

Donations & Other Dangers to Democracy

Presentation at EDO/SCEC forum by Melva Hobson and Greg Smith

OSCAR Inc

Organisation Sunshine Coast Association of Residents

1 March 2018



Introduction

- ▶ OSCAR welcomes this opportunity to make a presentation on behalf of its members.
 - ▶ OSCAR background and objectives
 - ▶ Dangers to democracy
 - ▶ Influencers in Local Government
 - ▶ Developer donations
 - ▶ Conflict of Interest
 - ▶ Confidential sessions of Council
 - ▶ Community access to information
 - ▶ Community engagement
 - ▶ What OSCAR should advocate for?



OSCAR background

- ▶ Non-partisan, not-for-profit umbrella organisation; members are community groups and resident associations
- ▶ Over 40 member organisations in both SCRC and Noosa LGAs who are committed to OSCAR's objectives
- ▶ Represent many community members - not just a “small number of activists”
- ▶ Funded solely by fees and donations of member organisations
- ▶ Totally reliant on volunteers



OSCAR objectives (Extract)

▶ Leadership and governance

- ▶ Local government policies, plans and actions will be consistent with achieving social, economic and environmental *sustainability*.
- ▶ Governance will become *open and transparent* and residents will have reasonable access to reports and documents.
- ▶ Local government decision making will be responsible, informed, ethical, and accountable.
- ▶ *Community engagement* will become genuine, routine and results respected and acted upon.
- ▶ The public interest will prevail over vested interests.



Local Government principles - LGA 2009

- ▶ 4 (2) The *local government principles* are—
 - a) transparent and effective processes, and decision-making in the public interest; and
 - b) sustainable development and management of assets and infrastructure, and delivery of effective services; and
 - c) democratic representation, social inclusion and meaningful community engagement; and
 - d) good governance of, and by, local government; and
 - e) ethical and legal behaviour of councillors and local government employees.



Dangers to democracy - OSCAR's view

- ▶ Influencers in Local Government
- ▶ Lack of transparency and good governance in Local Government
- ▶ Lack of community participation in Local Government
= *Lack of confidence and trust in Local Government*



Who is influencing Local Government?

- ▶ How does influence occur?
 - ▶ **Special Interest Groups**
 - ▶ Business Advisory Councils
 - ▶ Tourism organisations
 - ▶ Developer groups
 - ▶ Other
 - ▶ **Community Focussed Groups**
 - ▶ Peak organisations
 - ▶ SCEC
 - ▶ OSCAR
 - ▶ Eg Development Watch, Dulong Futures, Caloundra Residents Association etc etc
 - ▶ **Political donors**
 - ▶ Direct donations
 - ▶ Third party donors
 - ▶ Development related businesses that stand to benefit financially - eg planners, real estate agents, civil contractors



Developer donations

(Screenshot from previous OSCAR website)

OSCAR's Voluntary Disclosure Initiative

Bringing transparency to local government elections on the Sunshine Coast



Disclosure

Local government elections will be held throughout Queensland on 19 March 2016. The purpose of this site is to facilitate early disclosure by Sunshine Coast Council candidates of donations they receive to fund their election campaigns.

Is disclosure required?

Queensland State legislation requires that candidates disclose donations to their campaign within 15 weeks after the election. There is no limit to the amount of money that can be donated by an

About us

OSCAR is the peak residents' association on the Sunshine Coast. It represents 30 resident and ratepayer groups from across the Sunshine Coast and Noosa Local Government Areas. [Click here for more info](#)

Information for Candidates

If you are a candidate standing in the 2016 Sunshine Coast



Developer donations

(Screenshot from previous OSCAR website)

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Is disclosure required?

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Why should disclosure be made before the election?

There is considerable concern throughout Australia that some donors to council election campaigns are seeking to obtain special access to council or are seeking to influence councillor decisions. The NSW Government recognized this problem and now has laws that prevent developers or persons associated with development from making donations to candidates for State and local government elections. Queensland has no such law.

Our disclosure guidelines

Our guidelines for candidates are based on the recommendations for legislative change made in 2006 by the Queensland Crime and Misconduct Commission:

- We ask that all candidates disclose all donations in excess of \$200.
- We ask that all candidates disclose all donations within three days of receipt.
- We ask that all candidates refuse to accept donations after the Monday before polling day. This will allow time for all donations to be disclosed on this website before the election.
- We ask that all councillors who are candidates disclose all donations received since their disclosure after the 2012 election.
- We ask that all other candidates disclose all donations received in the last six months.



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Information for Candidates

If you are a candidate standing in the 2016 Sunshine Coast Local Government Elections, [click here](#) to see how you can participate in OSCAR's Voluntary Disclosure Scheme.

Contact us

If you have any questions about the information contained on this site, please contact us disclosure@oscar.org.au

Privacy Policy

To view our Privacy Policy please [click here](#)

Acknowledgement

This website is an initiative in association with [Funding & Disclosure Inc.](#) OSCAR gratefully acknowledges the assistance given by that organization during the construction of our own disclosure website.

Developer donations

(Screenshot from previous OSCAR website)

View Donations

The table below provides details of all the donations that have been disclosed to OSCAR (greater than \$200). To see the total amount of donations received by each candidate please [click here](#). Details of how to sort and filter this table are provided below the table.

This table was last updated on 29 February 2016.

Donations

Show entries

Search:

| DIVISION ▲ | CANDIDATE ▲ | DONOR NAME ▲ | \$ VALUE ▲ | DATE ▲ |
|------------|---------------------|----------------------|------------|------------|
| 0 | Jamieson, Mark | Declined to Disclose | | |
| 0 | Barry-Jones, Alison | No disclosure yet | \$0 | |
| 0 | Green, Ron | Self Funded | \$0 | 21/02/2016 |
| 0 | Gibson, Tony | The Greens | See Note 1 | 19/02/2016 |
| 1 | Baberowski, Rick | No disclosure yet | \$0 | |
| 1 | Jones, Rod | No disclosure yet | \$0 | |
| 1 | Robinson, Peter | No disclosure yet | \$0 | |
| 1 | Ritson, Dave | Self Funded | \$0 | 25/02/2016 |
| 2 | McIntyre, Matt | No disclosure yet | \$0 | |
| 2 | Dwyer, Tim | Self Funded | \$0 | 16/02/2016 |

Showing 1 to 10 of 43 entries

« < 1 2 3 4 5 > »



Developer donations - ECQ Electronic Disclosure System



GIFT MAP

REPORTS

HELP & SUPPORT

Data shown in reports are as uploaded by users. ECQ does not verify or validate this data. Pre-2017 data has been transcribed from the original. Refer to the original s

Donor Location Map

Gift given visualized using donor location data



Election periods: all



Local



Electorate: all

Candidates: all

1/01/2014



31/03/2016



Min amount

0

UNRECONCILED

105

RECONCILED

105

TOTAL GIFTS

\$0

\$UNRECONCILED

\$165,675

\$RECONCILED

| Donor ↕ | Recipient ↕ | Date Gift Made ▼ | Donor electorate ↕ |
|--------------------------|---------------|------------------|-------------------------|
| Warwick Kahl | Mark Jamieson | 14-03-2016 | SUNSHINE COAST REGIONAL |
| The Village Retirement | Mark Jamieson | 14-03-2016 | BRISBANE CITY |
| Sunshine Coast Radiology | Mark Jamieson | 14-03-2016 | SUNSHINE COAST REGIONAL |
| Rebecca Grisman | Mark Jamieson | 14-03-2016 | SUNSHINE COAST REGIONAL |
| Milne Bros Equipment | Mark Jamieson | 14-03-2016 | ROCKHAMPTON REGIONAL |
| HGW Projects Pty Ltd | Mark Jamieson | 14-03-2016 | VIC |



Organisation Sunshine Coast Association of Residents

Developer donations - from EDS

Donations recorded - 1 January 2014 to 31 March 2016

SCRC

| Councillor | Amount | | | |
|------------|--------|--|--|--|
|------------|--------|--|--|--|

| | | | | |
|------------|-----|--|--|--|
| Baberowski | \$0 | | | |
|------------|-----|--|--|--|

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|-------|-----|--|--|--|
| Dwyer | \$0 | | | |
|-------|-----|--|--|--|

| | | | | |
|-----|-----|--|--|--|
| Cox | \$0 | | | |
|-----|-----|--|--|--|

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|----------|----------|--|--|--|
| Connolly | \$34,836 | | | |
|----------|----------|--|--|--|

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|-------|-----|--|--|--|
| McKay | \$0 | | | |
|-------|-----|--|--|--|

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|---------|-----|--|--|--|
| Dickson | \$0 | | | |
|---------|-----|--|--|--|

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|------------|-----|--|--|--|
| Hungerford | \$0 | | | |
|------------|-----|--|--|--|

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|--------|---------|--|--|--|
| O'Pray | \$7,900 | | | |
|--------|---------|--|--|--|

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|----------|-----|--|--|--|
| Robinson | \$0 | | | |
|----------|-----|--|--|--|

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|----------|-----|--|--|--|
| Rogerson | \$0 | | | |
|----------|-----|--|--|--|

Noosa

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|------------|---------|--|--|--|
| Wellington | \$9,300 | | | |
|------------|---------|--|--|--|

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|---------|-----|--|--|--|
| Glasgow | \$0 | | | |
|---------|-----|--|--|--|

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|---------|-----|--|--|--|
| Jackson | \$0 | | | |
|---------|-----|--|--|--|

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|-----------|-----|--|--|--|
| Jurisevic | \$0 | | | |
|-----------|-----|--|--|--|

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|--------|-------|--|--|--|
| Pardon | \$750 | | | |
|--------|-------|--|--|--|

| | | | | |
|-----------|---------|--|--|--|
| Stockwell | \$1,500 | | | |
|-----------|---------|--|--|--|

| | | | | |
|--------|---------|--|--|--|
| Wiklie | \$6,000 | | | |
|--------|---------|--|--|--|



Developer donations

- ▶ **OSCAR Recommendations to Belcarra Parliamentary Committee ***
 - ▶ That all developer gifts or donations to a councillor, prior to the ban being in place in October 2017, regardless of the value, be cumulative from the date of a councillor's initial nomination.
 - ▶ That all private “business” relationships between a councillor and a developer be included in the Conflict of Interest and Material Personal Interest provisions. These include, for example, renting a premises from a developer for a campaign office, but not declaring the amount of rent paid; making personal/family transactions re property with a developer but not declaring such interests and family members having close personal relationships with siblings or children of developers.
 - ▶ That the “accumulated” figure be included in any Conflict of Interest or Material Personal Interest declarations.

* Legal Affairs and Community Safety Committee



Conflict of Interest

- ▶ Historical Registers of Interest - a small win on this as both SCRC and Noosa Council now have these on their websites!
- ▶ OSCAR response to Belcarra report re COI
 - ▶ **OSCAR Recommendations**
 - ▶ That Conflicts of Interest be dealt with in the same way as Material Personal Interest.
 - ▶ That all Conflicts of Interest or Material Personal Interest declarations be made and resolved in “Open session” of the meeting and recorded in the minutes of the meeting.
 - ▶ That making such declarations in a confidential session is unlawful.
 - ▶ That the exclusion rules apply during “adjournment periods” and to councillor and/or staff only councillor spaces.



Transparency and good governance in LG

- ▶ Confidential sessions
- ▶ Community access to information - Right to Information (RTI)
- ▶ Portfolio versus committee arrangements



Confidential sessions at council meetings

Local Government Regulations 2012 Division 3

S275 Closed meetings

- 1) A local government or committee **may** resolve that a meeting be closed to the public if its councillors or members consider it necessary to close the meeting to discuss—
 - (a) the appointment, dismissal or discipline of employees; or
 - (b) industrial matters affecting employees; or
 - (c) the local government's budget; or
 - (d) rating concessions; or
 - (e) contracts proposed to be made by it; or
 - (f) starting or defending legal proceedings involving the local government; or
 - (g) any action to be taken by the local government under the Planning Act, including deciding applications made to it under that Act; or
 - (h) other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.
- 2) A resolution that a meeting be closed must state the nature of the matters to be considered while the meeting is closed.
- 3) A local government or committee must not make a resolution (other than a procedural resolution) in a closed meeting.



Confidential sessions - Noosa v SCRC

| Number of confidential agenda items | | | |
|-------------------------------------|-----------|------------|-------------|
| Since April 2016 | | | |
| Year | Noosa | SCRC | Grand Total |
| 2016 | 5 | 44 | 49 |
| 2017 | 6 | 82 | 88 |
| 2018 | 0 | 8 | 8 |
| Grand Total | 11 | 134 | 145 |

Number of times SCRC Councillors have voted against going into confidential session

| Councillor | To February 2018 |
|------------|------------------|
| Baberowski | 0 |
| Dwyer | 0 |
| Cox | 1 |
| Connolly | 1 |
| McKay | 1 |
| Dickson | 0 |
| Hungerford | 5 |
| O'Pray | 16 |
| Robinson | 0 |
| Rogerson | 16 |

SCRC CEO, 26 January 2018

“It should be noted that Council deals with approximately 20 items each council meeting and based on your numbers it means approximately 15% of Council items are discussed or partly discussed in confidential and that 85% are discussed in open public session.”

More importantly 100% of all resolutions are made in open public session.”



Example of what appears in SCRC minutes

Confidential session – SCRC Ordinary Meeting 22 February 2018

11.2 BUILT INFRASTRUCTURE

11.2.1 CONFIDENTIAL - NOT FOR PUBLIC RELEASE - MAROOCHYDORE TRANSPORT CORRIDOR PLANNING

File No: F2017/138823

Author: Coordinator Transport Network

Built Infrastructure Group

This report is confidential in accordance with section 275 (h) of the Local Government Regulation 2012 as it contains information relating to other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage. Council Resolution (OM18/28)

Moved: Councillor E Hungerford

Seconded: Councillor J O'Pray

That Council delegate authority to the Chief Executive Officer to complete the actions as discussed in confidential session in relation to the Maroochydore transport corridor planning.

Carried unanimously.

Motion is voted on in open session but this is typical of how these motions are worded!

NB Additional information provided to OSCAR by SCRC CEO prior to OM:

Maroochydore Transport Corridor Planning - this report may include information that impacts on properties and investments and if made public may prejudice the interests of Council and thereby the community. Price ranges and addresses of properties may be mentioned.



Community access to information

- ▶ Lack of transparency has resulted in members of the community and/or community organisations being forced to seek information under RTI.
 - ▶ Complicated process
 - ▶ Expensive
 - ▶ Time process takes
 - ▶ Redaction
 - ▶ Too much - indicates failure of the process
 - ▶ Too little - indicates the item did not need to be confidential in the first place



Community Engagement

► Core Values

- Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.
- Public participation includes the promise that the public's contribution will influence the decision.
- Public participation promotes sustainable decisions by recognising and communicating the needs and interests of all participants, including decision makers.
- Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.
- Public participation seeks input from participants in designing how they participate.
- Public participation provides participants with the information they need to participate in a meaningful way.
- Public participation communicates to participants how their input affected the decision.

Source: International Association of Public Participation - IAP²



Transparency

AUSTRALIA BECOMING MORE CORRUPT

[Source: Graeme Philipson in GovernmentNews, 22 February 2018]

The annual Corruption Perceptions Index (CPI) from Transparency International rates 180 countries and territories by their perceived levels of public sector corruption according to experts and business people. It uses a scale of 0 to 100, where 0 is highly corrupt and 100 is very clean.

The CPI singles out Australia as a country whose performance has steadily decline since 2012. Australia's score this year is 77, which places it at the 16th least corrupt country out of the 190 surveyed. Last year it was 13th.

It does better than the US or Japan, but ranks below the UK, Canada and the Nordic countries. Least corrupt country is New Zealand, with a score of 89.

Australia's declining performance comes as the government cracks down on access to information and amid continued publicity about entitlement rorting by politicians, opaque political donations laws, inappropriate behaviour by lobbyists, and companies' creative use of Australia's taxation laws.

The report makes a number of recommendations, most of which are relevant to Australia. One of the most telling recommendations is this one:

- ▶ Governments and businesses should proactively disclose relevant public interest information in open data formats. Proactive disclosure of relevant data, including government budgets, company ownership, public procurement and political party finances allows journalists, civil society and affected communities to identify patterns of corrupt conduct more efficiently.



OSCAR should be advocating for:

- ▶ Limits on who can donate
 - ▶ Only natural persons on the relevant electoral roll
 - ▶ Need to go further than a ban on developer donations - as important as that is
- ▶ Donation caps
 - ▶ Limit maximum that can be spent by a candidate in a LG election
 - ▶ OSCAR has suggested \$12,500 for Councillors and \$50,000 for Mayoral candidates in rural/regional and more for “mega” LGA’s - note LGAQ suggests \$50,000 and \$200,000!
 - ▶ Limit the maximum that can be donated to a candidate by an individual
- ▶ Reform of the Local Government Act 2009
 - ▶ Already started with *Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018*
- ▶ Quick implementation of the *Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017* - Developer donation and Col provisions
- ▶ Reform of other legislation - including, but not limited to, RTI and planning legislation



Questions/comments?



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