

Operation Sandon — Recommendations

Operation Sandon is an investigation by the Independent Broad-based Anti-corruption Commission into allegations of corrupt conduct involving councillors and property developers in the City of Casey in Melbourne’s south-east. It also examined the adequacy of Victoria’s current systems and controls for safeguarding the integrity of the state’s planning processes.

Background

In November 2017, IBAC authorised a preliminary inquiry into allegations of serious corrupt conduct concerning Mr Sameh Aziz, a Casey councillor.

IBAC expanded the investigation in October 2018 to consider the conduct of developer Mr John Woodman, as well as another Casey councillor, Mr Geoff Ablett, and whether other Casey councillors had accepted undeclared payments, gifts or other benefits, including political donations, in exchange for favourable Casey Council outcomes.

IBAC’s investigation was primarily concerned with four planning matters involving Mr John Woodman and his associates. Each matter involved the Casey Council as decision-maker, and two required the Minister for Planning to make a determination. As a result, IBAC’s investigation examined the conduct of public officers at both state and local government levels.

Operation Sandon found a number of councillors within the City of Casey had accepted payments, gifts or other benefits, including political donations in exchange for supporting Council decisions on planning matters that favoured the interests of a property developer.

Operation Sandon exposed how decisions at the local and state levels of government were improperly influenced or were at risk of undue influence through manipulation of council governance processes, donations and lobbying.

Extensive reforms are necessary to minimise the risk of this behaviour occurring again and promote integrity in decision-making processes. As a result of Operation Sandon, IBAC is recommending a suite of reforms to address corruption risks to:

- promote transparency in planning decisions
- enhance donation and lobbying regulation
- improve the accountability of ministerial advisors and electorate officers
- strengthen council governance.

Recommendations

The Operation Sandon special report makes 34 recommendations to address the risk of corruption and other forms of improper influence and the planning policy settings that incentivise corruption in council decisions.



Recommendation 1

IBAC recommends that the Premier establish an Implementation Inter-departmental Taskforce (the Taskforce) that is:

- (a) chaired by the Department of Premier and Cabinet and comprises senior representatives of other relevant departments and agencies including, but not limited to, the:
 - i) Department of Transport and Planning
 - ii) Department of Government Services
 - iii) Victorian Public Sector Commission
 - iv) Local Government Inspectorate
 - v) Victorian Electoral Commission
- (b) responsible for:
 - i) coordinating implementation of IBAC's recommendations, where immediate action can be taken
 - ii) progressing consideration of longer-term reforms proposed in the special report that require expert analysis and stakeholder consultation
 - iii) making sure that the proposed reforms meet the principles and outcomes set out in IBAC's report, and that these reforms are implemented for each of the strategic issues
 - iv) reporting quarterly to IBAC, detailing the progress of action taken in response to IBAC's recommendations
 - v) reporting publicly within 18 months on action taken in response to IBAC's recommendations, noting that IBAC may further publicly report on the adequacy or otherwise of those proposals.

In undertaking this work, the Taskforce should consult IBAC officers on the development of an implementation plan and the drafting of legislative amendments.

PLANNING

Recommendation 2

IBAC recommends that the Premier ensures that the Taskforce considers and recommends measures to address the corruption risks associated with windfall gains from changes in permissible land use, drawing on any lessons learnt in the development and implementation of the *Windfall Gains Tax and State Taxation and Other Acts Further Amendment Act 2021 (Vic)*.

Recommendation 3

IBAC recommends that the Minister for Planning develops and introduces to Parliament amendments to the *Planning and Environment Act 1987 (Vic)* so that authorisation of a planning scheme amendment operates as a transparent and accountable gateway process by:

- (a) amending section 8A(7) to facilitate proper consideration of the strategic justification and timely authorisation of planning scheme amendments
- (b) setting clear criteria that the Minister for Planning must consider in exercising their discretion to authorise progression of an amendment, including satisfaction of strategic justification
- (c) specifying a presumption against amendment for an appropriate period, noting that the reasons for any exemptions should be clear and details made publicly available.

Recommendation 4

IBAC recommends that the Premier ensures that the Taskforce considers and recommends amendments to the *Planning and Environment Act 1987 (Vic)* to ensure that the number of possible outcomes that could be considered 'correct' decisions in response to a given proposal at the adoption and approval stages of a planning scheme amendment is narrowed by specifying criteria that must be addressed to the satisfaction of:

- (a) the planning authority to adopt an amendment
- (b) the Minister for Planning to approve an amendment.

Recommendation 5

IBAC recommends that the Department of Transport and Planning reviews and clarifies guidance to help prioritise competing policy criteria when assessing the merits of a planning scheme amendment, including, but not limited to:

- (a) the factors that should be considered in assessing strategic justification
- (b) the hierarchy of broader-scale plans.

Recommendation 6

IBAC recommends that the Minister for Planning develops and introduces to Parliament amendments to the *Planning and Environment Act 1987* (Vic) to require the decision-maker to record the reasons for decisions at relevant points in the planning scheme amendment process.

Recommendation 7

IBAC recommends that the Minister for Planning develops and introduces to Parliament amendments to the *Planning and Environment Act 1987* (Vic) and/or amends ministerial guidance to require every applicant and person making submissions to a council, the Minister for Planning or Planning Panels Victoria to disclose reportable donations and other financial arrangements that parties have made or have with relevant decision-makers in relation to that planning matter (with reference to the New South Wales provisions).

Recommendation 8

IBAC recommends that the Minister for Planning issues Ministerial Directions for Planning Panels Victoria panels to specify that there is a presumption in favour of the existing planning scheme and state policy settings.

Recommendation 9

IBAC recommends that the Premier ensures that the Taskforce considers and recommends amendments to the *Planning and Environment Act 1987* (Vic) to deter submitters from attempting to improperly influence a council, the Minister for Planning or Planning Panels Victoria in their role in the planning scheme amendment process, including, but not limited to, specifying relevant offences together with appropriate penalties.

Recommendation 10

IBAC recommends that the Premier ensures that the Taskforce engages subject-matter experts and consults stakeholders to develop a model structure for independent determinative planning panels for statutory planning matters that addresses the integrity risks identified in Operation Sandon, having regard to:

- (a) the skills mix and method of appointing panel members and the efficacy of rotating panel members
 - (b) the scope of panel coverage, being whether all councils should be required to use an independent planning panel, including the option of shared or regional panels in areas where councils handle fewer planning permits
 - (c) the referral criteria that should apply statewide to make clear which matters should be determined by planning panels rather than by council planning officers
 - (d) decision-making process and reporting requirements to ensure transparency and accountability of panel decisions
 - (e) arrangements to handle complaints about planning panels and review their performance to ensure continuous improvement.
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Recommendation 11

IBAC recommends that the Minister for Planning develops and introduces to Parliament amendments to the *Planning and Environment Act 1987 (Vic)* to:

- (a) remove statutory planning responsibilities from councillors
- (b) introduce determinative planning panels for statutory planning matters, where a local council is currently the responsible authority

This is to give effect to the model developed by the Taskforce in response to Recommendation 10.

Recommendation 12

IBAC recommends that the Premier ensures that the Taskforce engages subject matter experts and consults with key stakeholders to assess the operation of Part 4AA of the *Planning and Environment Act 1987 (Vic)* and recommends whether further amendments are required to give full effect to independent panels as the decision-makers for all statutory planning matters, including those where the Minister for Planning is the responsible authority.

Recommendation 13

IBAC recommends that the Premier ensures that the Taskforce considers and recommends whether the regulatory regime governing donations in Victoria would be strengthened by identifying and prohibiting high-risk groups (including, but not limited to, property developers) from making political donations to political entities and state and local government candidates.

Recommendation 14

IBAC recommends that the Premier ensures that the Taskforce advises the independent panel review of the 2018 electoral reforms to ensure its report appropriately addresses the corruption risks of political donations highlighted in Operation Sandon.

Recommendation 15

IBAC recommends that the Premier ensures that the implementation of Recommendations 3 and 4 from the *Donations and Lobbying* special report appropriately addresses the lobbying risks highlighted in Operation Sandon.

Recommendation 16

IBAC recommends that the Department of Parliamentary Services develops guidelines to apply to electorate offices when a Member of Parliament is on extended leave, to ensure electorate officers are appropriately supervised and are subject to clear lines of accountability.

COUNCIL GOVERNANCE

Recommendation 17

IBAC recommends that the Minister for Local Government:

- (a) ensures that Local Government Victoria develops and maintains a Model Councillor Code of Conduct that includes better practice provisions that will apply to *all* councils, noting that councils can adopt additional provisions to the extent that they are consistent with the minimum standards specified in the Model Councillor Code of Conduct
- (b) develops and introduces to Parliament amendments to the *Local Government Act 2020* (Vic), or amends relevant regulations to amend the *Local Government Act 2020* (Vic), or amends relevant regulations to specify that councils *must* adopt the Model Councillor Code of Conduct.

Recommendation 18

IBAC recommends that the Minister for Local Government uses an appropriate mechanism, such as amendments to the *Local Government Act 2020* or relevant regulations, to require that councillors undertake mid-term refresher training on governance, leadership, and integrity.

Recommendation 19

IBAC recommends that the Minister for Local Government:

- (a) ensures that Local Government Victoria develops and publishes Model Governance Rules to operate as the minimum standards for council meeting procedures
- (b) develops and introduces to Parliament amendments to the *Local Government Act 2020*, or amends relevant regulations to specify that councils must adopt the Model Governance Rules
- (c) ensures that Local Government Victoria maintains the Model Governance Rules in a way that promotes better practices that apply to all councils, noting that councils can adopt additional rules to the extent that they are consistent with the minimum standards specified in the Model Governance Rules.

Recommendation 20

IBAC recommends that the Minister for Local Government encourages diligent, considered councillor decision-making by providing guidance and training to councils on administrative and council meeting best practice.

Recommendation 21

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria includes in the Model Code of Conduct for Councillors a clear statement of expectations to guide councillors and staff in their interactions with each other.

Recommendation 22

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria:

- (a) develops and publishes a Model Transparency Policy to specify the minimum standards for council openness and transparency

 - (b) ensures that the Model Governance Rules and Model Transparency Policy:
 - i) highlights the importance of open government and the related risks in holding pre-council meetings
 - ii) notes the limited circumstances in which it may be appropriate to hold pre-council meetings immediately before a public council meeting, such as to discuss procedural arrangements for the meeting
 - iii) makes clear that councillors must not discuss the substance of agenda items in detail, reach agreements on council agenda items in private, and that briefings should involve the presentation of information only

 - (c) develops further guidance to explain to councillors *why* deliberation on an agenda item (not just voting) in public is important, particularly for planning matters.
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Recommendation 23

IBAC recommends that the Minister for Local Government ensures that the Model Governance Rules expressly prohibit voting en bloc in council meetings.

Recommendation 24

IBAC recommends that the Minister for Local Government ensures that the Model Governance Rules require council meeting minutes to state:

- (a) the names of councillors who spoke on each motion

 - (b) the names of councillors who voted for and against each motion (regardless of whether a division was called).
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Recommendation 25

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria undertakes a review, and introduces related reforms, to ensure that councillor breaches of the conflict-of-interest provisions are addressed in a timely and effective manner.

Recommendation 26

IBAC recommends that the Minister for Local Government ensures that the Model Governance Rules stipulate that:

- (a) council officer reports on local government planning matters be accompanied by:
 - i) a schedule of reportable donations and other financial arrangements that parties have made or have with councillors (as discussed in Recommendation 7)
 - ii) a statement of the interested parties that includes details of the parties affected by the motion before council, such as the names of personnel, company names and registered addresses
 - (b) councillors must acknowledge that they have read the schedule of reportable donations and other financial arrangements and the statement of involved parties before declaring whether they have a conflict of interest in the relevant agenda item for any local government planning matters.
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Recommendation 27

IBAC recommends that the Minister Local Government Victoria ensures that the Model Governance Rules (such as through an amendment to clause 18.3 of the draft rules):

- (a) provide a clear process for disclosing all conflicts of interest, including those that involve privacy matters. This process must set out:
 - i) precisely what matters will be included in the declaration and public register
 - ii) how declarations involving privacy matters will be recorded
 - iii) how long records will be retained
 - (b) require councillors to disclose, in sufficient detail, the circumstances that give rise to a conflict of interest, including, but not limited to, the names of the people or entities associated with the conflict and their relationship to the councillor.
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Recommendation 28

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria develops model conflict-of-interest training and an associated strategy to ensure that its completion is enforceable, to consistently reinforce conflict-of-interest obligations across councils. The training should:

- (a) explain why a councillor cannot or should not participate in the decision-making process for a matter in which they have a conflict, during or outside council meetings
 - (b) ensure that councillors understand their obligation to:
 - i) familiarise themselves with the parties who donate to any political, charitable or community interests with which the councillor has an involvement
 - ii) assess whether those donations give rise to a conflict of interest for particular council matters
 - iii) provide precise details of the nature of the conflict when declaring a conflict of interest.
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Recommendation 29

IBAC recommends that the Minister for Local Government develops and introduces to Parliament amendments to the *Local Government Act 2020 (Vic)* to

- (a) expressly prohibit councillors with a conflict of interest from attempting to influence other councillors (with reference to the Queensland provisions)
 - (b) specify an appropriate penalty for councillors who contravene this provision.
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Recommendation 30

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria reviews the available sanctions for misconduct to ensure that the options provided are adequate and applied in an appropriate way. This includes, but is not limited to, ensuring that the option to direct that a councillor be ineligible to hold the position of mayor after a finding of misconduct can be applied in a way that is both proportional to the conduct and timebound.

Recommendation 31

IBAC recommends that the Minister for Local Government ensures that Local Government Victoria includes in the Model Councillor Code of Conduct a clear statement that:

- (a) council officers and members of the public may make a complaint to the Chief Municipal Inspector
 - (b) a CEO must notify IBAC under section 57 of the *Independent Broad-based Anti-corruption Commission Act 2011 (Vic)* if they suspect on reasonable grounds that a breach of the Model Councillor Code of Conduct involves corrupt conduct.
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Recommendation 32

IBAC recommends that the Minister for Local Government develops and introduces to Parliament amendments to the *Local Government Act 2020 (Vic)* to require that the Principal Councillor Conduct Registrar collate and publish data annually on:

- (a) the internal arbitration process, including:
 - i) the number of applications received
 - ii) the number of applications withdrawn
 - iii) the nature of the issues raised
 - iv) the outcome of completed arbitration processes
 - v) the cost to the council of dealing with arbitrated matters, including staff costs
 - (b) councillor conduct panels, including:
 - i) the number of applications received
 - ii) the number of applications withdrawn
 - iii) the nature of the issues raised
 - iv) the outcome of completed panel processes
 - v) the cost to the council of dealing with panel matters, including staff costs.
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Recommendation 33

IBAC recommends that the Premier ensures that the Taskforce identifies the most appropriate mechanism to support a council CEO in making a mandatory notification about serious misconduct. This includes suspected breaches of the conflict-of-interest provisions by councillors – in particular, breaches involving material conflicts of interest – noting that the Chief Municipal Inspector has the authority to apply to a councillor conduct panel or prosecute a councillor for misuse of position due to a conflict of interest, but is not currently authorised to receive a mandatory notification concerning a councillor from a CEO, under the *Public Interest Disclosure Act 2012 (Vic)*.

Recommendation 34

IBAC recommends that the Minister for Local Government develops and introduces to Parliament amendments to the *Local Government Act 2020 (Vic)*, or amends relevant regulations, and institutes related enabling processes, in order to amend the *Local Government Act 2020 (Vic)*, or relevant regulations, and institutes related enabling processes, to promote greater consistency and independent oversight of recruitment and employment of council CEOs by:

- (a) mandating that councils use a standard employment contract for CEOs that:
 - i) covers, among other things, the role of the CEO, performance review and management, and termination payment (including limits on such payments)
 - ii) bans non-disclosure agreements between councils and CEOs or former CEOs
- (b) amending section 45 to require each council to establish a committee to determine matters relevant to the recruitment, employment, and remuneration of the CEO. The committee must be chaired by an independent professional with executive experience in local or state government, and most of its members must be external to the council.

IBAC's proposed reforms are designed to be implemented by a cross section of local and state government to minimise the significant risks of the conduct identified in Operation Sandon from recurring.

IBAC has recommended that the Premier report publicly on the action taken in response to the relevant recommendations by 27 January 2025. IBAC has also requested the Minister for Local Government, the Minister for Planning and the relevant departments report to IBAC on the implementation of their relevant recommendations within 12 months.

IBAC is committed to working with local and state government and other bodies in Victoria's integrity framework to implement the reforms to safeguard from this type of activity to occur again – and to restore community trust in the role of elected officials.

Responses

Responses to our investigations are published on IBAC's website to inform the community about actions agencies advise they are taking, and to share learnings that may help other agencies improve their systems and practices to prevent corruption and misconduct.

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IBAC is Victoria's anti-corruption agency responsible for preventing and exposing public sector corruption and police misconduct. We do this by:

- investigating serious corruption and police misconduct
- informing the public sector, police and the community about the risks and impacts of corruption and police misconduct, and ways in which it can be prevented.

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