

## Operation Lansdowne – Opening statement

Mr Ian Hill QC

County Court of Victoria

Tuesday 27 June, 2017

1. In December 2015, IBAC commenced an investigation known as Operation Lansdowne. The investigation was prompted by a referral from the Victorian Ombudsman.
2. At the outset, the focus of the investigation was suspected serious corruption in connection with the provision of vocational training qualifications, principally at the South West Institute of TAFE in Warrnambool, and later at the Bendigo Kangan Institute in Bendigo.
3. Over the course of Operation Lansdowne, IBAC has found evidence suggesting a sustained pattern of suspicious conduct involving a group of people employed in, or contracted by, the Victorian TAFE and transport sectors, and involving the flow of millions of dollars of public funds to some of those individuals and to entities associated with them.
4. The evidence found by IBAC so far gives rise to serious concerns that some of those individuals have, over several years, been able to exploit weaknesses in these industry sectors, and perhaps to influence the conduct of a number of public officials, in order to derive significant financial benefits for themselves and for their friends and family.

### South West TAFE

5. The South West Institute of TAFE (which we will refer to from here on as SW TAFE), is based in Warrnambool and is a major provider of technical and vocational skills training and qualifications in south west Victoria. As a Registered Training Organisation (RTO), the TAFE is entitled to claim public funding from the Victorian Department of Education Higher Education and Skills Group for providing recognised courses and qualifications. At the relevant time, funding was in the form of a subsidy granted on a per-student basis. The amount of the subsidy claimable by the TAFE was determined by a number of factors including the number of students enrolled, the number of contact hours of training provided per student, and the student's eligibility (or otherwise) at enrolment for a fully funded course.

6. In 2013, SW TAFE entered into a contract with a company called TayTell Pty Ltd. Under the contract, TayTell was to be a 'third party' training provider for SW TAFE. The contract contemplated that TayTell would arrange for a cohort of people, described in the contract as TayTell 'employees', to be enrolled in courses at SW TAFE. TayTell would then be responsible for conducting their training and assessment, using its own teaching resources and materials, its own training and assessment personnel, and its own training venues. SW TAFE's role in relation to these enrolments appears to have been limited, largely, to the accreditation of the students, on completion of their training and assessment, with a formal qualification from SW TAFE.
7. Under the contract, SW TAFE was to pay TayTell a fee equal to 80 per cent of the government subsidies that SW TAFE was to receive from the Department of Education for the TayTell student enrolments. SW TAFE would keep the remaining 20 per cent.
8. In late 2013 SW TAFE received enrolment, participation and assessment data from TayTell for some 134 students that TayTell claimed to have enrolled, trained and assessed for a Certificate IV in Engineering qualification. SW TAFE then submitted that data to the Department of Education, via its electronic system, to claim government funding for the TayTell enrolments. Between late 2013 and mid-2014, SW TAFE received \$2,280,168 by way of government subsidy for those TayTell enrolments. It kept 20 per cent for itself (\$456,033.60). The other 80 per cent of that public funding – some \$1,824,134.40 – was onpaid to TayTell,
9. TayTell Pty Ltd was incorporated on 16 April 2013. Its sole director and shareholder is Rebecca Taylor.
10. IBAC's investigation has revealed that in early 2013, Rebecca Taylor was engaged as a consultant by a large, private sector company, Zinfra, to provide "Lean Six Sigma" training to its employees. "Lean Six Sigma" is a business management training program available on the commercial market. Zinfra is an engineering, construction and maintenance business servicing the utilities industry. Rebecca Taylor was engaged by Zinfra as a contractor, to be involved in the delivery of Lean Six Sigma training to its staff. IBAC understands that she was

given the contract on the recommendation of a former work colleague and close associate who was, at that time, also at Zinfra.

11. Documents obtained by IBAC indicate that some time after Rebecca Taylor had conducted a number of Six Sigma training sessions at Zinfra, TayTell submitted some 134 student enrolment forms to SW TAFE, purportedly on behalf of Zinfra staff, enrolling them into a Certificate IV in Engineering course at SW TAFE. Most of the people who were enrolled in the course by TayTell had attended one of Rebecca Taylor's Six Sigma training sessions. The circumstances of how TayTell came to enrol those people into the Certificate IV in Engineering course will be a matter of inquiry in these public hearings. So, too, will the nature and extent of the training and assessment that TayTell claimed to have provided to those enrolled in the Engineering qualification, and in respect of which SW TAFE claimed and received more than \$2 million in government subsidies, of which more than \$1.8 million was then paid to TayTell.
12. In October 2013, Rebecca Taylor was, herself, awarded a Certificate IV in Engineering qualification from SW TAFE. That qualification is a minimum pre-requisite for a person to be permitted to then train and assess others in the Certificate IV in Engineering. IBAC's investigations to date raise serious concerns as to how Rebecca Taylor came to obtain that qualification from SW TAFE, and the involvement in that process of Mr Maurice Molan, then an Executive Manager at SW TAFE.
13. IBAC's investigations also suggest that Mr Molan was integrally involved in the establishment of the contract between SW TAFE and TayTell. The circumstances of the negotiation, execution and management of the agreement between SW TAFE and TayTell, including the knowledge and involvement of Mr Molan and other senior executives of SW TAFE, is a matter to be explored in these public examinations.

### **Bendigo Kangan Institute**

14. Like SW TAFE, the Bendigo Kangan Institute (which we will refer to from here on as Bendigo Kangan), is a major provider of TAFE and vocational skills training and qualifications, in the Bendigo region. It, too, is a Registered Training Organisation (RTO), and receives funding from the Department of Education Higher Education and Skills Group for providing recognised courses and qualifications.

15. IBAC investigations indicate that in 2014, TayTell began providing Six Sigma training to staff of Jetstar Airways. At the time, another former colleague and close associate of Rebecca Taylor was employed as the Manager of Safety and Organisational Change at Jetstar, and appears to have been integral to TayTell obtaining work with Jetstar.
16. Commissioner, you will hear evidence in these hearings of network of associates and former colleagues directly and indirectly connected with Rebecca Taylor. Matters for exploration in these examinations include the degree of knowledge and involvement of certain of those associates in the activities of TayTell; the degree of assistance, if any, provided to Rebecca Taylor in obtaining the contracts to provide Six Sigma training to Zinfra, and later to Jetstar; and whether those associates received any personal benefit from the public funds that flowed to TayTell.
17. In about August 2014, TayTell entered into contractual arrangements with Bendigo Kangan to provide 'third party' training services, similar to the arrangement it had previously with SW TAFE.
18. Under its agreement with Bendigo Kangan, TayTell was to enrol students into Bendigo Kangan courses, including the Certificate IV in Engineering, and Diploma of Business Management. The agreement contemplated that the students to be enrolled by TayTell were Jetstar employees. TayTell would be responsible for providing all of the teaching materials, qualified trainers, teaching venues, and for conducting the training and assessment of the persons enrolled. TayTell was to submit the completed enrolment, training and assessment records to Bendigo Kangan. Kangan's involvement was limited, largely, to the accreditation of the enrolled students with the relevant qualifications. Under the agreement, Bendigo Kangan would pay TayTell amounts adding up to 70 per cent of the HESG government subsidy claimed and received from the Department of Education for those enrolments.
19. TayTell submitted 70 enrolments to Bendigo Kangan, said to be Jetstar employees. It also submitted assessment materials said to evidence the fact that each of those persons had been trained by TayTell, and assessed by TayTell, in accordance with the course requirements. The circumstances of those enrolments will be an important matter of inquiry in these public hearings. So, too, will the nature and extent of the training and assessment

TayTell claimed to have provided to those it had enrolled in Bendigo Kangan courses, and in respect of which Bendigo Kangan claimed and received over half a million dollars in government subsidies, of which \$22 1,471.80 was paid to TayTell.

20. The circumstances of the negotiation, oversight and management of Bendigo Kangan's agreement with TayTell are matters to be explored in these examinations. So too are the circumstances surrounding payments made to TayTell by Bendigo Kangan, and the sufficiency of its systems and controls relating to third party training agreements.
21. Commissioner, these matters relating to SW TAFE and Kangan, and the activities and conduct of TayTell, Rebecca Taylor and others associated with TayTell's activities, are expected to occupy the first half of these public examinations.

#### **V/Line**

22. Later in the course of these examinations, you will hear evidence regarding alleged conduct of a number senior V/Line personnel with respect to employment and procurement decisions affecting the allocation of significant sums of public funds. IBAC's investigations indicate that a number of those whose conduct at V/Line falls for examination have existing and long-standing personal connections with each other. Remarkably, a number also appear to be directly or indirectly connected with Rebecca Taylor and TayTell.
23. A more detailed outline of the alleged conduct will precede the second half of these examinations. For the time being, it is sufficient to indicate that the purpose of the examinations relating to V/Line is to investigate the likelihood or otherwise of a sustained pattern of suspicious conduct resulting in the flow of valuable contracts and employment opportunities to those individuals and to entities, friends and family members associated with them.

#### **Public Interest matters**

24. IBAC's investigation to date suggests that the value of government subsidies paid to TayTell exceeds \$2 million. Serious concerns exist as to the company's legitimate entitlement to those funds, and as to the repetitive pattern of TayTell's 'third party' contractual arrangements

across a number of TAFE institutions and private sector businesses. These factors combine to make the circumstances exceptional and concerning.

25. Further, there is an acute public interest in the allocation of the scarce funding and other resources available to the education sector, particularly vocational and skills-based training. There is a strong public interest in ensuring that government funding achieves its objective of assisting people to obtain high-quality, skills-based training that will equip people for work and improve their employment opportunities. There is also a strong public interest in ensuring the integrity of publicly funded vocational training. Employers, and the public, are entitled to expect that a person who has been awarded a qualification from a recognised TAFE institution has in fact been properly trained and assessed in the course content. Public safety may be put at risk where people who are not entitled to receive those qualifications use them to gain employment in areas where such qualifications are necessary, including, for example, an airline such as Jetstar.
26. There is thus a substantial interest among a wide cross-section of the Victorian community in exposing any misappropriation of those scarce resources and the weaknesses in the processes and systems that allowed any such misapplications to occur.
27. Commissioner, there is a substantial public interest in credible evidence of serious corruption being exposed publicly. Based on the investigation to date, IBAC considers that conducting public examinations of the conduct referred to above is likely to result in individuals who have already provided information to IBAC giving a fuller and more truthful account of their knowledge and involvement. Public examinations can also prompt other previously unknown persons with relevant information to come forward with it.
28. Public examination of the matters outlined today will reinforce public confidence. It will encourage other right-minded persons with knowledge of similar conduct in either the vocational education sector or other areas of the public sector to report matters that could lead to further IBAC investigations or provide useful intelligence in its prevention and education functions.

29. Public examination will also educate the public generally and the public sector specifically regarding the nature, extent and causes of corruption and misconduct and to highlight the need for preventative measures to address it. It will also act as a deterrent to others in the public sector within Victoria with control or access to government funds, and highlight potential deficiencies in process for the control and allocation of public money.