

Investigation of a protected disclosure complaint
regarding allegations of improper conduct by
councillors associated with political donations

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Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973*, I present to Parliament my report on an *Investigation of a protected disclosure complaint regarding allegations of improper conduct by councillors associated with political donations*.



Deborah Glass OBE
Ombudsman

24 November 2015

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Foreword

Undue influence has different meanings in different contexts. Influence is a matter of degree; whether or not influence is undue is a matter of judgment; and judgment is a matter of perspective. The perspective here is the effect on the integrity of government. The influence which comes with the preferential access to government resulting from the making of political donations does not necessarily equate to corruption. But the line between a payment which increases access to an elected official and a payment which influences the official conduct of an elected official is not always easy to discern¹.

High Court of Australia
October 2015

It is remarkable that, as the Victorian Parliament Electoral Matters Committee said in April 2009, ‘Victoria, along with the Commonwealth, is amongst the least regulated jurisdictions in the western world in terms of political finance law.’ One of the consequences of this is not only the potential for undue influence to compromise the integrity of government decisions, but for allegations to be made, often publicly, that cannot easily be either proven or disproven.

The Victorian Ombudsman does not normally deal with election matters. They are usually outside my jurisdiction, which is about the *administration* of government, not the actions of elected officials. I do, however, investigate complaints about elected officials in two circumstances: a ‘protected disclosure complaint’ referred by the Independent Broad-based Anti-corruption Commission (IBAC), or a referral from Parliament itself.

This case was referred by IBAC and investigated by my office as a protected disclosure complaint. IBAC had therefore determined that the allegations may have involved improper conduct. The allegations were what might be termed low-level corruption – not serious enough to engage IBAC’s jurisdiction but requiring investigation. They concerned the actions of local councillors who were standing for election at the last Victorian state election. In essence it was alleged that the councillors had received donations to their political campaigns from property developers in return for favourable planning decisions.

It is important to note at the outset that my investigation did not substantiate the allegations. While it was clear that property developers had made donations to the councillors’ political campaigns, my investigation did not substantiate that these donations were either made, or received, for any improper purpose.

I am tabling this report to highlight several issues of public interest which arose in the course of my investigation: whether it is appropriate to allow property developers to make donations to the campaigns of political candidates; and whether there is a need for greater transparency in Victoria’s political donation disclosure laws.

Victoria’s *Electoral Act 2002* simply requires registered parties to lodge an annual return with the Victorian Electoral Commission. The only limit in Victorian legislation on political donations is for organisations holding gambling and casino licences, which cannot donate more than \$50,000 a year. Disclosure is only required under Commonwealth laws, which require donations of more than \$13,000 to be disclosed. In any event, disclosure is not required to be made until many months after the election, and in a form that makes it very difficult for anyone – including my office – to consider whether any donation was made for improper purposes.

¹ McCloy v NSW, [2015] HCA 34 at [172].

Parliament's Electoral Matters Committee issued a report on political donations and disclosure in April 2009, which noted:

... Despite Victoria's relative clean record, it is important to recognise that political finance reform is a sound method of managing risk against political corruption, and maintaining Victoria's clean reputation.

When this report was released, the question of political finance reform was also being considered at the Commonwealth level, which sought the cooperation of states and territories in progressing reforms across Australia. In view of this, the committee elected to await the outcome of the Commonwealth reform process. But these reforms did not progress, with a Bill lapsing in the Senate. And there, the question of reform, at both state and Commonwealth level, appears to have languished.

Unlike Victoria, New South Wales has pushed ahead with political finance reform, with stringent disclosure requirements, caps and bans. A High Court decision in response to a challenge to this law confirmed in October 2015 that prohibiting political donations by property developers was constitutional, referring to the well evidenced corruption risk between developers and politicians.

There can be little doubt that the lack of transparency in political donations and the lack of limitations on who can make those donations in Victoria creates an environment in which allegations of improper conduct can flourish. Whether they are substantiated or not, whether such allegations are legitimately made or are made for political mischief-making as is often claimed, is not the point. Ultimately, they create a perception that politicians can be bought, which reduces public trust in government.

Equally, this lack of transparency can leave political candidates exposed to unfair allegations that they have received donations for improper purposes. Shielding the state election process from a mire of allegations and hearsay is in everyone's interests – voters, candidates and parties.

It must therefore be time for Victoria to put this issue back on the table, and for Parliament to revisit the sentiments its Electoral Matters Committee expressed so admirably six years ago, with a view to reform before the next election. We should not wait for a scandal for this to happen.

Deborah Glass
Ombudsman

Background

1. On 25 August 2014 IBAC referred a number of allegations to my office regarding the conduct of four councillors of Casey City Council (the council) for investigation by this office under section 73 of the *IBAC Act 2011*. The allegations were determined by IBAC to be protected disclosure complaints pursuant to section 26 of the *Protected Disclosure Act 2012*.
2. The disclosure alleged that a councillor had offered, or had been involved in offering, favourable planning application committee decisions in return for financial donations from relevant property developers to his state Liberal Party election campaign funds. Furthermore, it was alleged that three other councillors had been complicit in these matters.
3. The specific allegations are set out in the appendix on page 16.
4. On 8 September 2014 notification letters were sent to the former Minister for Local Government, the Hon Tim Bull MP, and the Chief Executive Officer (CEO) of the council informing them of my intention to investigate these matters.
5. My investigation found that none of the allegations were substantiated. However, the issues raised echo a number of reviews and a recent High Court judgment in posing questions about the propriety of donations made by property developers to political campaigns. I have explored this further in this report and have made a recommendation accordingly.

Investigation methodology

6. My investigation included:
 - reviewing relevant council policies and procedures
 - reviewing council minutes of 270 planning and ordinary meetings, between November 2008 and June 2015
 - reviewing legislation
 - summoning witnesses
 - summoning bank records from the Liberal Party of Australia, Victorian Division
 - issuing 12 confidentiality notices pursuant to section 26C of the Ombudsman Act
 - interviewing subjects and witnesses.
7. During the investigation 13 interviews were conducted:
 - two were voluntary appearances
 - 11 were compulsory appearances
 - four witnesses attended upon issue of a summons
 - two of the subjects refused to give evidence unless summonsed
 - two other witnesses were issued summonses to provide information and documentary evidence about the Liberal Party of Australia, Victorian Division.

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8. All witnesses were informed that they were entitled to bring a support person or legal adviser. Six subsequently chose to be legally represented.
 9. Two subjects of the investigation who attended interviews upon issue of a summons declined to answer any questions.
 10. In accordance with section 25A(3) of the Ombudsman Act, I advise that any persons who are identifiable, or may be identifiable from the information in this report, are not the subject of any adverse comment or opinion. They are named or identified in this report as:
 - I am satisfied that it is necessary or desirable to do so in the public interest
 - I am satisfied that identifying those persons will not cause unreasonable damage to those persons' reputations, safety or wellbeing.

The council

11. The council area is the eighth fastest growing area in the country, with a population of approximately 281,000², predicted to rise to 459,000 by 2036 at a rate of 7,300 a year³.
12. The council comprises 11 elected members. All councillors sit on the planning and ordinary committees of the council. Motions to approve planning applications must be passed by a majority of members.

The planning process

13. In considering the allegations it was necessary to understand the Victorian planning process for areas of projected high growth and development, where the council sits within that process, and the role played by individual councillors.
14. To manage long-term projected growth within a municipality, councils work with the Metropolitan Planning Authority (MPA).
15. Previously known as the Growth Areas Authority, the MPA works with councils and government agencies in planning new communities and urban renewal areas, particularly in relation to establishing infrastructure and facilitating housing affordability. The MPA is responsible directly to the Minister for Planning.
16. As part of this process the MPA prepares and delivers Precinct Structure Plans (PSPs) to councils for comment. PSPs are master plans for whole communities, which usually cater for 10,000–30,000 people. They 'set out the vision for how land should be developed and identify the projects required to ensure a quality and affordable lifestyle for future communities'⁴. This includes the layout of roads, housing, shopping centres, schools, transport links and other public amenities.
17. PSPs can be prepared and funded by councils, landowners and developers, the MPA or other agencies. In all cases the process requires the active involvement of landowners, developers, service and infrastructure providers and councils⁵.

2 Casey City Council, *A snapshot of Casey*, June 2014 <www.casey.vic.gov.au> viewed on 10 November 2015.

3 *ibid.*

4 Metropolitan Planning Authority website <www.mpa.vic.gov.au> viewed on 27 October 2015.

5 *ibid.*

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18. The council had five PSPs under development during the period relevant to my investigation.
19. The CEO and the Director, Planning and Development regularly attend planning committee meetings in an advisory capacity but are not members. At times, specific council managers and officers are required to attend planning committee meetings to answer questions and provide advice to members.
20. The planning committee meets 11 times a year and generally reviews four or five planning applications at a time. A vote is taken after submissions are made to the committee. If there is a decision that achieves a majority vote but is not considered by any councillor to be correct, a rescission notice can be entered. That particular decision is then revisited at a second planning committee meeting and voted on again. Members of the public can object to a council's planning decision and appeal a decision through the Victorian Civil and Administrative Tribunal (VCAT).
21. While the council deals with approximately 800 planning applications a year, the vast majority are dealt with by council officers under delegation and never reach the planning committee. The applications that the planning committee considers are usually those where an objection has been lodged or that are likely to have a major impact on the council area. Those that do go before the committee are reviewed first by the council's Director, Planning and Development⁶.
22. A council policy document, *Protocols for Councillors in Administering Planning Applications*, outlines the role of councillors in the planning cycle. The protocol governs when and how councillors can approach council officers in relation to planning applications the planning committee is considering. The guiding principles state:
- Given the sometimes significant and contentious planning proposals which this council is required to deal with, it would seem prudent for Council to introduce a set of protocols for the administration of planning proposals. These protocols would be based on the following principles:
- Open, transparent and informed decision making
 - Fairness to all parties involved in the process – be they applicants or objectors
 - A clear planning process which is embraced by all Councillors
 - Avoidance of conflicts of interest
 - Establishing industry best practice⁷.
- Councillors pre-selected for state or federal elections**
23. It is not unusual for councillors to be pre-selected to run as candidates in Victorian and/or federal elections. Neither the Victorian Electoral Act nor the *Local Government Act 1989* prevent sitting councillors from standing for election in a Victorian or federal election. Furthermore, there is no requirement for them to stand down or remove themselves from council business once they have been pre-selected.

⁶ Interview with Director, Planning and Development, 24 November 2014.

⁷ Casey City Council, *Protocols for Councillors in Administering Planning Applications*, 24 July 2007 <www.casey.vic.gov.au/council/policies-strategies/p-r/protocols-for-councillors-in-administering-planning-applications> viewed on 10 November 2015.

24. The council addressed the issue of councillors standing for election in its *Code of Conduct for Councillors* (the code), adopted on 4 March 2014:

4.6 State Elections

- If a Councillor becomes an endorsed candidate for the state election he/she should advise the CEO, in writing, as soon as practicable, who will then advise all Councillors.
- A Councillor who is a candidate for state election should declare this at a meeting of the council as soon as practicable after the nomination date.
- Any Councillor/staff relationship protocol should apply from the nomination date, with additional provisions if necessary.
- Where a Councillor speaks on council issues as a candidate in an election the Councillor should clearly identify this fact.
- The Councillor must not use council resources, including council equipment and facilities in relation to his/her candidacy⁸.

25. The code outlines required behaviour during a state election; however, it does not mention conflicts of interest that may arise as a result of a councillor's dual role of being both a sitting councillor and a pre-selected candidate for state or federal election. Instead, the code refers to the following provision of the Local Government Act:

76B Primary principle of Councillor conduct

It is a primary principle of Councillor conduct that, in performing the role of a Councillor, a Councillor must –

- a) act with integrity; and
- b) impartially exercise his or her responsibilities in the interests of the local community; and
- c) not improperly seek to confer an advantage or disadvantage on any person.

26. The council also adopted a *State and Federal Election Policy*⁹ on 6 May 2014. The policy refers to sections 76D and 76E of the Local Government Act, which prohibit councillors from misusing their position or improperly directing or influencing a member of council staff.

27. On 19 June 2014, Local Government Victoria distributed a circular to all council CEOs, providing guidance to councillors standing in the 2014 Victorian state election. The following is an extract from the circular:

A Councillor standing for election might consider taking a leave of absence during the election period. This would send a clear signal to the community that the role of Councillor and the role of candidate are two completely separate and distinct roles. A request for leave of absence in these circumstances could not be unreasonably refused by Councils.

However, some Councillors who are also candidates may decide to continue in their roles until the results of the election are declared. In these circumstances Councillors must exercise the utmost care to show by their actions that they understand the distinction between the two roles.

In this respect they must ensure that they do not act in matters where they have a conflict of interest due to their being both a Councillor and a candidate, that they do not misuse their position as Councillor to advance their role as a candidate, that they do not release confidential Council information as a part of their role as a candidate and that they continue to adhere to their Council's Code of Conduct in respect to their role as a Councillor¹⁰.

8 Casey City Council, *Code of Conduct for Councillors*, 4 March 2014.

9 Casey City Council, *State and Federal Election Policy*, 6 May 2014.

10 Local Government Victoria, 'Circular 13/2014', 19 June 2014.

Regulation of political donations in Victoria

Disclosure requirements

28. The only requirement in Victoria for donations made to particular candidates or political parties in state elections to be disclosed publicly is contained in Commonwealth legislation. The *Commonwealth Electoral Act 1918*¹¹ requires that nationally registered parties submit their returns, including donations received, to the Australian Electoral Commission within 16 weeks of the end of each financial year. The Australian Electoral Commission is then required to make these returns available for public inspection in February of the following year¹².
29. This means that details of donations received by political parties for the November 2014 Victorian state election will not be publicly available for inspection until February 2016, some 15 months after the election, and in some cases, nearly two years after the donations were made.
30. Even when these returns are made available for inspection, they will not necessarily include details of the individuals or organisations responsible for making donations. Under section 314AC of the *Commonwealth Electoral Act*, only the details of donations of more than \$13,000 are required to be disclosed. Furthermore, the legislation only requires the disclosure of the donations received by the respective political parties that are nationally registered. There is no requirement for reporting details of which specific candidate/campaign the funds may have been intended for or ultimately provided to.
31. By contrast, section 62 of the *Local Government Act* requires candidates in local council elections to disclose to the council CEO within 40 days of the election details of any donations of more than \$500 received by the candidate. The details that must be disclosed include the name and address of each person making a donation, the date of the donation and the value of the donation or gift received. None of these requirements apply to candidates standing for state election.
32. During my investigation, I became aware that the conduct of a number of councillors from other municipalities who had stood in the 2014 Victorian state election had been examined by the Local Government Investigations and Compliance Inspectorate. The Inspectorate has advised my office that it conducted a number of investigations arising from the 2014 state election in which conflict of interest issues had been raised:

The complaints alleged that a number of councillors inappropriately used their positions as Councillors as a platform for their State election campaign and that by their actions may have breached the Misuse of Position or Conflict of Interest provisions of the *Local Government Act 1989*.

Concerns were raised that a councillor who was a candidate may have been conflicted by the dual roles during the election period as they are able to perform their role as councillor whilst campaigning¹³.

¹¹ *Commonwealth Electoral Act 1918* (Cth) Division 5A section 314AB.

¹² *Commonwealth Electoral Act 1918* (Cth) Division 6 section 320.

¹³ Local Government Investigation and Compliance Inspectorate, submission to this investigation.

Limitations on who can donate

33. The only legislative restriction on who can make donations to political parties in Victoria is a prohibition against the holder of a casino/gambling licence from making donations of more than \$50,000 to any political party. There are no other restrictions on who can donate to political campaigns and no other cap is applied to a specific category of donors.
34. Under current Victorian legislation, donations made by property developers to political candidates will only offend the law if they are made or received for an improper purpose; for example, a donation is intended to be made or received in return for a favourable result.
35. The current practice of the Liberal Party of Australia, Victorian Division is to receive all donations in a central account, from which amounts are transferred to particular candidates. The central office of the party decides which amounts are transferred to which candidates, taking into account a range of factors. There are no legal requirements for these accounts to be operated any other way.

Issues of public interest

36. The details of the specific allegations investigated by my office and the outcomes are set out in the appendix on page 16.
 37. My investigation did not substantiate the allegations that the councillors had engaged in improper conduct. Nor did I substantiate any additional allegations that donations made by property developers to the councillors were made in return for planning decisions in favour of those developers.
 38. The investigation has however highlighted several issues of public interest:
 - whether it is appropriate to allow property developers to make donations to the campaigns of candidates in state elections
 - whether there is a need for greater transparency in disclosure of political donations.
 39. Local councillors often stand in state and federal elections. As a result of their role in council planning, many councillors will have had dealings with property developers who are operating in the council area. Councillors standing for state and federal election will therefore be vulnerable to perceptions that donations by property developers to their campaign funds may have been made for improper purposes.
 40. In this investigation, two councillors were candidates in the November 2014 state election. They were pre-selected approximately seven months before the election and continued to sit as councillors, including on the council's planning committee, until around two weeks before the state election. These councillors received donations to their election campaigns from property developers with considerable interests in the municipality. For example, one property developer had 610 planning applications before the council over a two-year period, and made donations to the councillors' political campaigns of \$44,000 and \$32,575 respectively.
 41. Current Victorian legislation allows property developers to contribute to the campaign funds of candidates. When property developers donate to councillors' political campaigns, a perception can frequently arise that these donations may have been made for an improper purpose. However, as outlined below, there will always be difficulties locating persuasive evidence that a donation was made or received for an improper purpose. Candidates and property developers who have acted according to the law and have not engaged in any improper conduct can also be left exposed to such negative perceptions.
- ## Evidential difficulties
42. As noted, under current Victorian legislation, donations made by property developers to political candidates only breach the law if those donations are made or received for an improper purpose. Primary sources of evidence of this sort of conduct will always be difficult to obtain. For example, it is not a requirement to disclose donations to particular candidates, only that donations were made to a particular political party. When investigating the allegations, the fact that a property developer requested that a donation of \$65,000 be directed to two specific candidates only came to light as a result of my office issuing a summons for these records. This level of detail would not have been otherwise available.
 43. My office issued a summons for bank accounts; however, the current practice of the Liberal Party of Australia, Victorian Division of distributing donations made to better performing offices to those where fundraising is less proficient makes identifying donors difficult. These transfers do not name the original donor, only the Liberal Party entity from where they originate. There are no legal requirements for these accounts to be operated in any other way.

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44. There may be strong circumstantial evidence that a donation was made for an improper purpose – for example, where a donation is made immediately after a planning decision in favour of a particular donor – however, without additional evidence, such evidence alone is unlikely to substantiate that improper conduct has occurred. If there had indeed been an improper purpose, it is likely that such a donation would be made at a more distant time to the favourable decision, to make it more difficult to identify a link between the donation and the decision.
 45. Similar evidential problems can apply when investigating alleged improper conduct relating to conflicts of interest. It will always be difficult to establish a link between a particular donation and the action of a councillor, which may have amounted to a conflict of interest.

Regulation of political donations

46. As previously stated, the only requirement in Victoria for donations made to particular candidates or political parties to be disclosed publicly is contained in Commonwealth legislation. This applies only to nationally registered parties, and only to donations where the overall sum totals more than \$13,000. There is no requirement to report the details of which specific candidate or campaign the funds may have been intended for or ultimately provided to.
47. In respect of the Victorian state election in November 2014, such detail as is reported will not be publicly available for inspection until February 2016.

48. As also noted, the only legislative restriction on who can donate to political parties in Victoria is a prohibition against the holder of a casino/gambling licence from making donations of more than \$50,000. There are no other restrictions on who can donate to political campaigns and no other cap is applied to a specific category of donors.

New South Wales

49. Nationally, New South Wales (NSW) has been the first state or territory to legislate on this issue. NSW recently amended its *Election Funding, Expenditure and Disclosure Act 1981* to prohibit political donations from property developers, among other restrictions. The NSW legislation also requires annual returns to be lodged by all political parties, groups, elected members, candidates, third party campaigners and major political donors where the donation exceeds \$1,000. ‘Political donation’ includes membership fees, intra-party transfers and entry fees for fundraising events¹⁴. By contrast, there is no definition of ‘donation’ in the Victorian Electoral Act.
50. In introducing the legislation, the NSW Attorney-General, the Hon John Hatzistergos MP, said:

The Government has made it quite clear that it is time to end speculation about the influences of donations on major developments in New South Wales. To that end, it is acknowledged that the donations have cast a shadow over the good work of the Government and have tainted the decent public servants who run our planning system ... [This] legislation will go some way to restoring the confidence of the public in the Government’s first rate planning system, which, regrettably, has been maligned by the accusations and imputations that have effectively raised perceptions that somehow donations have influenced outcomes¹⁵.

¹⁴ *Election Funding, Expenditure and Disclosure Act 1981* (NSW) section 85.

¹⁵ New South Wales, Legislative Council, *Parliamentary Debates* (Hansard), 3 December 2009 at 20570.

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51. In considering a challenge to this legislation by a property developer, the High Court recently confirmed the validity of the legislation¹⁶. Justice Gageler, in delivering his judgment, referred to a 1988 Independent Commission Against Corruption (ICAC) report and seven additional adverse reports presented to the NSW Parliament between 1988 and 2008, which dealt with perceptions of undue influence by property developers on political candidates¹⁷.
52. In upholding the validity of the NSW legislation prohibiting donations from property developers to political candidates, Justice Gageler made the following comments:

Corruption is perhaps more readily recognised than defined. One universally recognised form of corruption, however, is for a public official to receive money in a private capacity in circumstances calculated to influence the performance of the official's public duties¹⁸.

... Although there might be favours without payment and payment without favours, the basic human tendency towards reciprocity means that payments all too readily tend to result in favours. Whether the causal sequence is that of payment for favours or that of favours for payment, the corrupting influence on the system of government is little different¹⁹.

53. Justice Gageler addressed the issue of the validity of singling out corporate property developers from being able to donate to political campaigns, stating:

What it is that relevantly differentiates corporate property developers from the mainstream of political donors is the nature of the business in which they are engaged. By definition, it is a profit-making business which is dependent on the exercise of statutory discretions by public officials. It is the nature of their business that gives corporate property developers a particular incentive to exploit such avenues of influence as are available to them ...

The problem is not merely theoretical. The unfortunate experience in NSW has been one of exploitation of influence leading too readily to the corruption of official conduct²⁰ ...

54. Justice Nettle, in delivering his judgment, also referred to the ICAC reports and said:

There is, too, an apparently strong factual basis for the perception of a risk of corruption and undue influence as the result of political donations from property developers ... Admittedly ... [public concerns about the influence of property developers over state and local government members and officials] are more based on inference than on direct evidence of widespread corruption by property developers. But it is not illogical or unprecedented for the Parliament to enact legislation in response to inferred legislative imperatives. More often than not, that is the only way in which the Parliament can deal prophylactically with matters of public concern²¹.

16 *McCloy v NSW*, [2015] HCA 34.

17 *McCloy v NSW*, [2015] HCA 34 at [173].

18 *McCloy v NSW*, [2015] HCA 34 at [167].

19 *McCloy v NSW*, [2015] HCA 34 at [175].

20 *McCloy v NSW*, [2015] HCA 34 at [193] and [194].

21 *McCloy v NSW*, [2015] HCA 34 at [233].

National comparisons

55. Political donation bans and caps across the Commonwealth, states and territories are numerous, varied and often difficult to find. Of those with donation caps in place, Victoria has the highest cap at \$50,000, which applies only to donations from 'the holder of a relevant licence'²², namely casino and gambling licensees. By contrast:
- the Commonwealth has a \$13,000 cap on anonymous donations²³
 - New South Wales has:
 - a \$1,000 cap on anonymous donations²⁴
 - a \$5,800 cap on any donation to a party²⁵
 - a \$2,500 cap on any donation to a candidate²⁶
 - a ban on donations from property developers and tobacco, gambling and liquor entities²⁷
 - Western Australia has a \$2,300 cap on anonymous donations²⁸.
56. Victoria and Tasmania are the only jurisdictions without donation disclosure rules for candidates standing for state election. In the Commonwealth, parties, associated entities and third parties that incur electoral expenditure must lodge annual returns, including details of donations of more than \$13,000. Similar systems operate in other jurisdictions.

Time for reform in Victoria?

57. While Victoria has not experienced corruption allegations as serious as those in NSW, that by no means precludes such conduct occurring in this state, or the perception that it could occur, under current Victorian legislation.
58. The issue of whether reform to Victorian legislation was needed in this area was last considered six years ago. In 2009, the Electoral Matters Committee of the Victorian Parliament conducted an inquiry into political funding. The terms of reference were:
- Whether the *Electoral Act 2002* should be amended to create a system of political donations disclosure and/or restrictions on political donations; and
 - The outcome resulting from similar legislative reforms introduced in Canada, the United Kingdom and other relevant jurisdictions²⁹.
59. In his foreword, the Hon Adem Somyurek MLC, then Chair of the Electoral Matters Committee, pointed out that:
- Victoria, along with the Commonwealth, is amongst the least regulated jurisdictions in the western world in terms of political finance law. However, it is important to note that Victoria is a jurisdiction that has a relatively clean record when it comes to proven cases of political finance related scandals³⁰.

22 *Electoral Act 2002* (Vic) section 216.

23 *Commonwealth Electoral Act 1918* (Cth) section 306 and Australian Electoral Commission website <www.aec.gov.au/Parties_and_Representatives/public_funding/threshold.htm> viewed on 10 November 2015.

24 *Election Funding, Expenditure and Disclosure Act 1981* (NSW) sections 96E and 96F.

25 *ibid.*

26 *Election Funding, Expenditure and Disclosure Act 1981* (NSW) section 95A.

27 *Election Funding, Expenditure and Disclosure Act 1981* (NSW) Division 4A.

28 *Electoral Act 1907* (WA) section 175R.

29 Electoral Matters Committee of the Victorian Parliament, 2009, *Inquiry into Political Donations and Disclosure*.

30 *ibid.*

60. In summarising, the Chair concluded that:

The Committee is supportive of a national effort to harmonise Australia's electoral finance laws, and believes that electoral reform should happen collaboratively, not just be the end result of independent decisions and reforms by the States or the Commonwealth. Given this, and the significant administrative and constitutional issues which underpin this debate, together with the current Commonwealth Government's efforts at reform, the Committee has elected not to make a comprehensive series of recommendations in this report, but instead await developments at the Commonwealth level³¹.

61. The finding of the committee was forwarded to the Commonwealth Government as a submission to the Green Paper process considering electoral reform. The result of that Green Paper was the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010. The Bill reached the Senate but lapsed in 2012.

62. While it is understandable that Victoria should seek to work in partnership with the Commonwealth on harmonising electoral finance laws, the issues and arguments made in the Electoral Matters Committee's 2009 report continue to be relevant, and it is time for Victoria to revisit them.

63. I note that in the recent High Court case, the Victorian Government supported the NSW Government in defending the challenge to its legislation. The Victorian Government's submission to the court included that the legislation was intended to achieve a legitimate aim and referred to the legislation being:

... directed toward preventing the occurrence and appearance of undue influence garnered through the making of large political donations ... Any instance of public decision-making being influenced by the fact that a person whose interests might be affected by the decision has made a substantial political donation to the decision-maker or his or her party or group is necessarily undue³².

... corruption and undue influence cannot be neatly compartmentalised. The distinction between the two may in practice be very difficult to discern, both as a matter of fact and as a matter of public perception. It must therefore be legitimate for Parliament to seek to minimise the occurrence and appearance of undue influence as a means of preventing the actuality and appearance of corruption³³.

64. It is also anomalous that the Local Government Act requires more details of donations made to candidates standing in council elections than are imposed on candidates standing in state elections.

³¹ Electoral Matters Committee of the Victorian Parliament, 2009, *Inquiry into Political Donations and Disclosure*.

³² Submissions of The Attorney-General for the State of Victoria (Intervening): submission in *McCloy v NSW* [2015] HCA 34, No S211 of 2014, 10 March 2015, [14].

³³ Submissions of The Attorney-General for the State of Victoria (Intervening): submission in *McCloy v NSW* [2015] HCA 34, No S211 of 2014, 10 March 2015, [20].

Recommendation

I recommend that the Victorian Government consider the issues raised in this report, in particular:

- a. whether there should be restrictions on donations to candidates and political parties by property developers
- b. whether details of all donations to a candidate or political party should be required to be published on a publicly available register within 30 days of the relevant election.

Appendix: Allegations investigated

65. The protected disclosures referred by IBAC alleged that:

1. Cr Ablett had introduced a motion to accelerate a planning application for a PSP development in the Casey area in return for the promise of a \$30,000 donation to his campaign fund by the particular developer
2. Cr Ablett had pushed hard for the renaming of a suburb in the Cranbourne East area
3. Cr Ablett was pushing for amendments to the Botanic Ridge development to be put forward to government to aid the relevant property developer

4. Cr Ablett was promised a donation to his campaign fund by the owner and developer of a funeral home at 236 Cranbourne Road, Narre Warren
5. Cr Aziz was overheard promising to deliver a vote in respect of a funeral home in the Narre Warren area
6. Crs Stapledon, Ablett and Rosario had attempted to open a bank account for anonymous political donations
7. Cr Ablett had made reference to a \$40,000 donation to his state election campaign fund at a meeting.

66. This complaint involved allegations against four councillors. Table 1 details the councillors and the appointments they have held since taking office.

Table 1: Details of councillors against whom allegations were made

Councillor	Date elected to council	Mayor	Deputy Mayor	Chair planning committee
Geoff Ablett	29 Nov 2008	29 Nov 2008– 30 Nov 2009 28 Oct 2013– 27 Oct 2014		Oct 2011– Oct 2013
Amanda Stapledon	4 Dec 2008	7 Nov 2012– 28 Oct 2013	28 Oct 2013– 27 Oct 2014	
Sam Aziz	4 Dec 2008	28 Nov 2011– 7 Nov 2012	7 Nov 2012– 28 Oct 2013	30 Nov 2009– 30 Nov 2010 30 Nov 2010– 28 Nov 2011
Damien Rosario	7 Nov 2012			28 Oct 2013– 27 Oct 2014

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67. In March 2014 Crs Ablett and Stapledon were pre-selected by the Liberal Party of Australia, Victorian Division for the November 2014 state election for the seats of Cranbourne (Ablett) and Narre Warren North (Stapledon). At the time they were the council's Mayor and Deputy Mayor respectively.
68. Cr Rosario was, at that time, the Chairman of the Cranbourne Electoral Conference of the Liberal Party. He was initially appointed by Cr Ablett to be his local campaign manager, however the Liberal Party later appointed Mr Simon Frost to this role (refer to paragraphs 113 to 116).
69. Cr Aziz was not politically aligned to either candidate but worked closely with all three councillors in council matters³⁴.
70. On 27 and 28 October 2014, Cr Ablett and Cr Stapledon stood down from their mayoral and deputy mayoral duties. This was just over two weeks before the state election, and some seven months after they had been pre-selected.
71. I issued a summons for the campaign accounts and details of donations related to the campaigns of Crs Ablett and Stapledon. The accounts for both campaign funds showed donations received from private and corporate donors, as well as funds transferred from other Liberal Party accounts, both state and federal. These accounts list the name of the party branch that the funds were transferred from but do not include details of the original donors.
72. My investigation identified donations of \$1,000 or more that were made to Crs Ablett and Stapledon. There were 11 direct donations to the campaign fund of Cr Ablett, and one direct donation to Cr Stapledon's campaign fund from businesses operating in the council area.
73. Some of these companies have been engaged by the council to provide various services over several years. Some of the donors have also applied to the council for planning permission at different times during the relevant period. Three companies – Watsons Pty Ltd, Botanic Ridge Developments Pty Ltd and Stevenson Brothers Industries – are discussed in further detail in relation to the individual allegations.
74. I have set out below each of the allegations, my investigations related to these allegations and my findings.
- 75.

Donations made to the campaigns of Cr Ablett and Cr Stapledon

71. A consistent theme in the allegations contained in the protected disclosure complaint was the receipt, or promise, of donations to the state electoral campaigns of Crs Ablett and Stapledon from businesses and developers operating in the council area in return for favourable council decisions.

³⁴ Interview with Cr Sam Aziz, 6 November 2014.

Allegations 1 and 2: Inappropriate acceleration of a PSP and renaming of a suburb

76. The allegations referred to my office by IBAC were that Cr Ablett sought to improperly influence decisions in respect to two PSPs: 'Cascades on Clyde' and 'Botanic Ridge'. The details of the allegations were:
- Cr Ablett had introduced a motion to accelerate a planning application for a PSP development in the Casey area for the promise of \$30,000 to his campaign fund
 - Cr Ablett had pushed hard for the renaming of a suburb in the Cranbourne East area.

Cascades on Clyde PSP

77. It was alleged that Cr Ablett had introduced a council motion at a planning committee meeting to accelerate the Cascades on Clyde PSP and requested that the developer's name be left on the planning committee's recommendation to the MPA. It was also alleged that while it is not unusual for a plan to be accelerated, it is not normal practice for the developer's name to remain on the application documentation. By seeking to do so on this occasion, it was alleged that Cr Ablett wanted to advertise his support for the application in return for a \$30,000 donation, which would be made to his election campaign by the developer involved.
78. It was alleged that Cr Ablett's motion was put at a closed planning committee meeting, but that despite Cr Ablett's motion, the developer's name was not left on the document.

79. My officers attempted to obtain detailed minutes of the council's planning committee meetings for 2013 and 2014. The council advised however that while decisions of the planning committee were minuted, the details of discussions were not.
80. It was also alleged that Cr Ablett had sponsored a motion for renaming a suburb, which would have had a negative effect on the land prices in those areas. It was alleged that this motion was linked to the Cascades on Clyde PSP and that the same developers were involved in representing the owners of the land there. My investigation did not identify any evidence to substantiate this allegation.
81. At interview the council CEO, Mr Mike Tyler stated that he could not recall anything unusual about the Cascades on Clyde PSP. The council's planning officers reported their observations on the PSP to councillors. Mr Tyler said that he did however recall a boundary change near Clyde township, stating:
- The Councillors could all see the merit for the move but ultimately, because of the pressure of the owners in that area, the three councillors involved, Rowe, Stapledon and Ablett all said this is too hard and it was let go ... it never happened ... the pressure was from the people in houses not the property developers or the people with money to throw around ... it went on and on before ultimately it didn't go. That is the most straightforward one. It was a whole lot of mums and dads over two or three years³⁵.
82. Planning files and minutes from council meetings show that the issue regarding the name and border change had been under review since 2010, when local homeowners raised a petition regarding name changes in the area. The area in question is within Cr Ablett's council ward of Balla Balla. The records show that Cr Ablett has voted on a number of proposals regarding the naming issues in his role as a member of the planning committee.

³⁵ Interview with Mr Mike Tyler, 22 September 2014.

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83. According to council planning records, the main developer for Cascades on Clyde was Geo Developments Pty Ltd. There is no evidence of any financial donation to Crs Ablett or Stapledon from this company in the campaign banking records examined by my officers.

Conclusion

84. These allegations have not been substantiated.

Allegation 3: Botanic Ridge PSP

85. It was alleged that Cr Ablett lobbied for amendments to the Botanic Ridge PSP to aid the developer and that he had been very supportive of the development on Botanic Ridge over some six to eight years. It was alleged that financial donations had been made to Cr Ablett's campaign fund by the developer in return for this support.
86. The Botanic Ridge Development application was lodged by Botanic Ridge Developments Pty Ltd and another company that had a part in the application, Leederville Pty Ltd. Both of their applications were submitted by a third developer, Watsons Pty Ltd. My investigation identified that both Watsons and Botanic Ridge Developments made donations to Cr Ablett's election campaign fund.
87. At interview Mr Tyler was asked about Cr Ablett's involvement in the Botanic Ridge PSP. Mr Tyler said that he recalled an issue regarding a fire overlay to the Botanic Ridge PSP in which Cr Ablett was involved. The PSP was already under development and concerns were raised over the possibility of fire from high density housing being a danger to the nearby Botanical Gardens. Mr Tyler stated that Cr Ablett, who was also Mayor at the time, wanted the decisions regarding the fire overlay to be made as a priority, as the developer could not progress with the development work. Mr Tyler said:

The Mayor was concerned that the issue should get dealt with, not that it should be dealt with in a particular way. He just wanted it through the process because the developer was feeling very frustrated that between us [Council] ... the CFA and the state government planning department things just seemed to be going round in circles and they weren't getting answers to the extent that they could get on with their subdivision which I can sympathise with ... the developer wanted to be able to implement the different plan rather than the original plan ... I can understand the developer's frustration and him going through the ward councillor and trying to get the thing sorted³⁶.

³⁶ Interview with Mr Mike Tyler, 22 September 2014.

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88. Council planning records examined by my officers show that the decision to allow the fire overlay was made by Mr Tyler under instrument of delegation on 18 November 2011.
89. Cr Ablett attended for interview with my officers on two occasions. On the first occasion Cr Ablett declined to answer questions without being compelled to do so by order of a summons. My investigation subsequently summonsed Cr Ablett to attend a second interview, at which time he advised that he was declining to answer any questions on the grounds of self-incrimination.

Conclusion

90. The two PSPs under review are within Cr Ablett's council ward of Balla Balla. There is evidence that at various times, he advocated for action in regard to these developments, which could be perceived to be in favour of the developers. While my investigation found that two property developers with planning applications before the council made a donation to Cr Ablett's campaign, it did not identify any evidence that donations were either requested, offered or received in response to Cr Ablett's involvement in any of these PSP planning decisions. This allegation is therefore not substantiated.

Allegations 4 and 5: Bereavement Assistance Pty Ltd planning application

91. The allegations referred to my office included that the owner of a company, Bereavement Assistance Pty Ltd, had promised a donation to Cr Ablett's campaign fund if the council made a positive decision on a planning application to build a funeral home in Narre Warren. Specifically, the allegations were that:
- Cr Ablett was promised a donation to his campaign fund by the owner and developer of a funeral home at 236 Cranbourne Road, Narre Warren
 - Cr Aziz promised to deliver a vote in favour of a funeral home development proposal in the Narre Warren area.
92. Bereavement Assistance, a not for profit charitable organisation, had applied for planning permission to build its headquarters on land it owned at 236 Cranbourne Road, Narre Warren, moving from its current location at 94 Atherton Road, Oakleigh.
93. Bereavement Assistance is owned and operated by the Worthington family. Mr Kieran Worthington, a director of Bereavement Assistance was interviewed as part of my investigation. He stated that he initially approached Cr Stapledon, then Mayor, in 2013 with the idea of locating a funeral home on land the family owned on Cranbourne Road. Mr Worthington said that Cr Stapledon responded favourably to the proposition and requested the idea be presented to council. Mr Worthington presented the idea to the general purposes committee of the council in December 2013.

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94. The general purposes committee gives any member of the public or business the opportunity to present ideas and issues to the council prior to any full planning committee or ordinary council meeting. Mr Worthington stated that the presentation went well and the council appeared to be in favour of the proposition. In view of that response, Bereavement Assistance engaged KLM Spatial to compile and submit a planning application on its behalf³⁷.
95. A planning application for the funeral home was submitted on 7 February 2014, attracting some local objections. Ultimately the matter was referred to the planning committee on 8 July 2014 with a recommendation from council officers to support the application, as it complied with all relevant planning regulations. The planning committee rejected the proposal. Cr Ablett was not present at the meeting.
96. Mr Tyler recalled the process surrounding this particular application. He said:
- It went to the planning committee on the eighth of July and it was refused notwithstanding the officer's recommendation for approval ... immediately afterwards two councillors notified me that they wanted to lodge a rescission notice. If that occurs we do not implement the decision. It waits until the next meeting ... [the councillors] were Stapledon and Rosario. At the second meeting on the twelfth of August ... [the planning committee] issued the approval ... I didn't hear that there was any political or donation type of thing, clearly there is a political thing because you've got [name] and [name] in one camp and the other two in the other camp but I never heard anything about donations³⁸.
97. It was alleged that Cr Aziz was overheard outside the council planning committee meeting room prior to the first vote saying to a member of the Worthington family:
- No worries, I've got all the votes, we'll get it through.
- It was further alleged that the member of the Worthington family replied:
- Well come round tomorrow and I'll give you the cheque.
98. As part of my investigation, my officers interviewed an individual who was alleged to have overheard this conversation. This person stated that while he had attended the council meeting on the night in question, he could not recall overhearing any such conversation.
99. At interview Mr Worthington confirmed that he was present on the night of the first vote and he said:
- On the initial vote, where all the councillors weren't present, the vote went against giving us the permit so I spoke to [Cr] Aziz that evening in chambers, just asked what had happened. He said basically there had been some political problems amongst the members and the full support was no longer the full support and it had taken on, I guess, a political or personal note and that we'd been caught in it³⁹.
100. Mr Worthington denied that he or any member of his family or work colleagues had made an improper approach to Cr Aziz. He also denied that there had been an offer of money to any individual or political cause to secure planning approval. He said:
- I can categorically say it didn't happen. I've not been asked nor would I offer. We pride ourselves on our integrity with our charity [and] with our personal actions⁴⁰.

37 Interview with Mr Kieran Worthington, 10 November 2014.

38 Interview with Mr Mike Tyler, 22 September 2014.

39 Interview with Mr Kieran Worthington, 10 November 2014.

40 *ibid*.

101. At interview Cr Aziz was adamant that at no time did he have any conversations with anybody about money or donations in exchange for a favourable planning decision about the funeral home. He said:

Absolutely not, the case was there in black and white, the planners recommended it, they were very strongly of the view that if it had've gone to VCAT, VCAT would have issued the permit and that we would waste a whole heap of money in the process ... The decisions that we make in planning committee are about what is in the best interest of our residents and that is usually expressed in an officer's report with a recommendation ... I've never had discussions with anybody about money being donated for a campaign in order to get a certain planning outcome and I certainly won't engage in that ... My integrity is something that I hold very high and value very dearly and there is no way that I would compromise myself by engaging in that conduct and I would disassociate myself totally from anyone who tries to do that⁴¹.

102. Cr Aziz stated that he had nothing to do with raising funds for the state election campaigns for Crs Ablett or Stapledon, but that he is a colleague and friend of both and they have his support in council. He said:

I have spoken to them about their campaigns; I certainly support them for their campaigns. I hope they win. But beyond that, apart from, I guess, expressing moral support I haven't really had much to do with them ... or any involvement with the campaigns. I believe that I attended one fundraiser which was organised by Jason Wood, the Member for Latrobe ... I understand the proceeds from that function was going to the campaigns⁴².

103. Cr Aziz said he had been involved in discussions with developers around the rezoning of a particular area and considered this to be normal business for councillors. He said:

Councillors always get approached by developers on a whole range of matters. These developers sometimes have concerns about the red tape associated with some of our planning decisions and our job as councillors is to advocate on behalf of them to our council [and] to the council staff ... we want to encourage appropriate development which encourages jobs⁴³.

104. Council records show that Cr Rosario, the Chair of the planning committee, subsequently submitted a rescission motion in relation to the decision to reject the planning application for the funeral home, in accordance with council procedure. Cr Stapledon supported this motion.

105. When asked about the rescission motion at interview, Cr Rosario said:

I put a rescission motion in that night because as the Chairman of the planning committee I felt that that was a poor decision to make because it was not made on planning grounds, because it was made on emotional grounds. That was, in my opinion, the wrong decision to make for both the applicant and the objectors due to the fact that ... if that went to VCAT there is a strong likelihood that application would have been overturned and been granted. But also there is a chance that the application as well could have its conditions removed or changed and those conditions are there to protect the residents so they don't get towering buildings and things like that⁴⁴.

41 Interview with Cr Sam Aziz, 6 November 2014.

42 *ibid*.

43 Interview with Cr Sam Aziz, 6 November 2014.

44 Interview with Cr Damien Rosario, 12 November 2014.

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106. Council records show that the rescission motion was reviewed by a full planning committee of 11 members on 12 August 2014 and was carried, with Cr Ablett voting in its favour.
107. It was also alleged that either Cr Aziz or Cr Rosario was heard to say, following this decision, words to the effect that:
- One of the councillors got \$20,000 for getting the funeral parlour through.
108. The person who allegedly heard this conversation was interviewed during my investigation but denied that he had heard any such conversation.
109. During my investigation I issued two summonses to the Liberal Party of Australia, Victorian Division to produce records of donations to the Cranbourne and Narre Warren North campaign funds. There is no evidence of a donation being made by or on behalf of the funeral home or the Worthington family to either Cr Ablett's or Cr Stapledon's campaigns.

Conclusion

110. These allegations have not been substantiated.

Allegations 6 and 7: Anonymous campaign donations

111. There were a number of allegations referred to my office regarding the donation of money to the 2014 state election campaigns of Crs Ablett and Stapledon. The initial allegations were that:
- Crs Stapledon, Ablett and Rosario had attempted to open a bank account for anonymous political donations
 - At a meeting, Cr Ablett had made reference to an anonymous \$40,000 donation to his campaign fund and that this was possibly related to his support of a motion to accelerate a council decision on a PSP.
112. Three individuals interviewed during my investigation all gave evidence that they had heard Cr Ablett make comments about setting up separate accounts for anonymous donations to his campaign, to bypass the party central office collecting the funds. While my investigation identified a minuted discussion about funds at the monthly electoral conference meeting on 24 March 2014⁴⁵, there was no evidence of Cr Ablett receiving anonymous donations.
113. Mr Simon Frost, the current State Director of the Liberal Party of Australia, Victorian Division, was interviewed during my investigation. He confirmed that prior to his present role, he was the campaign manager for both Crs Ablett and Stapledon, which included managing financial issues for them. Mr Frost said that he was appointed to this role as it had been recognised within the party that these were key seats that needed the assistance of an experienced campaign manager. He said:

⁴⁵ Minutes of the Cranbourne State Electoral Conference, 24 March 2014.

I have worked on many election campaigns, four for the Division as a consultant ... Part of my role in the lead up to the state election was to work with the south east where there were some key seats for the then government ... in particular, Cranbourne and Narre Warren North ... it is often the case that candidates need some guidance and help and that was my role⁴⁶.

114. When asked whether there were management issues with the two seats, Mr Frost said:

Well there is always internal factional manoeuvrings in all political parties ... yes there is some very strong personalities involved in both those campaigns and obviously that's led to people muck raking and making up allegations against Amanda [Cr Stapledon] and Geoff [Cr Ablett]⁴⁷.

115. My investigation found that Crs Ablett and Stapledon had received funds as a result of internal transfers from within the Liberal Party of Australia, Victorian Division. When asked about this practice, Mr Frost said that not all branches are able to raise funds as well as others and some key seats, such as Cranbourne and Narre Warren North, would then be supported by financial transfers from better performing branches. He said:

... that's not an uncommon thing at a federal election for instance ... some of our MPs that are very good fundraisers might write dozens of cheques around that country that then fund local campaigns ... that's not an uncommon practice. There was a unique set of circumstances here. In this case, the branch that you are talking about, Casey Cardinia ... were aligned with Geoff [Cr Ablett] and Amanda [Cr Stapledon] sort of factionally for want of a better term and the other branches were aligned with other [factions] that didn't want Geoff or Amanda to do well⁴⁸.

116. As a number of these internal transfers were made from the Casey Cardinia branch of the Liberal Party, my office summonsed accounts of transfers from the Casey Cardinia branch for the period March to November 2014. The accounts show that although there were a number of donations made by businesses, it is not possible to ascertain whether there was any intent on the donors' behalf for money to go to specific candidates or to support the Liberal Party in general.

117. My officers also investigated a number of donations made by developers to the two campaigns, specifically by Watsons Pty Ltd, Botanic Ridge Developments Pty Ltd and Stevenson Brothers Industries.

Watsons Pty Ltd

118. Watsons Pty Ltd has been involved in significant development in the council area. From November 2013 to April 2015, 610 planning applications to the council involved Watsons; however, only one of these applications was considered by the planning committee and no decision was made about it.
119. Watsons made several donations to the campaigns of Crs Ablett and Stapledon, totalling \$76,575. A letter dated 8 July 2014 addressed to the Liberal Party of Australia (Victoria) accompanied a \$65,000 donation from the Managing Director of Watsons, and stated:

Cranbourne and Narre Warren North Electoral Campaigns

Further to our meeting in February this year and my pledge to support the campaigns in the above electorates, please find a cheque for \$65,000. While it is not my place to direct these donation funds, which will be reported to the relevant Government Department at the appropriate time, we would see great benefit in \$40,000 going to the Cranbourne campaign and the balance \$25,000 to Narre Warren North. This amount includes proceeds of the fundraiser organised for Amanda Stapledon on 1 May 2014⁴⁹.

46 Interview with Mr Simon Frost, 30 April 2015.

47 *ibid*.

48 *ibid*.

49 Extract from a letter from the Managing Director, Watsons Pty Ltd to the Liberal Party, 8 July 2014.

120. These donations were made some time after Cr Ablett allegedly made the statement regarding a \$40,000 donation being made in return for a favourable planning decision. Neither Crs Ablett nor Stapledon spoke to my officers, therefore this possible link could not be clarified with them.

121. Watsons was involved in both the Cascades on Clyde PSP and the Botanic Ridge development (refer to Allegation 3: Botanic Ridge PSP on page 19). There is evidence that Cr Ablett part-owns a racehorse with an employee of Watsons. In relation to this matter, Cr Ablett, at an ordinary council meeting on 17 March 2015, declared a conflict of interest on a planning matter vote involving Watsons. Cr Ablett is recorded in the meeting minutes as saying:

... I recently now own a racehorse with other owners. One of the owners works for Watsons Surveyors who may get work if the Cranbourne West Precinct becomes residential from industrial⁵⁰.

122. Watsons was the only developer identified by my investigation as having made a large donation to Cr Stapledon's campaign.

Botanic Ridge Developments Pty Ltd

123. My investigation identified that Botanic Ridge Developments donated a total of \$2,500 to Cr Ablett's campaign and was also involved in the Cascades on Clyde development (refer to Cascades on Clyde PSP on page 18). The Botanic Ridge development is within Cr Ablett's constituency of Balla Balla. A review of council planning records identified that Botanic Ridge Developments made 23 planning applications in the 18 months between November 2013 and April 2015. Only two of these were decided by the council planning committee.

124. It was alleged that Cr Ablett had intervened in a planning issue on the Botanic Ridge development. My investigation did not identify any evidence to support this allegation.

Stevenson Brothers Industries

125. Stevenson Brothers Industries owns a quarrying business at Ballarto Road, Cranbourne. The company first approached the council in 2007 with a proposal to change the use of the quarry to a non-putrefying waste recycling centre and fill the quarry site. The application required an amendment to the planning scheme and was referred to an independent planning panel in November 2013. The panel allowed the change of use and published its report on 14 February 2014. This was facilitated in a large part by a change in legislation⁵¹.

126. In 2014 Stevenson Brothers Industries donated a total of \$7,000 to Cr Ablett's campaign: \$3,000 in July and \$4,000 in October.

127. Liberal Party campaign records show that donations to Cr Stapledon were made up of multiple small donations and a number of large transfers from Liberal Party controlled funds. It has not been possible to trace all the donors. My investigation did not identify any evidence to suggest that any of these transfers related to donations from businesses within the municipality.

Conclusion

128. These allegations have not been substantiated.

Overall conclusions

129. The specific allegations contained in the protected disclosure complaint have not been substantiated.

50 Casey City Council, minutes of meeting of 17 March 2015.

51 Planning Panels Victoria, *Planning and Environment Act 1987 Panel Report: Casey Planning Scheme, Amendment C115*, February 2014.