

5 apparent from this document is that you're involved in 02:49:56PM

6 very detailed planning strategising with Inga in respect - 02:49:59PM

7 - -?---No, I'm asking her opinion. I would have been 02:50:07PM

8 asking her opinion what was going on. You know, 02:50:09PM

9 that's - and whatever she thought about it. So, I mean, 02:50:13PM

10 it's not - it's not sort of some secret arrangement going 02:50:18PM

11 on. It's just, 'What do you think about this' type stuff. 02:50:24PM

12 You get ideas from other people, including former 02:50:28PM

13 colleagues or other people individually that you meet who 02:50:30PM

14 are planners. I often talk to the planners at Frankston 02:50:34PM

15 Council about what was going on and how you would deal 02:50:37PM

16 with it when other people were there, I might add. 02:50:39PM

17 That's not the way it appears, I've got to - - -?---You know, 02:50:41PM

18 maybe I wrote the letter wrong then. How about that? 02:50:53PM

19 Well, you talk about, 'I've set out the approach below after 02:50:56PM

20 discussions with Inga and Phil.' The approach below is 02:51:02PM

21 not a thought bubble; it's a detailed strategy?---Sure. 02:51:05PM

22 And you include Inga, 'with Inga and Phil', and Phil is another 02:51:08PM

23 lobbyist and strategist. You indicate there that you 02:51:12PM

24 have spoken to her and you have spoken to her again, and 02:51:15PM

25 I've indicated to you before this there are other numerous 02:51:17PM

26 times - when I say 'numerous times', a number of times 02:51:20PM

27 where you had been talking to her about it. Was it the 02:51:23PM

28 case that she was significantly involved in assisting you 02:51:27PM

29 with the strategy to be used in respect of the Stotts Lane 02:51:29PM

1 issue?---Not necessarily so at all because Inga and I, if 02:51:32PM
2 you check with anybody you like to know, often have 02:51:38PM
3 serious disagreements about things. Sometimes you get 02:51:41PM
4 ideas how you can approach a matter. Sometimes you are 02:51:44PM
5 told, 'It's not a really good idea, you should do it that 02:51:48PM
6 way' or whatever. I mean, it's nothing - there's 02:51:51PM
7 nothing - with great respect, Mr Tovey, you're making it 02:51:55PM
8 out like there's some sort of sinister game going on, and 02:51:57PM
9 it's not. It's just asking for someone's advice. And 02:52:01PM
10 Phil and I would have maybe - we would have discussed it. 02:52:03PM
11 But 'after discussing with Phil and Inga', it doesn't mean 02:52:08PM
12 that Phil was with Inga. He wouldn't have been. I would 02:52:11PM
13 have had a chat with Inga separately. 02:52:13PM
14 Inga, I suggest, you made clear to Heath Woodman, John Woodman, 02:52:15PM
15 was one of the keys to getting this up?---Well, you know, 02:52:29PM
16 I mean - - - 02:52:34PM
17 Do you agree with that or not?---It's yes and - that's 02:52:35PM
18 sometimes bluff as well because the reality of it is we 02:52:39PM
19 needed in that case to get it through council, if it was 02:52:43PM
20 going to get anywhere, and then once again you've got the 02:52:46PM
21 problem of how do you approach something that's been put 02:52:49PM
22 in the green wedge. And it still comes back to the great 02:52:52PM
23 difficulty of getting something out of the green wedge 02:52:56PM
24 individually, and it was always those things. But they're 02:52:58PM
25 tough battles to fight. I thought it was unlikely we 02:53:02PM
26 would succeed, to be honest, as what happened. 02:53:04PM
27 But you ended up anticipating, did you not, that Inga Peulich 02:53:08PM
28 would advocate either within government or in parliament 02:53:12PM
29 to try and assist you in respect of getting the result you 02:53:16PM

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wanted?---Can I say, sir, if you knew Mrs Peulich well, if she agreed with you she would agree with you. If she disagreed with you she would disagree with you and say it either way which suited her, and she would do that for what she thought was the benefit of her community. And can I say that the reality is - - -

By this time you knew whether she was going to agree with you or not because you had been discussing it with her day in - for two days in a row; you had discussed it with her on a number of occasions. So by this stage Inga Peulich was helping you devise the strategy; that's what you're saying in the letter?---Well, let's say I might have taken a bit of licence. But can I say Mrs Peulich was always known to actually - to agree with you sometimes and to disagree with you, and she may well have disagreed with me about aspects of it. But there's also the other issue in this. We did a very credible economic document that showed the value of what this - what this was to Frankston. It was dead land as it was; farmland that was no good, not used for farmland. It was an attempt to try and change it which failed. As I said, I spoke to Federal members - well, the Federal member for Flinders didn't agree with it; the Federal members for Dunkley didn't agree with it; the member for Hastings had no view of it. Mrs Peulich probably thought it was - economically it was something worth pursuing based on her own community's benefit or whatever. I don't know. Sometimes you get agreement from people and sometimes you don't. It doesn't mean that they're in some sort of deal to - sinister deal to do

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1 things, as the way the implication is in this. 02:54:57PM

2 COMMISSIONER: I thought you agreed with me a little earlier, 02:55:05PM

3 Mr Leigh, that you had, having received a briefing note 02:55:07PM

4 from Heath Woodman, passed it on to Ms Peulich in order 02:55:10PM

5 for her in turn to make contact with the councillor who 02:55:15PM

6 you understood would support the objective of the 02:55:18PM

7 client?---If she chose. 02:55:23PM

8 Yes. And did you understand she did choose?---I have no idea. 02:55:25PM

9 Long time ago. You know, as I said, sir, I would answer 02:55:32PM

10 the best I can when I can. I don't know about what an 02:55:37PM

11 individual does. Sometimes they say, 'Yes, I have,' and 02:55:40PM

12 they haven't. 02:55:42PM

13 But presumably, Mr Leigh, if Ms Peulich didn't agree with the 02:55:43PM

14 objective that you and your client were seeking to achieve 02:55:51PM

15 she wouldn't receive a briefing note from you and agree 02:55:57PM

16 that she would pass it on; she would have made clear to 02:56:02PM

17 you, 'I don't support this proposal and there's no point 02:56:05PM

18 in you giving a document like this to me because I will 02:56:09PM

19 not go to the councillor and seek the councillor's 02:56:13PM

20 support'?---They can do that or they can say nothing. 02:56:16PM

21 Did she do that?---I don't honestly know, sir. 02:56:19PM

22 Yes?---Excuse me, I do know I'm under oath and I've got to 02:56:23PM

23 answer honestly. I do not honestly recall what she did. 02:56:27PM

24 Yes?---Honestly, sir, the best I can. 02:56:33PM

25 MR TOVEY: Mr Leigh, if you go to the middle of the page - - 02:56:36PM

26 -?---Yes. 02:56:40PM

27 So, 'You (Heath to do) send letter to Matthew Guy's email, 02:56:44PM

28 matthewguy@parliament.gov.vic.au?---Yes. 02:56:55PM

29 'This address can't be accessed under FOI'?---Perhaps 02:57:00PM

1 I shouldn't have said that. 02:57:06PM
2 Yes, well - - - ?---It looks bad. 02:57:07PM
3 One of the issues that we have been raising with people is 02:57:16PM
4 transparency?---True. 02:57:19PM
5 And you shouldn't have back channels of communication or modes 02:57:21PM
6 of communication which hide - deliberately hide from 02:57:25PM
7 scrutiny communications between lobbyists and a planning 02:57:32PM
8 minister on behalf of a developer, should you?---I think 02:57:36PM
9 you're correct, yes. And in hindsight a dumb idea. But 02:57:41PM
10 hindsight is man's greatest gift, isn't it? 02:57:48PM
11 COMMISSIONER: Well, might it be said in your defence, 02:57:56PM
12 Mr Leigh, that you were throughout these matters that have 02:57:58PM
13 been pursued by Counsel Assisting reflecting a culture or 02:58:00PM
14 a method of operation which was prevalent and accepted 02:58:08PM
15 amongst lobbyists during this period?---I think - I think 02:58:13PM
16 the world's moved on from the point of view how we 02:58:17PM
17 operate, and in the era that most of - the time that 02:58:20PM
18 I operated in I think transparency was never quite the 02:58:26PM
19 same issue as it is among people today and how you 02:58:30PM
20 operate, and I think it - look, it's a changing nature of 02:58:33PM
21 the world. What happened - you can never - you know, the 02:58:37PM
22 world moves on sometimes and we judge things from 02:58:40PM
23 yesterday by today's standard, when if you thought about 02:58:44PM
24 it today it's not right; if you thought back then it was 02:58:47PM
25 probably okay. But, I agree, I think more transparency is 02:58:50PM
26 probably a good idea. 02:58:53PM
27 Yes. Regrettably the matters concerning Mr Woodman and Watsons 02:58:54PM
28 and the council up to 2018/19 don't suggest that things 02:59:02PM
29 have changed?---Are you talking about Cranbourne West, 02:59:10PM

1 I assume? 02:59:15PM

2 Correct?---Yes, well, like I said, I've occasionally watched 02:59:15PM

3 what's been going on with your body with sort of somewhat 02:59:23PM

4 shock, I describe. In fact actually I didn't know John 02:59:30PM

5 very well, but I am staggered, frankly. 02:59:33PM

6 All right?---And I knew Heath well and I would have difficulty 02:59:36PM

7 believing that he would do something - never did something 02:59:41PM

8 like that in front of me is what I say to tell you. 02:59:44PM

9 Yes. Yes, Mr Tovey. 02:59:46PM

10 MR TOVEY: I tender that document, sir. 03:00:00PM

11 COMMISSIONER: Yes. That's the email from Mr Leigh to 03:00:03PM

12 Mr Woodman of 2 January 2014 will be 342. 03:00:07PM

13 #EXHIBIT 342 - Email from Mr Leigh to Mr Woodman of 02/01/14. 03:00:05PM

14 MR TOVEY: I now want to go to 5070. So this is an email from 03:00:26PM

15 Heath Woodman to you?---Sure. 03:01:08PM

16 On 13 February 2014?---Yes. 03:01:12PM

17 So if you look at the bottom of that you'll see reference there 03:01:25PM

18 to attaching a briefing note?---Okay. 03:01:33PM

19 And then Heath says, 'Fine with me. If you want to email me 03:01:40PM

20 the final copy I will deliver it personally to 03:01:47PM

21 Inga'?---Yes. 03:01:53PM

22 So was there a personal relationship between Heath Woodman and 03:01:53PM

23 Inga Peulich that you were aware of? Were they 03:01:59PM

24 friends?---Not particularly. 03:02:03PM

25 COMMISSIONER: No, that's Mr Leigh offering - - - 03:02:18PM

26 MR TOVEY: I'm sorry, that's Mr Leigh. Okay. I mixed up which 03:02:21PM

27 way it was going. 03:02:24PM

28 COMMISSIONER: And that's the matter I had in mind, Mr Tovey. 03:02:25PM

29 I've already asked Mr Leigh - - - 03:02:28PM

1 MR TOVEY: Yes. There are two references. There's an earlier 03:02:30PM
2 reference to her having been verbally briefed, and then 03:02:32PM
3 there's this document as well, which - - -?---Well, did I 03:02:37PM
4 take personally? 03:02:40PM
5 Deals with the briefing. And then if you go to the top of the 03:02:40PM
6 page. So what's attached is a full briefing in respect 03:02:50PM
7 of - a full and detailed briefing in respect of the issue 03:02:58PM
8 and what Heath Woodman sends you is 'the final document's 03:03:03PM
9 attached for hand delivery to Inga Peulich. Both of them 03:03:09PM
10 need to be printed. Key element for Inga to make sure of 03:03:15PM
11 here is we don't have a problem with authorisation. If 03:03:20PM
12 you can reiterate this to her politely that would be 03:03:29PM
13 great.' Now, it would appear that as a result of 03:03:32PM
14 communications between you and Heath Woodman he sees that 03:03:37PM
15 Inga Peulich is going to be his advocate clearly from the 03:03:44PM
16 - did you tell him that she was going to go in to bat for 03:03:51PM
17 him, because that I would suggest is his clear expectation 03:03:55PM
18 from that email?---(Indistinct). If you knew Frankston 03:03:58PM
19 Council they'd do what they all collectively wanted to do. 03:04:01PM
20 And if you were an MP, if they didn't think it was a good 03:04:04PM
21 idea they wouldn't do it, and I don't think any individual 03:04:08PM
22 politician had the collective power over them the way they 03:04:10PM
23 operated, is what I'm saying. So she might have talked to 03:04:14PM
24 somebody. 03:04:16PM
25 But I think you've got the context wrong. What they're talking 03:04:16PM
26 about there is not the passing of the motion. What 03:04:22PM
27 they're talking about is the minister's authorisation, and 03:04:27PM
28 it would seem from that that Inga's job is to make sure 03:04:31PM
29 that there is no problem with the minister providing 03:04:35PM

1 authorisation; all right? And what I'm suggesting to you 03:04:40PM
2 is that it's apparent from that email that you've created 03:04:44PM
3 in Heath Woodman an expectation that Inga Peulich is going 03:04:51PM
4 to go into bat for him on that issue?--Well, he said no. 03:04:56PM
5 Do you agree, though, that that's the expectation you created 03:05:01PM
6 with Heath Woodman?---Perhaps so, sir. 03:05:06PM
7 I tender that document which is pages 5070 and 5071, 03:05:08PM
8 Mr Commissioner. 03:05:25PM
9 COMMISSIONER: Yes, that will be exhibit 343. 03:05:32PM
10 #EXHIBIT 343 - Email from Mr Heath Woodman to Mr Leigh of 03:05:35PM
11 13/02/14, pages 5070 and 5017. 03:05:35PM
12 COMMISSIONER: If that's the matter I was thinking of earlier, 03:05:35PM
13 then I was in error in putting to you that it was given to 03:05:38PM
14 Ms Peulich for the purpose of her briefing or talking to a 03:05:45PM
15 councillor. It was for the purpose of her taking the 03:05:49PM
16 matter up with the minister?---And she may have or may 03:05:53PM
17 not. But the point was the minister said no. 03:06:00PM
18 Yes. 03:06:04PM
19 MR TOVEY: Just one final matter then. On 15 April of 2015 03:06:07PM
20 there was an email chain involving yourself, Mr Staindl, 03:06:15PM
21 Heath Woodman and Megan Schutz?---Yes. 03:06:22PM
22 In the emails in that chain Mr Woodman notes that, 'From my 03:06:25PM
23 notes of our meeting circa a month ago that you were to 03:06:33PM
24 commence discussions with senior cabinet ministers 03:06:39PM
25 regarding the UGB process past Easter. My notes state 03:06:42PM
26 prior to Easter you were to arrange a meeting with James 03:06:51PM
27 Merlino'?---The government had changed. 03:06:57PM
28 Sorry?---The government - - - 03:07:04PM
29 Yes, the government had changed. Do you have any recollection 03:07:06PM

1 or knowledge of any plan for Mr Staindl or either of you 03:07:10PM
2 - I mean, I assume it was Mr Staindl given the government 03:07:15PM
3 had changed?---The government had changed, and at that 03:07:18PM
4 point I would have thought it was all over in any case 03:07:22PM
5 because I don't think anybody was going to do anything. 03:07:26PM
6 I have no further questions, Mr Commissioner. 03:07:28PM
7 COMMISSIONER: Yes. So, Mr Leigh, is there anything that you 03:07:31PM
8 want to add that appears to you to be relevant to the 03:07:39PM
9 matters that we have explored with you?---Sure. I think a 03:07:44PM
10 couple of things, and I've noticed this is a wider scale 03:07:50PM
11 of things in planning, if you look at it from - the 03:07:53PM
12 problem we all have now is the bureaucracy is so giant 03:07:57PM
13 that unless you're a company that has your own in-house 03:08:01PM
14 lobbyist, which is what they really are and yet they are 03:08:05PM
15 not listed as lobbyists, they are listed as something else 03:08:08PM
16 than that, it is very difficult for a normal business 03:08:12PM
17 person to actually - if you're a medium to small business 03:08:14PM
18 you've got no chance unless you know someone who knows how 03:08:18PM
19 to fight a battle and is prepared to - you might get the 03:08:22PM
20 message from me is if I actually believe in a cause 03:08:25PM
21 I'll go and fight for it to the death for what I think the 03:08:28PM
22 right reasons on the ones that I was involved in. But 03:08:30PM
23 I think there does need - the bureaucracy has got worse. 03:08:34PM
24 There are decision makings from down to minor things at 03:08:37PM
25 council now that, for example, if you lived in Bayside, 03:08:40PM
26 for example, the planning officer would - it will take you 03:08:46PM
27 18 months to get it through if it was just say a dual occ; 03:08:51PM
28 you would have to spend \$30,000 to fight the battle; and 03:08:54PM
29 then the planning officer will ring you up and tell you 03:08:58PM

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that he doesn't like the colour of the garage door. You have on the giant scale of things - now, I've been involved as a company with a PSP since 2012 to 2019 to get the redevelopment of Sunbury where there's railway lines and everything, and can I tell you it has been a nightmare. And if you want to know why people need lobbyists is when the bureaucracy becomes unaccountable - we're not talking about the politicians; we're talking about the bureaucracy - when they become the fountain of all knowledge and listen to nobody, and that's what's happened in some of these cases, people need to go and find someone else. The more simply you make government the less you need lobbyists. And I certainly urge you to do a couple of things. One is everybody who works for a major company, whether it's Qantas or whatever, they should be listed as lobbyists, not a government relations because that's not what they are. Then if you're the chairman of CBUS, for example, who goes and talks to a minister because you've got lots of buildings you build in the city, you should be visibly seen that you have done that. I'm not picking on them for doing something wrong. That should be visible. I think when you're a minister, if you ever sit in an office dealing with somebody, when you have one person you're a fool, because you need to know that - what's happened, and, secondly, I think there's also the issue of the visibility of who speaks to who, and I think there should be a ministerial log which probably should be available to someone like the secretary of cabinet and IBAC seeing what ministers do and who they

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1 talk to. I think - frankly, I think away from those 03:10:42PM
2 things and I - look, I understand - as I said, I'm shocked 03:10:50PM
3 by some of the stuff in the Cranbourne West thing, which 03:10:54PM
4 fortunately I was not involved in, but can I also say, 03:10:59PM
5 sir, that one of the things about IBAC is that when you 03:11:03PM
6 come to you we're all seen as guilty till we leave as 03:11:07PM
7 innocent, and I reflect on the fact as someone I knew a 03:11:11PM
8 little bit, Nick Greiner, who was found guilty in New 03:11:14PM
9 South Wales and then in the end the courts decided that he 03:11:18PM
10 was innocent, but he lost his job as Premier, and I think 03:11:20PM
11 IBAC has got to make sure that when you do things that you 03:11:24PM
12 don't destroy people either. I mean, I won't be destroyed 03:11:28PM
13 out of this and it won't - it's not going to cost me a job 03:11:32PM
14 or anything like that. But I think there's that. And 03:11:35PM
15 I also have to say - and forgive me if I say so, but 03:11:38PM
16 I don't know the reasons why you haven't talked to Heath, 03:11:42PM
17 but what I would say is if I'm accountable for any of this 03:11:44PM
18 then so is he, if I've done anything inappropriate. 03:11:50PM
19 I don't think we did. I think there words sometimes were 03:11:53PM
20 used which on reflection we should be cleverer than what 03:11:57PM
21 we did. I also - and you may not like me saying this, but 03:11:59PM
22 we're all waiting for the one person that you haven't 03:12:04PM
23 called who had dinner with John Woodman, and that's the 03:12:06PM
24 Premier. And I think it's important that as a citizen, or 03:12:13PM
25 you, we're all equal. Nobody's above anybody else is the 03:12:18PM
26 way I've always looked at life. And I think the last 03:12:22PM
27 thing I would say is that when you have staff and 03:12:25PM
28 ministerial officers who can move from an office to the 03:12:27PM
29 police minister or can go from the Treasurer's office to 03:12:32PM

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CityLink or some other bunch, they should be banned from
going anywhere short after because
information - information now is the key to everything in
government or whatever, and unfortunately you're going to
need lobbyists in some form to deal with all the things
that go on in this society because how does the little guy
fight it? They can't. Sometimes they band together, as
has been said by the planning chief of staff of the
planning minister yesterday. Sometimes medium companies
go out and fight battles. The last thing I'll say is, for
example, I worked for a planning company - not a planning
company - a printing - what you would say, a real estate
board company for about 18 months to two years. We
applied for permits, do it all the right way, and yet next
door to us in the City of Yarra, for example, when they've
spent 10,000 bucks covering issues with the electricity
being shut down while they put a sign up, yet illegal ones
are put up and when you go and complain to the planning
department they ignore it, and in one case it was so bad
I went into the Victorian Building Authority, complained
to them with a whole lot of detail, and the sign was so
dangerous over a shop - over a shop in the city, that
I know from the secretary of - from the head of the VPA,
someone rang the chief of planning, if they didn't pull it
down he'd throw the book at them. So there are big issues
and little things. So that's where I sort of end it.
I thank you for the opportunity to have the battle with
you, gentlemen, if that's what it is. But I'd like to say
I've always tried to be - do the right thing. I have a

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family, I like my sons to respect me as an individual, and we all make mistakes, and if I've made mistakes in some of my writing that I've done there I do apologise, and perhaps if I was doing it in the future I would be a bit more careful about it. And if I have been too combative for you, Mr Tovey, having a go at you, I apologise. It's certainly not - I guess it's the defence mechanism of someone who's spent years being attacked. That brings it out in me, so I am sorry. And to you, Mr Chairman, I thank you for your fairness. I do appreciate it.

COMMISSIONER: Yes. Just a couple of things, Mr Leigh.

Firstly, I'm interested in your observation about how things have changed at government level. Were you alluding there to the fact that now we have far more advisers surrounding ministers? What were you actually alluding to in terms of the number of persons (indistinct words)?---Can I say when the Premier of Victoria has more staff than the Prime Minister of our country there's something going on, because I suspect the Prime Minister has got a whole lot more to do - I'm not having a go at him. I'm just saying I think that - what I would say, I'm reminded once long ago of what - a colleague of mine when he got back on the front bench and I didn't, and he said, 'I'm back on the front bench, and I've cleared out this section.' The section he cleared out was the advisers who would tell him what he should or what he couldn't do, and he left the bureaucracy in place, and sometimes the bureaucracy is not right and you do need good advisers to actually help you to counter what they

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do. I guess it's when you over-blow it, is what I'd say.
Yes. So there's three things I would just like to say about
the things you've commented on. The first is, under the
legislation which governs the Commission, the Commission
is unable to make findings of criminal misconduct. That's
explicitly prohibited. All the Commission can do in
making findings is find facts. If someone concludes that
those facts constitute a crime, that would be a task for
others, not for the Commission?---Sure.
The second thing is that we are also bound by the statutory
process that must be followed after an investigation is
finished and before a report is published to file what is
known as an actual justice process?---Good.
In which any person, particularly any person who might be the
subject of any criticism or adverse findings, has an
opportunity to view the report in its draft form and to
respond to it, and then there is an obligation in relation
to the Commission to then fairly reflect that response in
any report which is published. The only other thing
I would like to say to you, Mr Leigh, is if it's - I hope
we made this apparent during the course of your evidence,
that what we're focused on in relation to your conduct is
what seems to be the lack of transparency that's
associated with the way in which lobbyists conduct
themselves. So much of what's been put to you are matters
of course which have never seen the light of day?---Yes.
This is not about saying that there isn't a role for lobbyists
in the democratic process. Of course there is. It's a
question of striking a balance in the end, and at the end

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of this investigation we will conduct a public forum for
about a week in which we will receive expert evidence from
a range of people, some of whom will talk about the issue
of lobbying and what sort of regime can ensure that
there's transparency and accountability. So that's our
primary objective in examining you; do you follow?---Sure,
and can I say the thing - the point I'd make is, like
I said before, times change and what you do back at a
point and the judgment of - we sometimes now judge things
of what people did then based on how we judge things
today, and I think - I'm reflecting if I was operating
today in some ways there are things that I would clearly
change. But then that's the time - as the time - how time
moves on.

Mr Leigh, you can rest assured that anyone that has spent the
length of time that I have in practising law will know
better than most that hindsight is a wonderful thing and
so therefore when judging events with the benefit of
hindsight there needs to be caution shown?---Can I say -
look, I don't know how to say this because
I think - I know you challenged me on what I've - what may
or may not said, and I apologise for saying it this way,
sir, okay, but it's how I feel and I think when you feel
that way you should - if you feel unhappy about it.
I operated for a company and did what I thought was right.
Now, if I'm answerable for things, then so be it. But
I don't understand why - and you did make the comment
about why - that you've just said Heath wasn't part of it.
Now, my view of - and Heath Woodman wasn't part of it.

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1 Now, I operated under him - - - 03:20:17PM
2 Okay, let me interrupt - - -?---Yes, but - I understand that. 03:20:20PM
3 Mr Leigh, let me interrupt. I have made no observation about 03:20:23PM
4 Mr Heath Woodman?---Of course you haven't. I don't think 03:20:26PM
5 he did anything wrong in this sense either. But if I am 03:20:31PM
6 here talking about this and he was one of the people that 03:20:34PM
7 I was responsible to, he's not, and yet he's in the 03:20:37PM
8 processes the way I am, and I'm mystified as to why he's 03:20:43PM
9 not. But that's the end of where I stand, sir. 03:20:49PM
10 Yes. I thank you for your cooperation, Mr Leigh. Mr Tovey, is 03:20:50PM
11 there any reason why Mr Leigh shouldn't be discharged from 03:20:54PM
12 his summons? 03:20:57PM
13 MR TOVEY: No, Commissioner. 03:20:59PM
14 COMMISSIONER: Very good. So I'll release you from the 03:21:00PM
15 summons, Mr Leigh. If you are interested in reviewing a 03:21:04PM
16 video of your evidence or reading a full transcript of 03:21:09PM
17 your evidence, although, as I understand it, the 03:21:13PM
18 transcript is eventually online in any event, but if you 03:21:15PM
19 are interested in doing either you need only get in touch 03:21:20PM
20 with the Commission and we'll make provision for you to be 03:21:24PM
21 able to access your evidence on paper or on video as you 03:21:27PM
22 might prefer?---I think I'll wait a week. 03:21:32PM
23 Thank you again for your attendance?---Pleasure, sir. 03:21:37PM
24 Mr Tovey, we're adjourned until 10 am tomorrow? 03:21:39PM
25 MR TOVEY: Yes, we are, sir. Sorry, 10 am Monday. 03:21:45PM
26 COMMISSIONER: I'm sorry. Of course, 10 am Monday, and who is 03:21:49PM
27 that, Mr Tovey? 03:21:51PM
28 MR TOVEY: Ms Sullivan and Ms Morales. 03:21:54PM
29 COMMISSIONER: So they are witnesses in relation to the 03:22:00PM

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management of campaign donations?

MR TOVEY: Ms Morales relates to the operation of

Progressive Business, and Ms Sullivan relates to the
operation of Enterprise Victoria.

COMMISSIONER: Yes. Thank you. Very good. We'll adjourn
until 10 am on Monday. Thank you again, Mr Leigh?---Thank
you. Bye.

<(THE WITNESS WITHDREW)

ADJOURNED UNTIL MONDAY, 7 DECEMBER 2020

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